

EXHIBIT B

Contours **Express**®
The Better Idea in Women's Gyms!™

**Franchise
Agreement**

CONTOURS EXPRESS, LLC
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TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
ARTICLE I: RECITALS	1
ARTICLE II: GRANT OF LICENSE AND LOCATION	2
ARTICLE III: TERM AND RENEWAL.....	3
ARTICLE IV: LICENSED MARKS	4
ARTICLE V: FEES	5
ARTICLE VI: FRANCHISOR'S SERVICES	6
Pre-Opening.....	6
Post-Opening.....	8
ARTICLE VII: FACILITY STANDARDS, LEASE AND CONSTRUCTION.....	9
ARTICLE VIII: UNIT IMAGE AND OPERATING STANDARDS	10
ARTICLE IX: FINANCIAL STANDARDS	14
ARTICLE X: CONFIDENTIAL INFORMATION.....	14
ARTICLE XI: TRANSFER OF FRANCHISE.....	15
ARTICLE XII: DEFAULT AND TERMINATION.....	18
ARTICLE XIII: OBLIGATIONS OF THE FRANCHISEE UPON TERMINATION OR EXPIRATION OF THE FRANCHISE AGREEMENT.....	20
ARTICLE XIV: FRANCHISOR'S RIGHT TO PURCHASE BUSINESS	22
ARTICLE XV: COVENANTS NOT TO COMPETE.....	23
ARTICLE XVI: ARBITRATION.....	24
ARTICLE XVII: ENFORCEMENT	24
ARTICLE XVIII: RELATIONSHIP OF PARTIES/INDEMNIFICATION	25
ARTICLE XIX: MISCELLANEOUS PROVISIONS	26
ARTICLE XX: ACKNOWLEDGMENTS.....	27

ADDENDUM

ADDENDUM 1 TO FRANCHISE AGREEMENT

CONTOURS EXPRESS® FRANCHISE AGREEMENT

This Franchise Agreement ("Agreement") is made and entered into by and between **Contours Express, LLC**, a Delaware limited liability company, having its principal place of business at 156 Imperial Way, Nicholasville, Kentucky 40356, (hereinafter referred to as "Franchisor"), and _____, whose address is _____ (hereinafter referred to as "Franchisee").

ARTICLE I: RECITALS

- 1.1 Right to License. Franchisor franchises the rights to own and operate units that do business under the trade name "Contours Express®". Each Contours Express® unit involves the operation of a fitness and weight loss studio. Franchisor has the right to license the uniform formats, systems, methods, procedures and standards for establishing, developing and operating a unit known as Contours Express® (herein referred to as the "System").
- 1.2 The System. Franchisor has developed distinguishing characteristics of the System that include, without limitation, specially designed exercise equipment, unique exercise programs, superior training program, record-keeping, accounting and reporting procedures, cost controls, personnel management, sales promotion procedures, marketing and advertising procedures, distinctive interior design and display procedures, and color scheme and décor, and unique methods and procedures of advertising, marketing and selling fitness products and franchise units through e-commerce on the internet and coordinated web site functions.
- 1.3 Right to Modify. Franchisor has developed and exclusively owns the rights to the System, and Franchisor maintains the right to improve, further develop or otherwise modify the System from time to time.
- 1.4 Trade and Service Marks. Franchisor has the right to license the use of the name "Contours Express®" and the trademarks, service marks, logos and trade names, logos and commercial symbols now or hereinafter used in connection with the System (hereinafter referred to as "Mark[s]"). The license of the Marks granted herein does not include a license for Franchisee to utilize the Marks with respect to any web site, e-commerce, internet or other cyberspace application without the prior written consent of Franchisor, and only then in strict compliance with the standards, policies and procedures established from time to time by Franchisor. Franchisee shall not use any of the Marks in Franchisee's domain name, URL, metatags, HTML code or any other internet or web site application without the prior written consent of Franchisor.
- 1.5 High Standards of System. Franchisor continues to use, develop and control such Marks (1) for the benefit and use of Franchisor and Franchisee; (2) to represent the System's high standard of quality, service, products, appearance and operations; and (3) to protect and preserve the goodwill of the Marks so that the public may be able to identify the System and its high standards.
- 1.6 Reservation of Rights by the Franchisor. The license of the Marks and the System has limited exclusivity. In addition to the Franchisor's right to use and grant others the right to use the Marks and the System outside the Franchise Area (hereinafter defined), all rights not expressly granted in this Agreement to the Franchisee concerning the Marks and the System, including the right to: establish, develop, and license or franchise other systems, different from the System licensed by this Agreement, within or outside the Franchise Area, without offering or providing the Franchisee any rights in, to, or under such other systems; and sell, within or outside the Franchise Area, through dissimilar channels of distribution such as through retail stores, specialty stores, or via the Internet, under any terms that the Franchisor deems appropriate, exercise equipment, nutritional supplements, health food items, or other products and services similar or identical to those authorized for the Franchise Unit. Furthermore, Franchisor reserves the right to control Franchisee's web site, if any, and the information collected therefrom, and to license the use of the Franchisor's web site pursuant to standards, policies and procedures established from time to time by Franchisor.
- 1.7 Grant of Licenses. Franchisor grants to persons who meet the Franchisor's qualifications and who are willing to undertake the investment and effort a franchise (herein referred to as the "Franchise") to operate a fitness and weight

loss center under the trade name "Contours Express®" from a prescribed location or locations (herein referred to as the "Franchise Unit" or "Franchise Units") situated in a prescribed area (herein referred to as the "Franchise Area").

- 1.8 Franchisee Acknowledgment of Receipt of UFOC and Agreement and Acceptance of Terms and Potential Termination. Franchisee acknowledges that he has read this Agreement and the Franchisor's Uniform Franchise Offering Circular ("UFOC") and that Franchisee understands and accepts the terms, conditions, and covenants contained in this Agreement as being reasonably necessary to (1) maintain the Franchisor's high standards of quality and service; (2) to maintain the uniformity of those standards at all Contours Express® units; and (3) protect and preserve the goodwill of the Marks. Franchisee further understands that failure to maintain the Franchisor's standards will result in termination of this Agreement.
- 1.9 Franchisee Acknowledges Risk. Franchisee acknowledges that Franchisee has conducted an independent investigation of the business opportunity offered herein, has had the opportunity to contact all existing Franchisees of Contours Express® and has examined the terms and provisions of this Agreement with the opportunity to utilize the services of counsel, accountants and other advisors. Franchisee further acknowledges that, like any other business, the nature of the business conducted by Contours Express® may evolve and change over time, that an investment in Contours Express® involves business risks and that the success of the venture is largely dependent upon the Franchisee's business abilities and efforts.
- 1.10 Covenants Not to Compete. Franchisee acknowledges that the covenants not to compete set forth in this Agreement are fair and reasonable, and will not impose any undue hardship on the Franchisee, since the Franchisee has other considerable skills, experience and education which afford the Franchisee the opportunity to derive income from such other endeavors.
- 1.11 Franchisor Disclaimer and Franchisee Acknowledgment. Franchisor expressly disclaims the making of, and Franchisee acknowledges that he has not received or relied upon, any warranty or guarantee, express or implied, as to the revenues, profits or success of the business venture contemplated by this Agreement, other than information provided in Item 19 of the Franchisor's Uniform Franchise Offering Circular. Franchisee acknowledges that he has read this Agreement and the Franchisor's Uniform Franchise Offering Circular and that he has not received or relied upon any representations about the Franchise by the Franchisor, or its officers, directors, employees or agents, that are contrary to the statements made in the Franchisor's Uniform Franchise Offering Circular or to the terms herein. Franchisee further represents to the Franchisor that all information set forth in any and all applications, financial statements and submissions to the Franchisor by the Franchisee, are true, complete and accurate in all respects, and the Franchisee expressly acknowledges that the Franchisor is relying upon the truthfulness, completeness and accuracy of such information.
- 1.12 Right to Delegate. Franchisee acknowledges that Franchisor may offer area development rights to qualified persons ("Area Developers") who may be authorized to sell franchises on behalf of Franchisor. Franchisor reserves the right to delegate any of its obligations under this Agreement to such Area Developers, and to share the franchise fee, continuing royalty fees, and other fees with the Area Developers.

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

ARTICLE II: GRANT OF LICENSE AND LOCATION

- 2.1 Grant of License. Subject to the terms and conditions of this Agreement, the Franchisor hereby grants to the Franchisee, the right, franchise and privilege to use the Mark "Contours Express®" and other Marks of Franchisor, and Franchisee hereby accepts from Franchisor the right to establish and operate a Franchise Unit or multiple Franchise Units in the Franchise Area (hereinafter defined) under the name Contours Express® (herein referred to at times as "the Unit" or the "the Franchisee's Unit") and the right to the non-exclusive license of the use of the Marks and System of the Franchisor, solely in connection with the operation of the Franchisee's Unit.

- 2.2 Authorized Location. Franchisee must select and present to Franchisor a complete site report for a proposed location for Franchisee's Unit, within the following Franchise Area:

See attached "Addendum 1 to Contours Express® Franchise Agreement"

Franchisor will promptly evaluate the proposed location. If Franchisor consents to the location, the parties will execute Addendum 1, which is attached hereto and incorporated herein by reference, and which will set forth the Unit's location (herein referred to as the "Authorized Location") and the date of opening designated by Franchisor. If Franchisor does not consent to the proposed location, Franchisor will notify Franchisee in writing and Franchisee may then submit another proposed location to Franchisor. Franchisor retains the right to withhold consent to any proposed location in its absolute discretion, and its consent, if granted, is permission only and not an assurance or guaranty to Franchisee of the availability, suitability or success of a location. While Franchisor may provide site selection assistance under Article 6.1 of Article VI hereof, Franchisee alone is ultimately responsible for selecting and developing an acceptable location for Franchisee's Unit. If an Authorized Location has not been approved by Franchisor and identified on Addendum 1 within three (3) months after execution of the Franchise Agreement, Franchisor may terminate this Agreement upon written notice to Franchisee, and all fees paid by Franchisee to Franchisor as of the date of such termination shall be forfeited by Franchisee. Franchisor agrees not to unreasonably withhold its consent to one request by Franchisee to extend the time period for approval of an Authorized Location provided Franchisee makes such request to Franchisor in writing at least five (5) business days prior to the end of the original three (3) month period. Except as otherwise provided herein, and provided Franchisee is not in default of this Agreement, Franchisor will not establish a Company Unit or Contours Express® unit within two (2) miles of the Authorized Location (the "Protected Territory"). The Protected Territory may be smaller if the Authorized Location is in a city with a population in excess of 500,000. In such event, the Protected Territory will be mutually agreed between Franchisor and Franchisee and designated on Addendum 1.

Franchisee acknowledges that any web site, e-commerce, Internet or other cyberspace application is by its very nature a potential encroachment beyond the Franchise Area. Franchisee therefore agrees that the manner and content of any Franchisee advertising, marketing and/or selling on any web site, e-commerce, internet or other cyberspace application is subject to the prior written permission of Franchisor, and must be conducted in strict compliance with the standards, policies and procedures established from time to time by Franchisor.

- 2.3 Retention of Rights. Except as explicitly and specifically granted to the Franchisee herein, all rights in and to the Marks and the System and the goodwill associated with each of them is hereby reserved to Franchisor. Specifically, but without limitation, Franchisor retains the right but not the obligation to:
- A. Add new programs, products and/or services to the System at any time;
 - B. Establish, operate and/or license others to establish and operate and franchise the System or any other programs, products and/or services under trade names, trademarks, service marks or logos other than the Marks; and
 - C. Coordinate all e-commerce, web site use, internet or other cyberspace applications for all franchisees pursuant to the standards, policies and procedures established by Franchisor from time to time in its sole discretion. Franchisee hereby authorizes Franchisor to coordinate all such e-commerce, web site, internet and other cyberspace application activities and agrees to abide by all standards, policies and procedures established from time to time by Franchisor with respect thereto.

ARTICLE III: TERM AND RENEWAL

- 3.1 Term. This Agreement shall be effective and binding from the date of its execution by Franchisor (the "Effective Date") for an initial term equal to ten (10) years from the Effective Date.
- 3.2 Renewal. Franchisee shall have the right to renew this Franchise at the expiration of the initial term of the Franchise for additional successive terms of five (5) years each, provided that all of the following conditions have been fulfilled:
- A. Franchisee has, during the entire term of this Agreement, substantially complied with all of its provisions;

- B. Franchisee maintains possession of the Authorized Location and by the expiration date of this Agreement has brought the Authorized Location into full compliance with the specifications and standards then applicable for new or renewing Contours Express® facilities and presents evidence satisfactory to Franchisor that it has the right to remain in possession of the Authorized Location for the duration of any renewal term; or, in the event Franchisee is unable to maintain possession of the premises, or in the judgment of Franchisor the Authorized Location should be relocated, Franchisee secures substitute premises to bring the Authorized Location at its substitute premises into full compliance with the then-current specifications and standards by the expiration date of this Agreement;
- C. Franchisee has given notice of renewal to Franchisor as provided below;
- D. Franchisee has satisfied all monetary obligations owed by Franchisee to Franchisor, its subsidiaries and affiliates, and all of Franchisee's vendors, and has timely met these obligations throughout the term of this Agreement;
- E. Franchisee has executed upon renewal Franchisor's then-current form of Franchise Agreement (with appropriate modifications to reflect the fact that the Agreement relates to the grant of a renewal franchise), which Agreement shall supersede in all respects this Agreement, and the terms of which may differ from the terms of this Agreement, including, without limitation, a different percentage or amount of Continuing Royalty Fee, provided, however, Franchisee shall not be required to pay the then-current initial franchise fee or its equivalent;
- F. Franchisee has complied with Franchisor's then-current qualification and training requirements; and
- G. Franchisee has executed a general release, in a form prescribed by Franchisor, of any and all claims against Franchisor and its subsidiaries and affiliates, and their respective officers, directors, agents, shareholders and employees. This provision may be unenforceable in some jurisdictions.

3.3 Notice of Renewal. If Franchisee desires to renew this Franchise at the expiration of the initial term of this Agreement, Franchisee shall give Franchisor written notice of its desire to renew at least six (6) months, but not more than twelve (12) months, prior to the expiration of the initial term of this Agreement. Within ninety (90) days after its receipt of such timely notice, Franchisor shall furnish Franchisee with written notice of: (1) reasons which could cause Franchisor not to renew, including any deficiencies which require correction and a schedule for correction thereof by Franchisee; and (2) Franchisor's then-current requirements relating to the image, appearance, decoration, furnishing, equipping and stocking of Contours Express® facilities, and a schedule for effecting such upgrading or modifications in order to bring the Authorized Location in compliance therewith. Renewal of the Franchise shall be conditioned upon Franchisee's compliance with such requirements and continued compliance with all the terms and conditions of this Agreement up to the date of renewal; provided, however, that in the event Franchisee is curing any deficiencies as required by the Franchisor, the term of this Agreement shall be extended for a period of time equal to the number of calendar days required to cure such deficiency as established by Franchisor.

3.4 Franchisor Notice of Non-renewal. If Franchisor elects non-renewal, it shall give Franchisee written notice of Franchisee's failure to satisfy one or more of the conditions set forth in Article 3.2 (A-G), at least one (1) month prior to the expiration of the initial term of this Agreement or any renewal term.

ARTICLE IV: LICENSED MARKS

4.1 Ownership. Franchisee acknowledges the validity of the Mark "Contours Express®" and all other Marks which now or in the future are or will be a part of the System and that they are the sole property of the Franchisor. Franchisee further acknowledges that Franchisee's right to use the Marks is derived solely from this Agreement and is limited to the conduct of Franchisee's business pursuant to and in compliance with this Agreement and all applicable standards, specifications and operating procedures prescribed by Franchisor from time to time. Any unauthorized use of the Marks by Franchisee constitutes a breach of this Agreement and an infringement of the rights of Franchisor.

Franchisee agrees that all usage of the Marks by Franchisee and any goodwill established by the Franchisee's use of the Marks shall inure to the exclusive benefit of the Franchisor. Franchisee shall not, at any time during the term of this

Agreement or after its termination or expiration, contest the validity or ownership of any of the Marks or assist any other person in contesting the validity or ownership of any of the Marks.

All provisions of this Agreement applicable to the Marks shall apply to any additional trademarks, service marks, logos and commercial symbols hereafter authorized for use by and licensed to the Franchisee by the Franchisor.

- 4.2 Use. Franchisee shall not use any Mark as part of any corporate or trade name with any prefix, suffix or other modifying works, terms, designs or symbols, or in any modified form.

Franchisee shall use the Marks only as authorized, directed or approved by Franchisor. Franchisee agrees to display the Marks prominently and in the manner prescribed by Franchisor on signs and forms. Franchisee shall not use any other mark, name, commercial symbol or logo-type in connection with the operation of the Franchise Unit and shall not market any product from or in connection with the Franchise Unit without Franchisor's written consent, and if such consent is granted such product must be marketed in a manner acceptable to Franchisor.

Franchisee agrees to give such notices of trademark and service mark registrations and copyrights as the Franchisor specifies and to obtain such fictitious or assumed name registrations as may be required under applicable law.

Franchisee is prohibited from using Franchisor's Marks in advertising, promotion, or otherwise, without the appropriate © or ® (copyright and registration marks) or the designations ™ or ℠ (trademark and service mark), where applicable.

- 4.3 Infringement. Franchisee shall immediately notify Franchisor in writing of any apparent infringement of or challenge to Franchisee's use of the Marks, or in any similar trade name, trademark, service mark or logo of which Franchisee becomes aware. Franchisee may not communicate with any person other than the Franchisor and its counsel in connection with any such infringement, challenge or claim. Franchisor shall have sole discretion and exclusive right to take such action as it deems appropriate to control any litigation, United States Patent and Trademark Office proceeding or other administrative proceeding arising out of any such alleged infringement, unauthorized use, challenge or claim relating to the Marks. Franchisee shall execute any and all instruments and documents, render such assistance, and do such acts and things as may, in the opinion of the Franchisor's counsel, be necessary or advisable to protect and maintain the interests of the Franchisor in any such litigation, United States Patent and Trademark Office proceeding, or other administrative proceeding or to otherwise protect and maintain the interests of the Franchisor in the Marks.
- 4.4 Protection of Franchisee's Rights to Use Marks. Franchisor agrees to indemnify Franchisee for all damages for which Franchisee is held liable in any proceeding in which Franchisee's use of any Mark pursuant to and in compliance with this Agreement is held to constitute trademark infringement, unfair competition or dilution, and for all costs reasonably incurred by Franchisee in the defense of any such claim brought against Franchisee or in any such proceeding in which Franchisee is named as a party, provided that Franchisee has timely notified the Franchisor in writing of such claim or proceeding and has otherwise complied with this Agreement and provided that the Franchisor shall have the right to defend any such claim. If the Franchisor defends such claim, Franchisor will have no obligation to indemnify or reimburse Franchisee with respect to any charges or disbursements of any attorney retained by Franchisee.
- 4.5 Modification, Discontinuance or Substitution. If it becomes advisable at any time, in the Franchisor's sole discretion, for Franchisor and/or Franchisee to modify or discontinue use of any Mark, and/or use one or more additional or substitute trade names, trademarks, service marks or other commercial symbols, Franchisee agrees to comply with Franchisor's directions immediately upon notice to Franchisee by Franchisor, and Franchisor shall have no liability or obligation whatsoever with respect to Franchisee's modification or discontinuance of any Mark. Franchisor shall have no liability for any expenses or damages incurred by Franchisee as a result of Franchisor's election to discontinue, modify or establish the use of any or all of the Marks.

ARTICLE V: FEES

- 5.1 Initial Franchise Fee. Franchisee shall pay to Franchisor a non-recurring Initial Franchise Fee of Eighteen Thousand Dollars (\$18,000 US) for a single Franchise Unit, payable upon execution of this Agreement. The Initial Franchise Fee

shall be fully earned by the Franchisor upon execution of this Agreement as consideration for expenses incurred by Franchisor in furnishing assistance and services to Franchisee and for Franchisor's lost or deferred opportunity to franchise others, except as may be specifically provided in this Agreement or any Exhibit attached hereto.

- 5.2 **Continuing Royalty Fee.** Franchisee shall pay to Franchisor during the term of this Agreement, without offset, credit or deduction of any nature, a monthly non-refundable Continuing Royalty Fee, in an amount equal to Three Hundred and Ninety Five Dollars (\$395 US) for each month during the term of this Agreement, commencing on the day the Franchise Unit opens for business to the public. Unless otherwise prescribed in the Confidential Operations Manual, the Continuing Royalty Fee shall be paid on or before fifth (5th) day of each month and shall be non-refundable. Contours Express® may require the direct deposit of the Continuing Royalty Fee via electronic funds transfer, or otherwise, into an account established by Contours Express® and in the manner specified by Franchisor from time to time. Franchisee hereby authorizes Franchisor to utilize electronic means (such as EFT, automatic debit, sweep, etc.) to access Franchisee's bank account and automatically transfer all Continuing Royalty Fees to Franchisor. The Continuing Royalty Fee may be adjusted upward or downward based in changes in the "Consumer Price Index". For purposes of this Agreement, the term "Consumer Price Index" means the annual average of the Consumer Price Index for All Urban Consumers, Service Group Only, 1982-1984 = 100, published by the Bureau of Labor Statistics of the United States Department of Labor (the "Bureau"). If the Bureau ceases publishing the Consumer Price Index, then the successor or most nearly comparable index selected by Franchisor shall be used.
- 5.3 **Initial Exercise Equipment.** In addition to the Initial Franchise Fee, prior to opening the business, Franchisee shall pay to Franchisor the sum of \$17,500 for the initial exercise equipment. Payment for the initial exercise equipment is due upon the earlier of the date the equipment is ordered by Franchisee, or 90 days from execution of this Franchise Agreement. If Franchisee paid for any portion of the initial exercise equipment and the Franchise Agreement is terminated for failure of Franchisee to complete training to the satisfaction of Franchisor, the Franchisor will refund the full amount of the purchase price for the exercise equipment upon return of the equipment to Franchisor or its designee in the same condition as received by Franchisee. The Franchisor purchases the exercise equipment from a third party for resale to the Franchisee. The Franchisor makes no representations or warranties regarding the equipment. The Franchisee agrees to look solely to the manufacturer of the equipment regarding all warranty claims.
- 5.4 **Interest and Late Charge.** If Franchisee fails to pay when due any Continuing Royalty Fee, amounts due from purchases by Franchisee from Franchisor or its affiliates, or other amounts due to Franchisor or its affiliates, such amount shall bear interest at the lesser of the highest applicable legal rate for open account business credit, not to exceed one and one half percent (1.5%) per month, or the highest contract rate of interest allowed by law in the State where Franchisee's Unit is operated, from the date such payment was due until paid. Franchisor is entitled to recover its costs, including its reasonable attorney's fees, and other expenses in collecting amounts due.
- 5.5 **Application of Payments.** Franchisor has the sole discretion to apply any payments by Franchisee to any past due indebtedness of Franchisee for Continuing Royalty Fees, expenses, purchases from Franchisor or its affiliates, interest or any other indebtedness. Franchisor is not obligated to accept payments after the same are due. Failure by Franchisee to pay amounts when due shall constitute grounds for termination of this Agreement, notwithstanding the provisions of this Article V.

ARTICLE VI: FRANCHISOR'S SERVICES

Pre-Opening

- 6.1 **Market and Site Selection.** Franchisee alone is solely responsible for locating and evaluating the suitability of prospective sites and securing an approved site for a Contours Express® Franchise Unit or Units. Franchisee must submit to Franchisor a complete site report (containing such information as the Franchisor may reasonably require) for the site where Franchisee proposes to establish and operate a Franchise Unit and which Franchisee reasonably believes to conform to such standardized site selection criteria as may be established by Franchisor from time to time.

Franchisee shall obtain Franchisor's written approval of the proposed site, which site shall be deemed an Authorized Location upon Franchisor's signature or initials on Addendum 1. Franchisor will approve or disapprove a proposed site within fifteen (15) days of submission by Franchisee. The failure of Franchisor to respond to a proposed site by Franchisee shall be deemed an approval, provided Franchisor thereafter executes or initials Addendum 1.

Franchisor shall use reasonable efforts to help Franchisee analyze and evaluate a proposed site for a Franchise Unit; provided, however, that Franchisor's selection or approval of a proposed site and information imparted to Franchisee regarding the proposed site will not constitute an express or implied warranty or representation of any kind, as to the suitability of the proposed site for a proposed location for a Franchise Unit or for any other purpose.

- 6.2 Unit Development. Franchisor will consult and advise Franchisee on site selection, procuring necessary licenses or permits, ordering initial inventories, managing construction or refurbishing of the Franchise Unit premises, Franchise Unit layout, procuring equipment and fixtures, signs, image, on proper display of the Marks, and will provide Franchisee with Franchisor's specifications for the same. However, the responsibility for taking the necessary actions to complete the aforementioned tasks lie solely with the Franchisee, and the advice and consultation of Franchisor does not constitute a warranty or guarantee of success but are given in good faith from Franchisor's experience and can not create a liability for Franchisor.
- 6.3 Opening Schedule. Franchisor will consult and advise Franchisee on steps necessary for Franchisee to open the Franchise Unit according to the mutually agreed upon date set forth in Addendum 1. Franchisor acknowledges that the time to open a Franchise Unit may vary depending upon many factors, including, but not limited to, weather conditions, shortages, delayed installation of equipment fixtures and signs and the Franchisee's ability to complete the required training program, secure financing, obtain a lease, comply with zoning and local ordinances and obtain building permits. However, Franchisor reserves the right to terminate this Agreement within six (6) months of its execution if Franchisee has failed to commence operation of the Franchise Unit, unless otherwise provided in writing by Franchisor; provided, however, that an extension of said six-month period by Franchisor shall not be unreasonably withheld.
- 6.4 Confidential Operations Manual. Franchisor will loan Franchisee one (1) copy of Franchisor's Confidential Operations Manual for the Franchise Unit during the term of this Agreement, which will contain mandatory and suggested specifications, standards and operating procedures prescribed by Franchisor. The Confidential Operations Manual shall remain the sole property of Franchisor and shall be kept confidential by Franchisee both during the term of the Franchise and subsequent to the expiration or termination of this Agreement.
- 6.5 Training. After the execution of this Agreement and after Franchisee secures possession of the Approved Location, but before Franchisee may open Franchisee's Unit, Franchisor will provide Franchisee or its designated manager, if applicable, and up to one (1) additional employee, if applicable, one (1) initial training course, the cost of which is part of the Initial Franchise Fee; provided, however, that, if Franchisee's designated employee manager and/or any other employee of Franchisee attends said initial training course, said individuals must attend such course simultaneously with Franchisee. Said training program consists of classes conducted at Franchisor's offices or at other designated locations, and on-the-job training conducted at one of Franchisor's Company Units or an Area Developer's Unit. Said training will cover basic aspects of establishing and operating a Franchise Unit, including franchise management computer system, forms, cost and cash control, customer service, comprehensive marketing, selling skills, employee hiring, training and scheduling procedures, job functions and maintenance of quality standards. The duration of said training program will depend upon Franchisee's experience, aptitude and progress. The initial training is anticipated to be four to five (4-5) days in length or until Franchisor feels Franchisee is fully competent to operate an independent Contours Express® Franchise Unit.

Franchisor may terminate this Agreement if Franchisor determines, in its sole discretion, that Franchisee is not competent to operate an independent Franchise Unit or if Franchisee is unable to complete the training program to Franchisor's satisfaction. Upon written release by all parties, Franchisor will then return the Initial Franchise Fee less any expenses incurred by Franchisor in providing training to the Franchisee and less other expenses incurred by Franchisor in connection with interacting with Franchisee.

Franchisee is responsible for all travel, entertainment, lodging, living expenses and compensation for Franchisee and Franchisee's manager and/or employees incurred while attending any training program.

- 6.6 Opening Assistance. To facilitate the opening of Franchisee's Unit, Franchisor will provide Franchisee with the services of one (1) of its representatives for supervisory assistance and guidance for three (3) days for the opening of

your Franchise Unit. Franchisor will have the right to determine the time or times at which such representatives shall be available to Franchisee.

Franchisee may request and Franchisor may provide additional initial assistance; provided, however, Franchisee shall reimburse Franchisor for its related expenses and training time resulting from such additional initial assistance at the rate of \$250.00 per day plus travel and living expenses. Said reimbursement shall be made within two weeks after the billing for such additional initial assistance.

Post-Opening

- 6.7 Operating Assistance. Franchisor shall furnish to Franchisee such guidance and assistance in connection with the operation of the Franchise Unit as is from time to time deemed appropriate by the Franchisor. Such guidance and assistance shall be communicated by field visits to Franchisee's Unit, company training programs and meetings, Confidential Operations Manual updates, written correspondence and/or by telephone. Operating assistance may consist of advice and guidance with respect to:
- A. Pricing. Franchisor may from time to time advise or offer guidance to Franchisee relative to prices of services offered by Franchisee at the Franchise Unit. Such prices are offered as a suggestion only based on an analysis of costs, prices charged for competitive services and the experience of the Franchisor and its Franchisees. Franchisee is not obligated to use the "suggested" price and shall have the sole right to determine the prices to be charged by Franchisee's Unit. In no such instance should Franchisor's "suggested" price be deemed or construed to impose upon Franchisee any obligation to charge any fixed, minimum or maximum prices for any service offered by Franchisee's Unit.
 - B. Purchasing. Franchisor will provide Franchisee with lists of approved suppliers and products on a periodic basis and when possible will attempt to use the Franchisor's volume buying power to negotiate favorable pricing for Franchisor and Franchisee.
 - C. Approved Lists. Franchisor will provide and from time to time, add to, alter or delete, at Franchisor's sole discretion, lists of specifications, approved manufacturers, distributors and suppliers, approved services, products, materials and supplies, and training that may benefit Franchisee in the operation of the Franchise Unit.
 - D. Administrative. Franchisor will continue to evaluate and upgrade the franchise management computer system utilized in the Franchise Units, if any, to promote the effective management of the Franchise Unit.
 - E. Operations Problems or Non-compliance. Franchisor will advise Franchisee from time to time regarding operating problems of Franchisee's Unit as disclosed by reports submitted by Franchisee or inspections made by Franchisor. Franchisor may also furnish Franchisee with such guidance and assistance in connection with the operation of the Franchise Unit as is from time to time deemed appropriate by Franchisor.
- 6.8 Confidential Operations Manual Updates. Franchisor will have the right from time to time to add to, and otherwise modify, the Confidential Operations Manual to reflect changes in products, services, specifications, standards and operating procedures, including sales and marketing techniques, provided that no such addition or modification may alter Franchisee's fundamental status and rights under this Agreement.

Franchisee must keep Franchisee's copy of the Confidential Operations Manual current, and the master copy of the Confidential Operations Manual maintained by Franchisor at its principal office will be controlling in the event of a dispute relative to the contents of the Confidential Operations Manual.

- 6.9 Periodic Visits. Franchisor or its representatives shall make periodic visits to the Franchisee's Unit for consultation, assistance, and guidance of Franchisee in all aspects of the operation and management of the Franchise Unit as is from time to time deemed appropriate by Franchisor. Franchisee shall fully cooperate with representatives of Franchisor making such inspection. Franchisor will outline in written reports any suggested changes or improvements for the operation or management of the Franchise Unit or detail any defaults in operations which become evident as a result of any such visit. Additional guidance will, at the sole discretion of Franchisor, be furnished in the form of Franchisor's

Confidential Operations Manual, bulletins or other written materials, telephone consultations and/or consultations at the offices of the Franchisor or at the Franchisee's Unit in conjunction with an inspection of the Franchisee's Unit.

- 6.10 Additional Training. Franchisor may offer additional optional, refresher, advanced or other training programs or seminars from time to time, addressing common problems experienced by Contours Express® Franchisees or new products, services, or techniques to be utilized by the Franchise Units. Franchisee shall reimburse Franchisor for its travel expenses, if any, resulting from such additional training and Franchisor may establish reasonable fees for attendance, not to exceed \$250.00 per day. Said reimbursement shall be made within thirty (30) days after billing.

Franchisee is responsible for all travel, lodging, living expenses and compensation for Franchisee and Franchisee's manager and/or employees incurred while attending any training program.

- 6.11 Miscellaneous. In addition to the above-referenced periodic visits and additional training, Franchisor may, in its sole discretion, provide other supervision, assistance or services to Franchisee during the term of this Agreement. Under no circumstances does any assistance, consent or approval by Franchisor constitute an assurance or warranty. Franchisor reserves the right to charge you for its reasonable travel expenses and training expenses, at the rate of \$250.00 per day, relating to such additional assistance. Payment for any such fee shall be due within thirty (30) days after billing.

ARTICLE VII: FACILITY STANDARDS, LEASE AND CONSTRUCTION

- 7.1 Facility Specifications. After Franchisee submits an acceptable site for approval and Addendum I has been executed or initialed by both parties, Franchisor will deliver to Franchisee specifications for the building, equipment, furnishings, decor, layout and signs relating to the Franchisee's Unit and shall provide reasonable consultation in connection with the development of the Franchise Unit. Franchisee agrees Franchisee's Unit shall be designed, constructed or improved, equipped and furnished in accordance with Franchisor's standards. Equipment, furnishing, decor, fixtures and signs for the Franchise Unit shall be purchased from Franchisor or from suppliers approved by Franchisor. Franchisee may remodel or alter the Franchise Unit, or change its equipment or fixtures, only with Franchisor's written consent, which consent will not be unreasonably withheld. Franchisee's Unit shall contain or display only signage that Franchisor has specifically designated or approved.

- 7.2 Facility Lease. Franchisee is solely responsible for purchasing or leasing a suitable site for Franchisee's Unit. Franchisor has the right to approve the terms of any lease that must be executed prior to securing possession of said suitable site. Franchisor's approval of the lease, if any, may be conditioned upon inclusion in the lease of terms acceptable to Franchisor and, at Franchisor's option, said lease shall contain such provisions as Franchisor may reasonably require, including, but not limited to:

- A. A provision that states the Franchisee shall neither create or purport to create any obligations or liability on behalf of the Franchisor, nor agree to any other term, condition or covenant which is inconsistent with any provision of this Agreement;
- B. Except as otherwise provided in this Agreement, a provision that the Franchisee shall not assign its lease or sublet the facility or any part of the facility containing Franchisee's Unit, without the express prior written approval of the Franchisor;
- C. A provision that reserves Franchisor's right, at Franchisor's election, in the event of expiration or termination of this Agreement for any reason whatsoever, to receive an assignment of the leasehold interest and replace Franchisee as lessee, cure any defaults within a reasonable period of time, and to reassign the lease to another franchisee;
- D. A provision which expressly permits the lessor to provide Franchisor with all sales and other information it may have related to the operation of the Franchisee's Unit, at Franchisor's request;
- E. A provision which requires the lessor to concurrently provide Franchisor with a copy of any written notice of deficiency under the lease that is sent to Franchisee and which grants the Franchisor the right, in its sole discretion,

to cure any deficiency under the lease that Franchisee should fail to cure, within fifteen (15) days after the expiration of the period in which Franchisee may have to cure the default;

- F. A provision that any lease entered into by the Franchisee shall not be modified or amended without Franchisor's written consent, which consent shall not be unreasonably withheld, and that Franchisor is promptly provided with copies of all such proposed modifications or amendments and provided with true and correct copies when executed; and
- G. A provision that explicitly permits the Franchisee to display the Franchisor's standard signage and Marks in accordance with the specifications required by the Confidential Operations Manual.

7.3 **Construction.** Franchisee agrees that promptly after obtaining possession of the Approved Location, Franchisee will:

- A. At Franchisee's expense, prepare, obtain, or cause to be prepared and/or obtained all requisite drawings, designs, site surveys, studies, plans, approvals, variances and permits;
- B. Cause the facility to be constructed by a licensed contractor in full and strict accordance with Franchisor's standard plans and specifications; provided, however, that said standard plans and specifications may be modified by Franchisee to the extent necessary to comply with applicable ordinances, building codes, permit requirements, lease requirements and restrictions, and market considerations; provided, further, that any such modifications are subject to Franchisor's approval;
- C. Purchase or lease equipment, fixtures, furniture and signs as provided herein;
- D. Obtain all customary contractor's sworn statements and partial and final waivers of lien for construction, remodeling, decorating and installation services; and
- E. Specifically complete the development of and have Franchisee's Unit ready to open by the date specified in Addendum 1.

7.4 **Franchisor's Written Approval to Open.** Franchisee must submit a plan of opening to Franchisor for final written approval forty-five (45) days before commencement of business of Franchisee's Unit. Franchisor may, at its sole discretion, require any and all sources of proof of compliance with Franchisor's specifications contained herein. Franchisor may withhold approval for Franchisee's Unit to open until all of Franchisor's requirements, including Franchisee's initial training, have been satisfied. Franchisee agrees that Franchisor will not be held liable in any manner for Franchisee's failure to have Franchisee's Unit open for business by the date specified in Addendum 1 or by the date, if any, that occurs after the date specified in Addendum 1 and which is agreed upon as the date of opening for the Franchisee's Unit.

Notwithstanding any of the provisions set forth in this Agreement, it shall be the sole responsibility of the Franchisee to seek and obtain approval, consent or license of any governmental or quasi-governmental authority required to enable the Franchisee to lawfully open and operate the Franchisee's Unit.

7.5 **Upgrade Costs.** Franchisor requires the Franchisee to bear all cost of remodeling the Unit, including, but not limited to, upgrading or acquiring equipment or supplies occasioned by change of name, or image, or products or designs relating to the Contours Express® System, or as may be required by Franchisee's lease. Any such costs are non-refundable. These costs cannot be estimated at this time, but upgrading at Franchisor's request will be limited to Ten Thousand Dollars (\$10,000 US) maximum every five (5) years, and any such costs shall be payable to the Franchisee's supplier or contractor.

ARTICLE VIII: UNIT IMAGE AND OPERATING STANDARDS

8.1 **Franchisor's Right to Inspection.** As it is imperative to protect the System and to maintain the uniform standards of operation relating to the Franchise granted herein, Franchisee shall operate Franchisee's Unit at all times in strict compliance with the requirements of this Agreement and the Confidential Operations Manual. To determine whether

Franchisee is complying with this Agreement, Franchisor shall have the right at any time during business hours, and without prior notice to Franchisee, to inspect the Franchise Unit.

- 8.2 Maintain Appearance. Franchisee agrees to maintain the condition and appearance of the Franchise Unit consistent with Franchisor's quality controls and standards for the image of a business that is pleasant, safe, clean, attractive and comfortable, providing quality and courteous services. Franchisee agrees to maintain such reasonable maintenance of Franchisee's Unit as is from time to time required to maintain or improve the appearance and efficient operation of the Unit, including replacement of obsolete or worn out flooring, furniture, fixtures and signs or any other item of the interior or the exterior that is in need of repair, refurbishing or redecorating.
- 8.3 Franchisor's Notice of Deficiency. If at any time in the Franchisor's judgment the general state of repair, appearance or cleanliness of the premises of Franchisee's Unit or its fixtures, equipment, furniture or signs do not meet the Franchisor's standards, Franchisor shall notify Franchisee, specifying the action to be taken by Franchisee to correct any such deficiency. If Franchisee fails or refuses to initiate within twenty (20) days after receipt of such notice a bona fide program to undertake and complete any such required maintenance or refurbishing, Franchisor shall have the right, in addition to all other remedies, to enter upon the premises of Franchisee's Unit and effect such maintenance and refurbishing on behalf of Franchisee, and Franchisee shall pay the entire cost thereof to the Franchisor on demand. Franchisee's obligation to initiate and continue any required maintenance shall be suspended during any period in which maintenance is impractical due to war, civil disturbance, natural disaster, organized labor dispute or other event beyond Franchisee's reasonable control.
- 8.4 Alterations to Premises. Franchisee shall make no alterations to the Franchise Unit or its appearance, and shall not replace or make alterations to the fixtures, equipment, furniture or signs of the Franchise Unit without prior written approval by Franchisor.
- 8.5 Intended Use and Approved Products. Unless Franchisee receives written consent from Franchisor otherwise, Franchisee agrees that the Approved Location of Franchisee's Unit shall be used solely for the purpose of operating a Contours Express® business. Unless Franchisee receives written consent from Franchisor otherwise, Franchisee also agrees that Franchisee will only offer services that have been approved in writing by Franchisor, and will operate Franchisee's Unit in full compliance with the terms of this Agreement and the Confidential Operations Manual.
- 8.6 Approved Suppliers. In order to insure consistency, quality and uniformity throughout the Contours Express® System, Franchisee is required to purchase or lease only supplies, signage, fixtures, equipment, franchise management computer system, real estate, advertising, training, billing and collection services and inventory that have been approved by Franchisor. All such items must conform to specifications and standards developed and issued by Franchisor, and Franchisor reserves the right periodically to update and alter such standards and specifications and to add to or delete from the list of products and suppliers approved for the Contours Express® System.

Franchisor is permitted to inspect the supplier's facility and products to insure compliance with Franchisor's specifications and standards. Franchisor has sole discretion regarding approval of suppliers and products.

If Franchisee proposes to offer for sale any products or services which have not been approved by Franchisor, Franchisee shall first notify the Franchisor in writing and submit sufficient information, specifications and samples concerning such product and/or supplier and/or service for a determination by the Franchisor whether such product or supplier or service complies with the Franchisor's specifications and standards and/or whether such supplier meets the Franchisor's approved supplier criteria. The Franchisor shall, within sixty (60) days, notify Franchisee whether or not such proposed product and/or supplier or service is approved. The Franchisor may from time to time prescribe procedures for the submission of requests for approved products and/or suppliers or services and obligations that approved suppliers must assume (which may be incorporated in a written agreement to be executed by approved suppliers).

Franchisor reserves the right to revoke its approval of a previously authorized supplier or product when Franchisor determines in its sole discretion that such supplier or product is not meeting the specifications and standards established by Franchisor.

If Franchisor modifies its list of approved products and/or suppliers, Franchisee shall not, after receipt in writing of such modification, reorder any product or utilize any supplier which is no longer approved.

Franchisee hereby acknowledges and agrees that Franchisor is an approved supplier for all supplies, fixtures, equipment, signage, training and inventory, that Franchisor may derive income from the sale of such items, and that the price charged by Franchisor may reflect an ordinary and reasonable profit consistent with a business of the kind which produces and/or supplies such items.

8.7 Operating Standards. Franchisee acknowledges and agrees that each and every detail regarding the appearance and operation of Franchisee's Unit is important to the Franchisor and to other Company Units and Franchise Units. Franchisee agrees to maintain the highest standards of quality and service in the Franchise Unit and, accordingly, agrees to comply with all mandatory specifications, standards and operating procedures (whether contained in the Confidential Operations Manual or any other written or oral communication to Franchisee) relating to the appearance or operation of the Franchisee's Unit, including without limitation:

- A. The safety, maintenance, cleanliness, function and appearance of the Franchise Unit premises and its fixtures, equipment, furniture, decor and signs;
- B. Quality and uniformity of service and sales of all products and services at the Franchise Unit;
- C. Methods and procedures relating to franchise management computer system and reports, marketing, dealing with customers, providing services, handling customer orders and refunds;
- D. Hours and days during which the Franchise Unit will be open for business;
- E. Advertising and promotional programs;
- F. Use and retention of standard forms;
- G. Use and illumination of exterior and interior signs, posters, displays, standard formats and similar items;
- H. Use of Marks;
- I. Identification of Franchisee as the owner of the Franchise Unit;
- J. Type and quality of products and services; and
- K. The qualifications, dress, general appearance and demeanor of Franchisee's employees.

8.8 Compliance with Laws. Franchisee shall secure and maintain in force all required licenses, permits and certificates relating to the operation of the Franchisee's Unit, and shall operate the Franchise Unit in full compliance with all applicable laws, ordinances and regulations, including, without limitation, all Federal, State and local government regulations relating to occupational hazards and health, EEOC laws, consumer protection, wage and hour, worker's compensation, unemployment insurance and withholding and payment of Federal and State income taxes and social security taxes and sales, use and property taxes.

Franchisee agrees that all sales presentations, advertising and promotion shall be completely factual and shall conform to the highest standards of ethics. Franchisee further agrees to refrain from any business or advertising practice that may be injurious to the business of the Franchisor and the goodwill associated with the Marks and other Units. Franchisee acknowledges that some states may not permit the operation of a "women's only" fitness and weight loss studio; therefore, Franchisee agrees that it must permit men to join their studio, and Franchisee must not discriminate in its hiring practices or club membership on the basis of gender, age, race, religion, national origin, or other class of people.

- 8.9 Best Efforts. Franchisee, or its designated operating manager, shall assume full-time supervision responsibilities of Franchisee's Unit and shall, at all times, faithfully, honestly and diligently perform Franchisee's obligations as outlined in this Agreement and shall continuously devote its best efforts toward the development of all of the Franchise Area and each severable part thereof. The person who shall be responsible for the day-to-day supervision of the Franchise Unit (i.e., the managing partner or shareholder, or the approved manager) shall assume such responsibilities on a full-time basis and shall not engage in any other business or other activity, directly or indirectly, that requires any significant management responsibility, time commitments, or other commitments which may conflict with Franchisee's obligations hereunder.
- 8.10 Direct Supervision of Franchisee. Franchisee's Unit shall at all times be under the direct, day-to-day, full-time supervision of Franchisee (or, if Franchisee is a partnership, limited liability company or corporation, a partner, member or shareholder who shall have been approved by the Franchisor as the managing partner, member or shareholder, and who shall have satisfactorily completed the training program) or a competent operating manager who shall have been approved by the Franchisor and who shall have satisfactorily completed the Franchisor's training program. In the event an operating manager shall supervise the Franchisee's Unit, Franchisee (or such managing partner, member or shareholder) shall remain active in overseeing the operations of the Franchisee's Unit conducted under the supervision of such manager.
- 8.11 Notice of Action. Franchisee shall notify Franchisor in writing within three (3) days of the commencement of any action, suit, proceeding, and of the issuance of any order, writ, injunction, award or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation or financial condition of the Franchisee's Unit.
- 8.12 Local Advertising. Franchisee must maintain a business phone and is required to be listed continuously in the Classifieds or Yellow Pages of local telephone directories under the listing of "Health Clubs" and/or any similar category which contains listings of businesses which sell products and/or services similar to that sold or provided by Franchisee's Unit.

Additional advertising is at the sole discretion of the Franchisee. Franchisor recommends that Franchisee spend a minimum of Five Hundred (\$500.00) per month on local advertising.

Prior to use by Franchisee, samples of all local advertising and promotional materials not prepared or previously approved by Franchisor shall be submitted to the Franchisor for approval. If written disapproval is not received by Franchisee within fifteen (15) days from the date of receipt by Franchisor of such materials, Franchisor shall be deemed to have given the required approval. Franchisee shall not use any advertising or promotional materials that Franchisor has not approved or that Franchisor has disapproved.

- 8.13 Operations Inspection, Training and Compliance. Franchisor may inspect the operations of Franchisee from time to time with or without notice to the Franchisee. If the Unit operation or Franchisee's performance is found to be unsatisfactory in any way, Franchisor may require the Franchisee to obtain additional training assistance from Franchisor's personnel or to engage in other activities or modifications necessary to remedy the deficiencies in the Franchisee's performance and operations. All expenses associated with improving such performance in operations shall be borne by the Franchisee, including a reasonable non-refundable charge for such training.
- 8.14 National or Regional Marketing Fund. Franchisor reserves the right at any time to create a regional or national Marketing Fund. When a Marketing Fund is established, Franchisee shall be required to contribute up to \$195.00 per month to the Marketing Fund, payable by the 5th day of each month. The Franchisor has the right to use the advertising contributions to meet the costs of conducting regional and/or national advertising and promotional activities. The Franchisor may charge the Marketing Fund fees at reasonable rates for advertising, marketing and promotional services that the Franchisor or its affiliates actually provide. The Marketing Fund will be administered as a separate account by Franchisor or its affiliates. The Franchisor will make an unaudited annual financial statement of the Marketing Fund available to Franchisee on request 120 or more days after year end. The Franchisor is not required to spend any amount from the Marketing Fund on advertising or promotion in Franchise Area. If any contributions to the Marketing Fund, including any associated earnings, are not spent in the fiscal year in which they are received or accrue, they will remain in the Marketing Fund for use in the following years. Franchisor reserves the right to terminate the Marketing

Fund at any time, but Franchisor will not do so until all money in the Marketing Fund has been expended for the purposes described herein or returned to contributors on a pro rata basis.

- 8.15 Internet/Web Site. Franchisee shall be required to coordinate and comply with all standards, policies and procedures established from time to time by Franchisor with respect to all internet, web site, e-commerce, domain name, URL, intranet, or other cyberspace application.
- 8.16 Billing/Collection Services. Franchisee shall use such billing and collection services for membership dues as Franchisor may designate from time to time. Franchisor is authorized to direct such billing and collection services to deduct from Franchisee and pay over to Franchisor the Continuing Royalty Fee.
- 8.17 Computer Software. Franchisee shall purchase or license, and utilize and maintain one or more computer software programs designated by Franchisor from time to time.

ARTICLE IX: FINANCIAL STANDARDS

- 9.1 Records and Franchise Management Equipment. Franchisee is required to keep accurate and complete records of all activity and transactions affecting sales, revenues, inventory or other information required by Franchisor as set forth in the Confidential Operations Manual. Franchisee may be required to use the franchise management computer system approved by Franchisor, if any, and to operate the same so that it is fully compatible with Franchisor's System. Obtaining and operating said equipment shall be the Franchisee's responsibility and expense. Franchisor will have full access to all programs and information including canceled checks, cash receipts and disbursements, journals and general ledgers, purchase orders, invoices, payrolls records, sales tax records and returns, and customer lists. Franchisee is further required to submit such periodic reports, forms and records as specified in writing by Franchisor in the Confidential Operations Manual or otherwise requested.
- 9.2 Insurance Policies. Franchisee is required to maintain the following insurance coverage, naming Franchisor as an additional insured:
- A Comprehensive general liability insurance, including products liability, property damage, and personal injury coverage, with a combined single limit of at least One Million Dollars (\$1,000,000 US);
 - B Worker's compensation, employer's liability, and such other insurance to meet statutory requirements;
 - C Fire, vandalism, theft, burglary and extended coverage insurance with primary and excess limits of not less than one hundred percent (100%) replacement value of the Franchisee's Unit, including fixtures, equipment and inventory; and
 - D If Franchisee has company owned vehicles, automobile liability insurance for owned and non-owned automobiles including personal injury, wrongful death, and property damage with single limit coverage of at least One Million Dollars (\$1,000,000 US).
- 9.3 Submit Certificate to Franchisor. Franchisee is required to submit to Franchisor a Certificate of Insurance, naming Franchisor as an additional insured, showing compliance with the foregoing requirements within ninety (90) days of the execution of the Franchise Agreement, or at least two (2) weeks before Franchisee takes possession and commences development of the premises from which it will operate the Franchise Unit. Should Franchisee fail to procure the required insurance coverage, Franchisor has the right to procure the insurance for Franchisee and charge the cost of such, as well as Franchisor's expenses, to Franchisee.

ARTICLE X: CONFIDENTIAL INFORMATION

- 10.1 Franchisor's Confidential Information. Franchisor possesses certain Confidential Information and trade secrets relating to the development and operation of Contours Express® Units including, without limitation, sources of supply, training techniques, standards, systems, processes, methods, techniques, operating procedures and other information (all of the preceding information is referred to herein as the "Confidential Information"). Franchisor considers the Confidential Information to be proprietary and a trade secret. Franchisee acknowledges that its entire knowledge of the operation of

the Contours Express® System consists of Confidential Information that will be disclosed to Franchisee by Franchisor through Franchisor's training programs, the Confidential Operations Manual, guidance to Franchisee during the term of this Agreement and otherwise, and Franchisee further acknowledges that Franchisor will disclose such Confidential Information to Franchisee solely for the use by Franchisee in the development and operation of the Franchise Unit during the term of this Agreement. Franchisee agrees that it will maintain the absolute confidentiality of all such Confidential Information during and after the term of this Agreement and will not use any such Confidential Information in any other business or in any manner not specifically authorized or approved in writing by the Franchisor. In the event any of the Confidential Information is conveyed or transmitted via e-mail, internet, intranet, web site access or through any other cyberspace application, Franchisee shall not copy, duplicate, reproduce or transfer all or any part thereof without the prior written consent of Franchisor, and Franchisee shall take all reasonable steps to prevent Franchisee's employees from doing so.

- 10.2 Franchisor Retains All Rights to Confidential Information. Franchisee shall not acquire any interest in the Confidential Information other than the right to utilize it in its Franchise Unit, and shall not use such information in any other business or capacity. Franchisee agrees to divulge Confidential Information only to its employees that must have access to it in order to operate the Franchise Unit, and Franchisee shall not make any unauthorized copies of any portions of such Confidential Information. Franchisee shall adopt and implement all reasonable procedures to prevent unauthorized use, duplication, or disclosure of Franchisor's Confidential Information.
- 10.3 Franchisee Disclaims All Rights to Confidential Information. Franchisee acknowledges that any and all information, knowledge and know-how, including, without limitation, materials, equipment, techniques, operating systems, customer lists, sales and marketing methods and other data shall be deemed confidential for purposes of this Agreement, except information which Franchisee can demonstrate came to its attention prior to disclosure by Franchisor or which, at the time of disclosure by Franchisor to Franchisee, had become a part of the public domain, through publication or communication by others.
- 10.4 Franchisee's Employees Shall Sign Nondisclosure and Non-compete Agreements. All employees of Franchisee having access to Confidential Information of Franchisor shall be required to execute nondisclosure and non-compete agreements in the form acceptable to Franchisor, to the extent permitted by law. Franchisee shall only divulge Confidential Information pertaining to the Franchisee's Unit to such of its employees as must have access to it in order to operate the Franchise Unit.
- 10.5 No Other Interests. Franchisee acknowledges and agrees that the Franchisor would be unable to protect its Confidential Information against unauthorized use or disclosure and would be unable to encourage a free exchange of ideas and information among Contours Express® Units if franchisees were permitted to hold interests in any women's only fitness and weight loss center or related business. Therefore, during the term of this Agreement, Franchisee must comply with the competitive covenant provisions of Article XV hereof.
- 10.6 Franchisor's Disclaimer. There are no infringing uses known to Franchisor that would materially affect the Franchisee's use of the Confidential Information.

ARTICLE XI: TRANSFER OF FRANCHISE

- 11.1 Franchisor's Approval Required. This Agreement and all attendant rights may be assigned and transferred by Franchisee to the benefit of Franchisee's successors and assigns, subject to Franchisor's right of first refusal and/or Franchisor's written approval, including written approval of the proposed assignee and payment of applicable transfer and/or training fees and the execution of all documents required by and to the satisfaction of the Franchisor. Franchisee understands and acknowledges that the rights and duties created by this Agreement are personal to Franchisee and its owners and that the Franchisor has granted the Franchise in reliance upon the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of Franchisee or its owners. Therefore, without prior written approval of the Franchisor, neither this Agreement, nor the Franchisee's Unit (or any interest therein), nor any part or all of the ownership of Franchisee may be voluntarily, involuntarily, directly or indirectly, assigned, sold, conveyed, given, subdivided, subfranchised, encumbered or otherwise transferred by Franchisee or its owners (including, without limitation, by merger or consolidation, by issuance of additional securities representing an ownership interest in Franchisee, by conversion of a general partnership to a limited partnership, by

transfer or creation of an interest as a general partner of a partnership, by transfer of an interest in Franchisee or in this Agreement in a divorce proceeding, or in the event of the death of Franchisee or an owner of Franchisee, by will, declaration of or transfer in trust or the laws of interstate succession); any such assignment or transfer without such approval will constitute a breach of this Agreement and conveys no rights to or interests in Franchisee or the Franchisee's Unit.

11.2 Conditions for Approval of Assignment. If the Franchisee is in full compliance with this Agreement and the Franchisee makes application in writing for Franchisor's consent, upon execution of a general release form by Franchisee, in a form satisfactory to the Franchisor, Franchisor will not unreasonably withhold its approval of assignment, provided that the proposed Assignee is, in the sole opinion of the Franchisor, of good moral character and reputation, has a good credit rating and sufficient and competent business experience, aptitude and financial resources acceptable to Franchisor's then current standards for franchisees, and further provided that the Franchisor shall require that the following conditions be met prior to or concurrently with the effective date of the assignment:

- A. Franchisee shall have paid such Continuing Royalty Fees, amounts owed for purchases by Franchisee from the Franchisor or its affiliates and any other amounts owed to the Franchisor or its affiliates which are then due and unpaid;
- B. Assignee, including all its shareholders, officers, directors, members or partners, jointly and severally, must execute Franchisor's then current standard form of Franchise Agreement, and assume all obligations of the Franchisee and its owners incurred in connection with the Franchise Agreement;
- C. The Assignee, or other individual(s) who will be the actual manager(s) of the Franchise Unit, makes full payment to Franchisor for then current training programs and successfully completes, to the Franchisor's satisfaction, the training course then in effect for franchisees, or demonstrates to Franchisor's satisfaction sufficient ability to operate the Franchise Unit being assigned;
- D. If required by lease, the lessor of the Franchise Unit has consented to Franchisee's assignment or sublease of said premises to the proposed assignee;
- E. Assignee or Franchisee shall have paid to the Franchisor the transfer fee of Four Thousand Dollars (\$4,000 US), which will be used to defray expenses incurred by the Franchisor in connection with the assignment, including without limitation, supervision, legal and accounting fees, overhead, credit and other investigation charges and evaluation of the assignee and terms of the assignment;
- F. Franchisor shall have approved the material terms and conditions of such assignment and shall have determined that the price and terms of payment, in the Franchisor's opinion, are not so burdensome as to adversely affect the future operations of the Franchise Unit by the Assignee. Such approval by Franchisor is an opinion only and does not constitute a warranty or representation of any kind, expressed or implied, as to the Assignee's success of the Franchise Unit;
- G. Franchisee (and each of its owners, if Franchisee is a corporation, limited liability company or partnership) shall have executed a non-competition covenant in favor of the Franchisor and the Assignee in accordance with the provisions of Article XV hereof, effective as of the effective date of the assignment;
- H. Franchisee shall have entered into an agreement with the Franchisor agreeing to subordinate any obligations which Assignee owes to Franchisee to the obligations which Assignee owes to Franchisor, including, without limitation, any Continuing Royalty Fees;
- I. Franchisee is required to notify Franchisor in writing sixty (60) days prior to Franchisee's intent to offer Franchisee's Unit for sale or assignment. Franchisee may not, without Franchisor's prior written approval, advertise in any manner for sale or transfer the Franchise Unit or the rights to this Agreement. Franchisor must have proper notice as described in this paragraph to comply with any applicable State or Federal Franchise Disclosure Laws. Franchisee agrees to indemnify and hold Franchisor harmless for Franchisee's failure to comply with these requirements; and

J. If Assignee is a corporation or limited liability company, Assignee shall have:

- 1) All stock certificates representing shares in the corporation or evidence of ownership in the limited liability company, whichever is applicable, clearly indicating that they are subject to the terms of this Agreement;
- 2) No new common or preferred voting shares in the corporation or similar interests in the limited liability company, whichever is applicable, can be issued to any person, partnership, trust, foundation, corporation or other entity without Franchisor's prior written approval; and
- 3) All shareholders, officers, directors and any beneficial owners of the transferee corporation, or all members or beneficial owners of the transferee limited liability company, whichever is applicable, must personally guarantee the corporation's or limited liability company's performance of its obligations under the Franchise Agreement.

11.3 Assignment to a Corporation or Limited Liability Company. If Franchisee is an individual or partnership, and desires to assign and transfer its rights, assets and liabilities to a corporation or limited liability company, it may if the following conditions are met:

- A. Franchisee gives Franchisor thirty (30) days written notice of intent to assign to the corporation or limited liability company;
- B. Franchisee shall submit state approved Articles of Incorporation or Articles of Organization to Company;
- C. The corporation or limited liability company is newly formed and it conducts no other business than operation of the Franchise Unit pursuant to the Franchise Agreement;
- D. Franchisee is in full compliance with the Franchise Agreement;
- E. Franchisee is current in meeting all financial obligations to the Franchisor, including but not limited to, Continuing Royalty Fees, purchases made by Franchisee from Franchisor or its affiliates, or any other amounts due to Franchisor or its affiliates which are due and payable;
- F. Franchisee owns and controls all of the equity and voting power of all issued and outstanding stock of the Assignee Corporation or all of the equity and voting power of the Assignee Limited Liability Company;
- G. Franchisee remains the principal active management entity of the Franchise Unit;
- H. Franchisee shall execute a written assignment to said Assignee Corporation or Limited Liability Company, and Franchisee and all shareholders of the Assignee Corporation or all members of the Assignee Limited Liability Company shall remain jointly and severally liable for full payment and performance and all obligations under the Franchise Agreement;
- I. The articles of incorporation, by-laws and other organizational documents of any corporation or limited liability company, whichever is applicable, which will be issued by Franchisee, under the Franchise Agreement, must recite that the issuance and assignment of any interest therein is restricted by the terms of the Franchise Agreement and all issued and outstanding stock certificates representing shares in the corporation or documents representing ownership in the limited liability company, whichever is applicable, clearly indicate that they are subject to the terms of the Franchise Agreement;
- J. No new common or preferred voting shares in said corporation, or any similar interests in said limited liability company, whichever is applicable, are issued to any person, partnership, trust, foundation, corporation or entity of any kind without Franchisor's prior written consent, which consent will not be unreasonably withheld, and then only upon disclosure of the terms and conditions contained herein being made to the prospective new holders of the stock or membership interests, whichever is applicable; and

K. If all the above conditions are met and assignment to the said corporation is approved by Franchisor, the Three Thousand Dollars (\$3,000 US) transfer fee is inapplicable in this and only this situation.

11.4 Death or Disability of Franchisee. If Franchisee (or managing shareholder, member or partner) suffers death or permanent disability, the heirs, executor, administrator, conservator or other personal representative of such person, or the remaining shareholders, members or partners, shall appoint a competent manager, subject to Franchisor's written approval, as soon as practical, not to exceed thirty (30) days from the date of the death or disability. Franchisor may, at its sole discretion, require such manager to attend and satisfactorily complete the Franchisor's training program, at the then current rate for training and at Franchisee's expense. If the Franchise Unit is not being managed by a Franchisor-approved manager within thirty (30) days after the death or disability of Franchisee, the Franchisor is authorized, but shall not be required, to immediately operate the Franchise Unit. Franchisee will be liable for a Two Hundred Fifty Dollar (\$250 US) per day service fee plus all expenses payable to Franchisor. Franchisor's operation of the Franchise Unit shall not relieve Franchisee of Franchisee's obligations under the Franchise Agreement nor does it create any liability of any kind for Franchisor in relation to debts, losses, costs, or expenses incurred in the operations of the Franchise Unit or to any creditor or supplier of the Franchisee. Franchisor shall have the right to cease to provide such management services at any time.

Upon the death or permanent disability of any individual Franchisee or principal officer or director of an incorporated Franchisee or partner in a partnership Franchisee or member in a limited liability company Franchisee, the heirs, executor, administrator, conservator or other personal or legal representative for the Franchisee may, if they wish to continue as Franchisee for the duration of the term of the Franchisee's Franchise Agreement, apply to transfer Franchisee's interest in not less than one hundred eighty (180) days. Franchisor shall approve such transfer upon fulfillment of all of the conditions regarding transferability of interest. Or, the heirs, executor, administrator, conservator or other personal or legal representative for the Franchisee may sell, assign, transfer, or convey Franchisee's interest in compliance with the provisions of transferability within two hundred seventy (270) days. Such transfers, including, without limitation, transfer by devise or inheritance, shall be subject to all the terms and conditions for assignments and transfers contained in the Franchise Agreement. In the event of the death or incapacity of the Franchisee, where the provisions of transferability have not been timely fulfilled, all rights licensed to Franchisee will, at Franchisor's option, terminate and automatically revert to Franchisor.

11.5 Assignment of the Franchise by Franchisor. This Agreement and the Franchise is fully assignable by Franchisor and shall be binding upon and inure to the benefit of any assignee or other legal successor to the interest of the Franchisor therein.

ARTICLE XII: DEFAULT AND TERMINATION

12.1 Termination of Franchise by Franchisee. If Franchisee is in substantial compliance with the Franchise Agreement and Franchisor materially breaches this Agreement and fails to cure such breach within ninety (90) days after written notice thereof is delivered to Franchisor, Franchisee may terminate the Franchise Agreement. Such termination will be effective thirty (30) days after delivery to Franchisor of notice that such breach has not been cured and Franchisee elects to terminate the Franchise Agreement. A termination by Franchisee for any other reasons shall be deemed a termination by Franchisee without cause.

12.2 Termination of Franchise by Franchisor. Several States regulate permissible grounds and periods of notice for termination or non-renewal of franchises. A valid, applicable State requirement in effect at the time of termination or non-renewal that is more favorable to Franchisee than the following described provisions of the Franchisor Franchise Agreement will supersede this Agreement and govern any termination or non-renewal. Franchisees must consult their own attorney for an explanation of their legal rights and obligations.

Under this Agreement, Franchisor has the right to terminate the Franchise Agreement for "good cause" upon delivering notice of termination to Franchisee. For purposes of this Agreement, "good cause" shall include the breaches set forth below and any other material breach of this Agreement.

For items A-I, Franchisor may terminate this Agreement immediately upon delivery of notice of termination to Franchisee if Franchisee or its owner(s), officer(s), or key employee(s):

- A. Has made any material misrepresentation or omission in applying for the Franchise.
- B. Is convicted of or pleads no contest to a felony or is convicted of or pleads no contest to any crime or offense that may adversely affect the reputation of the Contours Express® System or the goodwill associated with the Marks.
- C. Transfers or surrenders control of the operation of the Franchise Unit, makes an unauthorized direct or indirect assignment or transfer of the Franchise Agreement or the Franchise Unit, or makes an unauthorized direct or indirect assignment of an ownership interest in the Franchise, or fails or refuses to assign the Franchise or the interest in the Franchise of a deceased or disabled controlling owner thereof as required.
- D. Makes any unauthorized use of the Marks or unauthorized use of unauthorized Marks in the operation of the Franchise Unit.
- E. Fails on two (2) or more separate occasions within any twelve (12) consecutive month period to submit when due financial statements, reports or other data, information or supporting records, or to pay when due the Continuing Royalty Fees, amounts due for purchases from the Franchisor or its affiliates, or otherwise fails to comply with this Agreement, whether or not such failures to comply are corrected after notice thereof is delivered to Franchisee.
- F. Becomes insolvent by reason of Franchisee's inability to pay debts as they become due or makes an assignment for the benefit of creditors or makes an admission of Franchisee's inability to pay obligations as they become due.
- G. Abandons, surrenders, transfers control, fails or refuses to actively operate the Franchise Area for two (2) consecutive business days in any twelve (12) month period unless closed for a purpose approved by Franchisor in writing or due to an act of God, civil disturbance, natural disaster, war, organized labor dispute, proper government exercise of eminent domain or other reasons beyond the control of the Franchisee.
- H. Operates the Franchise Unit in a manner that violates any health, safety or sanitation law, ordinance or regulation that presents a health or safety hazard to the customers, employees or to the public.
- I. Makes any unauthorized use, duplication, or disclosure of any portion of the Confidential Operations Manual or duplicates or discloses or uses in any unauthorized manner any Confidential Information provided by Franchisor to Franchisee.

For items J and K, Franchisor may terminate the Franchise Agreement effective upon delivery of notice of termination and after giving Franchisee ten (10) days in which to cure the matter giving rise to the good cause which is the basis of the termination. Failure of Franchisee to cure (to the satisfaction of the Franchisor) the matter stated will be considered a material breach of the Franchise Agreement and termination shall be effective on the expiration of the tenth (10th) day:

- J. Fails or refuses to make payments of any amounts due Franchisor or its affiliates for Continuing Royalty Fees, purchases from Franchisor or its affiliates or any other amount due to Franchisor or its affiliates, and does not correct such failure within ten (10) days after written notice of such failure is delivered to Franchisee.
- K. Fails to maintain or suffers cancellation of any insurance policy required under the Franchise Agreement.

For items L and M, Franchisor may terminate the Franchise Agreement effective upon delivery of notice of termination and after giving Franchisee thirty (30) days in which to cure the matter giving rise to the good cause which is the basis of termination. Failure of Franchisee to cure (to the satisfaction of the Franchisor) the matter stated will be considered a material breach of the Franchise Agreement and the termination shall be effective on the thirtieth (30th) day:

- L. Violates any law, ordinance, rule or regulation of a governmental agency in connection with the operation of the Franchise Unit, and permits the same to go on uncorrected after notification thereof, unless there is a bona fide

dispute as to the violation, constitutionality, or legality of such law, ordinance, rule or regulation, and the Franchisee promptly resorts to a court of appropriate jurisdiction to contest such violation or legality.

- M. Offers in conjunction with the operation of the Franchise Unit products or services that have not been approved by Franchisor.

For items N to R, Franchisor may terminate the Franchise Agreement effective upon delivery of notice of termination and after giving Franchisee ninety (90) days in which to cure the matter giving rise to the good cause which is the basis of termination. Failure of Franchisee to cure (to the satisfaction of the Franchisor) the matter stated will be considered a material breach of the Franchise Agreement and the termination shall be effective on the ninetieth (90th) day:

- N. Fails to obtain lawful possession of an Approved Location for the Franchise Unit as provided in the Franchise Agreement, fails to develop the Franchise Area or open the initial Franchise Unit for business as provided in the Franchise Agreement, or fails to satisfactorily complete to the Franchisor's approval the initial training program as provided in the Franchise Agreement.

- O. Fails to attend any supplemental or refresher training programs required by Franchisor pursuant to the terms of the Franchise Agreement.

- P. Files a voluntary petition in bankruptcy or any pleading seeking any reorganization, liquidation, dissolution or other settlement with creditors under any law, or admits or fails to contest the material allegations of any such pleading filed against him, or is adjudicated a bankrupt or insolvent, or a receiver or other custodian is appointed for a substantial part of the assets of the Franchisee, or a final judgment remains unsatisfied or of record for ninety (90) days or longer, or if execution is levied against any substantial part of the assets of the Franchisee or Franchisee's Franchise Unit or suit to foreclose any lien or mortgage is instituted against the Franchisee and not dismissed within ninety (90) days, or if the real or personal property of the Franchisee is sold after levy of judgment thereon by any sheriff, marshal or constable, or the claims of creditors of the Franchisee are abated or subject to a moratorium under any law.

- Q. Fails or refuses to comply with any other provision of the Franchise Agreement, or any mandatory specification, standard or operating procedure prescribed by Franchisor in the Confidential Operations Manual or otherwise in writing.

12.3 Franchisor Operates Franchise Unit While Franchisee in Default. In the event Franchisee is notified of a default under this Agreement and fails to cure such default within twenty (20) days after the receipt of such notice, Franchisor may, at its option, operate the Franchise Unit until the default is cured. Franchisee must pay to Franchisor a service fee of not less than Two Hundred Fifty Dollars (\$250 US) per day plus expenses incurred by Franchisor in connection with services provided by Franchisor as a result of such action. Such service fee shall be due thirty (30) days after billing.

12.4 Franchisor Operates Franchise Unit While Franchisee Unable. Franchisor may operate the Franchise Unit in the event Franchisee is unable to operate the Franchise Unit due to illness, incapacity or death. Franchisee must pay to Franchisor a service fee of Two Hundred Fifty Dollars (\$250 US) per day plus all expenses incurred by Franchisor in connection with services provided by Franchisor as a result of such action. Such service fee shall be due thirty (30) days after billing.

ARTICLE XIII: OBLIGATIONS OF THE FRANCHISEE UPON TERMINATION OR EXPIRATION OF THE FRANCHISE AGREEMENT

13.1 Reversion of Rights and Cease Operations. Upon termination of the Franchise Agreement by either party or upon expiration of said Agreement without renewal, all Franchisee's rights in the Franchise Agreement revert to Franchisor without further act of either party. Franchisee is obligated to immediately cease operation of the Franchise Unit and shall not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former Franchisee of Franchisor.

- 13.2 Payment of Amounts Owed. Franchisee must pay to the Franchisor within fifteen (15) days after the effective date of termination or expiration (without renewal) of this Agreement such Continuing Royalty Fees, amounts owed for products purchased by Franchisee from the Franchisor or its affiliates, interest due the Franchisor and all other amounts owed to the Franchisor and its affiliates which are then unpaid.

Franchisee must contemporaneously with such payment furnish a complete accounting of all such amounts owed to the Franchisor and its affiliates. In the event of termination for any default of Franchisee, such sums shall include all damages, costs, and expenses, including reasonable attorney's fees, incurred by Franchisor as a result of the default.

- 13.3 Disassociation of Marks. After termination or expiration (without renewal) of this Agreement, Franchisee shall not thereafter directly or indirectly at any time or in any manner identify the Franchise Unit as a current or former Franchisee Franchise Unit, or identify himself as a present or former franchisee associated with the Franchisor.

Franchisee must immediately and permanently cease to use, by advertising or in any manner whatsoever, any confidential materials, methods, procedures and techniques associated with the Contours Express® System and any Marks and distinctive forms, slogans, signs, symbols, logos, indicia or other devices associated with the Contours Express® System. This includes, without limitation, the Franchisee ceasing to use all signs, advertising material, stationery, forms and any other articles that display the Marks associated with the System.

Franchisee shall not use any reproduction, counterfeit, copy or colorable imitation of the Marks either in connection with any other facility or the promotion of such facility, which is likely to cause confusion, mistake or deception, or which is likely to dilute Franchisor's exclusive rights in and to the Marks, and shall not utilize any designation of origin or description or representation which falsely suggests or represents an association or connection with Franchisor.

Franchisee shall also take action as may be required to assign to Franchisor or Franchisor's designee or to cancel any assumed or fictitious name or equivalent registrations relating to Franchisee's use of the "Contours Express®" Mark or any other Mark of the Franchisor. Franchisee shall furnish Franchisor evidence satisfactory to Franchisor of compliance with this obligation within thirty (30) days after termination or expiration (without renewal) of this Agreement.

Franchisee must notify the telephone company and make assignment to Franchisor, or its designee, all of Franchisee's right, title and interest in and to Franchisee's telephone numbers and any regular, classified or other telephone directory listings associated with the Franchisor's Marks.

Franchisee must, at his expense, immediately upon termination or expiration (without renewal) of the Franchise Agreement, make such modifications or alterations as may be necessary to distinguish the former Franchise Unit so clearly from its former appearance and from other Contours Express® Units as to prevent any possibility of association between Franchisor and any premises subsequently operated by Franchisee or others. This shall include without limitation, removal of all distinctive physical and structural features identifying Contours Express® Units and removal of all distinctive signs and emblems. Franchisee must, at his expense, make such specific additional changes as Franchisor may reasonably request for that purpose. In the event that Franchisee fails or refuses to initiate immediate or complete alteration within such period of time that Franchisor deems appropriate, Franchisor or its designated agents shall have the right to enter the premises of the former Franchise Unit and adjacent areas at any time, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such alterations, at the sole risk and expense of the Franchisee, which expense Franchisee agrees to pay upon demand. If such action is required, Franchisor shall not be held responsible for any actual or consequential damages to the property of Franchisee or others.

- 13.4 Return of Confidential Information. Upon termination or expiration (without renewal) of this Agreement, Franchisee must immediately relinquish to Franchisor all materials, manuals, including the Confidential Operations Manual, Contours Express® proprietary software, customer lists, records, files, brochures, disclosure statements, agreements, instructions, or other materials provided by Franchisor to Franchisee relating to the operation of the Franchise Unit.

- 13.5 Treatment of Lease or Sublease on Termination. Termination or expiration (without renewal) of this Agreement entitles Franchisor to terminate any lease or sublease of the premises of the Franchise Unit to which it is a party as lessor or sublessor. In addition, termination or expiration (without renewal) of this Agreement entitles Franchisor to require Franchisee to assign Franchisee's interest in any lease or sublease relating to the Franchise Unit to Franchisor.
- 13.6 Franchisee's Interest Upon Termination or Non-renewal. Except as to Franchisor's option to purchase the Franchise Unit upon termination or expiration (see Article XIV), this Agreement contains no provision concerning Franchisee's equity or interest in the Franchise Unit upon expiration (without renewal) or termination of this Agreement.
- 13.7 Franchisor's Right to Purchase Equipment. In the event this Agreement is terminated by Franchisor due to a breach by Franchisee as provided in Section 12.2 above, Franchisor shall have the right, but not the obligation, to take possession of the Franchisee's exercise equipment as liquidated damages to compensate Franchisor for the lost revenue it will sustain as a result of the Franchisee's default under the Franchise Agreement. The parties acknowledge that a precise calculation of the full extent of the damages which the Franchisor will incur in the event of termination of this Agreement as a result of the Franchisee's default is difficult and the parties desire certainty in this matter, and agree that the transfer of title and possession of the fitness equipment provided under this Section is reasonable in light of the damages for premature termination which the Franchisor will incur in such event, and that such transfer of title and possession of the equipment shall not be exclusive of any other rights and remedies which the Franchisor may have. The liquidated damages are the remedy for the breach permitting the termination, but are not intended to be the remedy for any continuing breach following such termination. Such liquidated damages is in addition to the Franchisor's right to seek injunctive relief to prevent future breaches of the restrictive covenants set forth herein. Franchisee hereby grants to Franchisor a continuing security interest in the exercise equipment to secure Franchisee's obligations hereunder.

ARTICLE XIV: FRANCHISOR'S RIGHT TO PURCHASE BUSINESS

- 14.1 Upon Termination or Expiration. Upon termination of this Agreement by the Franchisor in accordance with the provisions hereof or by Franchisee without cause or by expiration (without renewal), Franchisor will have the option, exercisable by giving written notice thereof within thirty (30) days from the date of such termination or expiration, to purchase for cash from Franchisee, all or any tangible assets (including without limitation, inventory of salable goods, equipment, materials, signs, fixtures, advertising materials, leasehold improvements and all items bearing Franchisor's Marks, but excluding any unamortized portion of the Initial Franchise Fee, cash and accounts receivable), at the lesser of Franchisee's cost or fair market value. In addition, Franchisor shall have the option to assume Franchisee's lease for the Authorized Location of the Franchise Unit or if an assignment is prohibited, a sublease for the full remaining term on the same terms and conditions as Franchisee's lease. No value will be attributed to the assignment of the lease (or sublease) for the premises or the assignment of any lease for any other tangible assets used in connection with the Franchise Unit, and the Franchisor will not be required to pay any separate consideration for any such assignment or sublease. If the parties cannot agree on fair market value within thirty (30) days of Franchisor's notice of intent to purchase, fair market value (without regard to goodwill or going concern value) will be determined by an impartial appraiser, designated by Franchisor and acceptable to Franchisee, whose determination shall be final and binding on both parties. The cost of such appraisal will be borne equally by the Franchisor and Franchisee.

Franchisor shall have the right to set off against and reduce the purchase price by any and all amounts owed by Franchisee to Franchisor or any of its affiliates.

- 14.2 Franchisee's Desire to Sell or Otherwise Dispose of Franchisee's Interest. Pursuant to this Agreement, if Franchisee or its owners desire to sell or otherwise dispose of all or part of Franchisee's interest in the Franchise, Franchisee or its owners are required to obtain and deliver to Franchisor a bona fide, executed, written offer to purchase setting forth the terms of the offer. Franchisor has thirty (30) days from receipt of the offer to exercise its first right of refusal by written notice to Franchisee and its owners. Acceptance must be on the same terms and for the same price as set forth in such offer, provided that Franchisor may substitute cash for any form of payment proposed in the offer. If Franchisor does not exercise Franchisor's right of first refusal, Franchisee or its owners may accept such bona fide offer subject to Franchisor's prior written approval as set forth in the provisions on transferability, including Franchisor's approval of the purchaser as provided in this Agreement. If the sale is not completed within one hundred twenty (120) days after delivery of such offer to Franchisor or if there is a material change in the terms of the sale,

Franchisor shall again have right of first refusal. If the proposed transfer is to Franchisee's spouse or to a corporation all of whose stock is owned by Franchisee or Franchisee's spouse or wholly between persons who are already shareholders in the Franchise, Franchisee must notify Franchisor and obtain Franchisor's consent, but such transfers are not subject to Franchisor's right of first refusal.

ARTICLE XV: COVENANTS NOT TO COMPETE

15.1 Covenants. Franchisor would be unable to protect its Confidential Information against unauthorized use or disclosure and would be unable to encourage a free exchange of ideas and information among Contours Express® Units if Franchisees were permitted to hold an interest in other fitness and weight loss centers and otherwise allowed to compete with Franchisor. Therefore, Franchisee, including all officers, directors, holders of beneficial interests of Franchisee, members, general partners, any limited partners and their respective spouses and immediate family members, covenant, pursuant to this Agreement, that, except as otherwise approved in writing, Franchisee:

- A Shall not, during the term of this Agreement have any interest as an owner, investor, partner, director, officer, employee, consultant, representative or agent, or in any other capacity, in any other fitness and weight loss center or related business, except for other Contours Express® Franchise Units operated under Agreement granted by Franchisor and except for the ownership of securities in any fitness and weight loss center or related business which are listed on a stock exchange or traded on the over-the-counter market that represent five percent (5%) or less of that class of securities;
- B Shall not divert or attempt to divert any business or customers of Contours Express® Units to any competitor, by direct or indirect inducement, or to perform directly or indirectly any other act prejudicial or injurious to the goodwill associated with Franchisor's Marks or Contours Express® Units during the term of this Agreement or any renewals thereof;
- C Shall not employ or seek to employ any person employed by Franchisor or by any other Franchisee of Franchisor, or otherwise directly or indirectly induce or seek to induce such person to leave his or her employment during the term of this Agreement or any renewals thereof;
- D Agrees that if: (1) this Agreement expires without renewal; or (2) prior to its expiration the Franchise is terminated by the Franchisor in accordance with the provisions of this Agreement or by Franchisee without cause; then for a period of two (2) years, commencing on the effective date of termination, or the date on which Franchisee ceases to conduct the business conducted pursuant to this Agreement, whichever is later, Franchisee will not have any interest as an owner, partner, member, director, officer, employee, consultant, representative or agent, or in any other capacity, in any other fitness and weight loss center or related business which is/are located or operating within a radius of ten (10) miles of the Franchise Area or a radius of ten (10) miles of any other Contours Express® Units in operation on the effective date of expiration or termination (as applicable), except for other Contours Express® Company Areas or Franchise Units operated under franchise agreements granted by the Franchisor and except for the ownership of securities in any fitness and weight loss center or related business which are listed on a stock exchange or traded on the over-the-counter market that represent five percent (5%) or less of that class of securities; and
- E Shall not divulge to any person, partnership, limited liability company, corporation or any other entity, during or after the term of this Agreement, any Confidential Information or any information contained in the Confidential Operations Manual.

15.2 Miscellaneous.

- A. Franchisor reserves the right to require Franchisee's personnel performing managerial and supervisory functions and all personnel receiving special training or having access to the Confidential Operations Manual or other Confidential Information to execute similar covenants in a form satisfactory to Franchisor.

- B. If these said requirements are unenforceable by the State statutes of the State governing a particular Contours Express® Area, then the period and/or areas shall be reduced to such period and/or areas as is legally enforceable in that State.
- C. These covenants shall be construed independent of any other covenants or provision in this Agreement. If all or any portion of a covenant is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Franchisee shall be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated and made a part of this Agreement.
- D. Franchisor shall have the right, in Franchisor's sole discretion, to reduce the scope of any covenant not to compete set forth in this Agreement, or any portion thereof, without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice thereof, and Franchisee shall comply with any covenant as so modified.

ARTICLE XVI: ARBITRATION

- 16.1 **Arbitration.** Franchisor has the right to sue to collect sums due to it, for matters affecting its rights relating to the Marks, and for preliminary injunctive relief. All other disputes arising under or in connection with this Agreement that cannot be amicably settled, shall be determined solely and exclusively by binding arbitration under the auspices of the American Arbitration Association. Judgment upon any award of the arbitration shall be binding and may be entered in a court of competent jurisdiction. Franchisor is entitled to an injunction ordering Franchisee to comply strictly with the requirements of this Agreement pending arbitration or adjudication. The arbitrators may, at their discretion, assess, in addition to any other judgment, the costs of the arbitration, including the reasonable fees of the arbitrators and reasonable attorneys' fees, against either or both parties, in such proportion as determined by the arbitrator. Arbitration shall take place in Jessamine County Kentucky or at such other place as shall be designated by Franchisor.
- 16.2 **Individual Claim.** Franchisor and Franchisee agree that any arbitration between Franchisor and Franchisee shall be of Franchisee's individual claim and that the claim subject to arbitration shall not be arbitrated on a class wide basis.

ARTICLE XVII: ENFORCEMENT

- 17.1 **Severability.** Each section, paragraph, term and provision of this Agreement, or any portion thereof, shall be considered severable and if, for any reason, any such portion of this Agreement is held by a court of competent jurisdiction to be unenforceable due to any applicable existing or future law or regulation, such portion shall not impair the operation of or have any effect upon, the remaining portions of this Agreement which will remain in full force and effect and bind the parties hereto, although the invalid portion shall be deemed not part of this Agreement from the time so directed by the court.
- 17.2 **Waiver.** Franchisor and Franchisee may, by written instrument, unilaterally waive any obligation or restriction upon the other under this Agreement. No failure, refusal or neglect of Franchisor to exercise any power reserved to it under this Agreement, or to insist upon strict compliance by Franchisee with any obligation, condition, specification, standard or operating procedure in this Agreement, shall constitute a waiver of any provision and the right of Franchisor to demand exact compliance with the Agreement, or to declare any subsequent breach or default. Subsequent acceptance by Franchisor of any payment(s) due to it under this Agreement shall not be deemed to be a waiver by Franchisor of any preceding breach by Franchisee of any terms, covenants, obligations, or conditions of this Agreement.
- 17.3 **Specific Performance and Injunctive Relief.** Nothing in this Agreement shall bar the Franchisor's right to obtain specific performance of the provisions of this Agreement and injunctive relief against threatened conduct that will cause it loss or damage, under customary equity rules, including applicable rules for obtaining restraining orders and preliminary injunctions.
- 17.4 **Rights of Parties Are Cumulative.** The rights of the Franchisor and the Franchisee under this Agreement are cumulative and no exercise or enforcement by the Franchisor or Franchisee of any right or remedy under this Agreement shall preclude the exercise or enforcement by the Franchisor or Franchisee of any other right or remedy under this Agreement or which the Franchisor or Franchisee is entitled by law to enforce.

- 17.5 No Third Party Rights. Anything to the contrary herein notwithstanding, nothing in this Agreement is intended, nor shall it be deemed to confer upon any person or legal entity other than Franchisor or Franchisee and such of their respective successors and assigns as may be contemplated by this Agreement, any rights or remedies under or by reason of this Agreement.
- 17.6 Governing Law. This Agreement takes effect upon its acceptance and execution by Franchisor and shall be interpreted and construed under the laws of the State of Kentucky, except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. 1951 et seq.), the United States Arbitration Act (9 U.S.C. 1 et seq.), or other Federal Law.
- 17.7 Choice of Forum. Franchisee acknowledges and agrees that this Agreement is entered into in Kentucky, and that any action commenced for the purpose of enforcing the terms and provisions of this Agreement (which is not to be arbitrated pursuant hereto or pursuant to law) shall be instituted in a State or Federal court having subject matter jurisdiction thereof located in Kentucky and that Franchisee irrevocably waives any objection Franchisee may have to the jurisdiction or the venue of such court.
- 17.8 Jury Trial Waiver. Franchisor and Franchisee irrevocably waive trial by jury in any action proceeding or counter claim, whether at law or in equity brought by either of them.
- 17.9 Attorneys' Fees and Costs. In the event either the Franchisor or Franchisee institutes a suit, action or proceeding before a court of competent jurisdiction or arbitrator to enforce any term or provision of this Agreement, the prevailing party in the suit, action or proceeding, or on appeal, shall be entitled to recover from the losing party, reasonable attorneys' fees to be set by the court or arbitrator in addition to costs and expenses incurred in connection therewith.
- 17.10 No Withholding of Payments Owed. The Franchisee shall not, on the grounds of alleged non-performance by the Franchisor of any of its obligations under this Agreement, withhold payments of the Continuing Royalty Fee or any other amounts due the Franchisor.
- 17.11 Limitation of Actions. Franchisor and the Franchisee agree that no action (whether for arbitration, damages, injunctive, equitable or other relief, including but not limited to rescission) will be maintained by any party to enforce any liability or obligation of the other party, whether arising from this Agreement or otherwise, unless brought before the expiration of the earlier of one (1) year after the date of discovery of the facts resulting in such alleged liability or obligation or two (2) years after the date of the first act or omission giving rise to such alleged liability or obligation, except that where State or Federal law mandates or makes possible by notice or otherwise a shorter period, such shorter period shall apply.
- 17.12 Binding Effect. This Agreement is binding upon the Franchisor and Franchisee and their respective executors, administrators, heirs, assigns, and successors in interest, and shall not be modified except by written agreement by both the Franchisee and Franchisor, except that the Franchisor shall have the right to unilaterally change the Confidential Operations Manual.
- 17.13 Construction. This Agreement contains the complete expression of the Agreement between the Franchisor and the Franchisee and there are no other promises, representations, inducements, understandings or agreements, oral or otherwise, between the Franchisor and the Franchisee relating to the subject matter of this Agreement except as herein provided.

The heading and captions of the Articles and paragraphs herein are for convenience only and do not define, limit or construe the contents of such Articles and paragraphs.

This Agreement shall be executed in multiple copies, each of which shall be deemed an original.

ARTICLE XVIII: RELATIONSHIP OF PARTIES/INDEMNIFICATION

- 18.1 Relationship of the Parties. This Agreement does not create a fiduciary relationship between the parties. The Franchisee understands and agrees that, under this Agreement, the Franchisee is and shall be an independent contractor of the Franchisor and that nothing in this Agreement is intended to make Franchisee a general or special agent, legal representative, subsidiary, joint venturer, partner, employee or servant of the Franchisor for any purpose.

THE FRANCHISEE SHALL CONSPICUOUSLY IDENTIFY ITSELF AND THE FRANCHISED BUSINESS, AND IN ALL DEALING WITH CUSTOMERS, SUPPLIERS, PUBLIC OFFICIALS, AND OTHERS, AS AN INDEPENDENT FRANCHISEE OF THE FRANCHISOR, AND SHALL PLACE SUCH OTHER NOTICES OF INDEPENDENT OWNERSHIP ON SIGNS, FORMS, STATIONERY, ADVERTISING, AND OTHER MATERIALS AND IN SUCH FASHION AS THE FRANCHISOR SPECIFIES AND REQUIRES FROM TIME TO TIME, IN ITS CONFIDENTIAL OPERATIONS MANUAL, OR OTHERWISE.

- 18.2 No Liability for Acts of the Other Party. Neither the Franchisor nor Franchisee shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other or represent that their relationship is other than that of Franchisor and Franchisee, and neither the Franchisor nor Franchisee shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder, nor shall Franchisor be obligated for any damages to any person or property directly or indirectly arising out of the operation of the Franchise Unit, whether or not caused by Franchisee's negligent or willful action or failure to act.

It is expressly understood and agreed that neither the Franchisee nor any employee of the Franchisee may, in any way, directly or indirectly, expressly or by implication, be construed to be an employee of the Franchisor for any purpose, most particularly with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state or federal governmental agency. Franchisor shall have no liability for any sales, use, excise, gross receipts, property or other taxes, whether levied upon Franchisee, Franchisee's Unit or its assets, or upon the Franchisor in connection with sales made, services performed or business conducted by Franchisee.

- 18.3 Indemnification. Franchisee agrees to indemnify and hold harmless to the fullest extent of the law, the Franchisor and its corporate subsidiaries, affiliates, successors, assigns, and designees, and the respective directors, officers, employees, agents, stockholders, designees, and representatives (Franchisor and all others hereinafter referred to collectively as "Indemnitees") harmless against, and to reimburse Indemnitees for, any loss, liability, taxes or damages and all reasonable costs and expenses of defending any claim brought against any Indemnitee or any action in which any Indemnitee is named as a party (including, without limitation, reasonable accountants', attorneys' and expert witness fees, cost of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses) which any Indemnitee may suffer, sustain or incur by reason of, arising from or in connection with Franchisee's ownership or operation of Franchisee's Unit, unless such loss, liability or damage is solely due to the negligence of the Franchisor.

The indemnities and assumptions of liabilities and obligations herein shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

ARTICLE XIX: MISCELLANEOUS PROVISIONS

- 19.1 Modification. There are no circumstances or conditions under which Franchisee may unilaterally modify the Franchise Agreement. This Agreement may be modified or amended only by mutual written agreement of the Franchisor and the Franchisee.

Franchisee recognizes and agrees that from time to time, Franchisor may change or modify the Confidential Operations Manual and the System presently identified by the Mark "Contours Express®" and other Marks, or names, including the adoption and use of new or modified trade names, trademarks, service marks or copyrighted materials, new inventory items, new products, new suppliers, new equipment or new techniques and that the Franchisee will accept, use and display for the purpose of this Agreement, any such changes in the Contours Express® System, as if they were part of this Agreement as of the date of its execution. Franchisee will make expenditures and changes or modifications in the Franchise Unit as may be reasonably required.

- 19.2 Expenses for Failure to Perform Obligations. Franchisee is required to reimburse Franchisor for any expenses incurred by Franchisor to enforce any obligation of Franchisee under this Agreement or to defend any claim, demand, action or proceeding brought against Franchisor or based on Franchisee's failure to perform its obligations under this Agreement.
- 19.3 Notices. Any and all written notices and reports permitted or required to be delivered under this Agreement or the Confidential Operations Manual shall be deemed delivered when delivered by hand or Federal Express (or similar dependable overnight carrier which provides proof of receipt), one (1) business day after sending by telegraph or by facsimile or three (3) business days after postmark by United States mail, Registered or Certified, postage prepaid and addressed to the party at its most current principal business address on Franchisor's records.

Notice to Franchisor: Contours Express, LLC
 156 Imperial Way
 Nicholasville, Kentucky 40356

Notice to Franchisee: _____

ARTICLE XX: ACKNOWLEDGMENTS

- 20.1 Submission of Agreement. The submission of the Agreement does not constitute an offer and this Agreement shall become effective only upon execution hereof by the Franchisor and the Franchisee. The date of execution by the Franchisor shall be considered to be the date of execution of this Agreement.

THIS AGREEMENT SHALL NOT BE BINDING ON THE FRANCHISOR UNLESS AND UNTIL IT SHALL HAVE BEEN ACCEPTED AND SIGNED BY AN AUTHORIZED OFFICER OF THE FRANCHISOR.

- 20.2 Business Venture. The success of the business venture contemplated to be undertaken by Franchisee under this Agreement is speculative and depends to a large extent upon the ability of the Franchisee as an independent business person, and the active participation of Franchisee in the daily affairs of the business as well as other factors. Franchisor does not make any representation or warranty, express or implied, as to the potential success of the business venture contemplated hereby.
- 20.3 Independent Investigation. Franchisee acknowledges that it has entered into this Agreement after making an independent investigation of Franchisor's operations and not upon any representation as to gross revenues, volume, potential earnings or profits which Franchisee in particular might be expected to realize, nor has anyone made any other representation which is not expressly set forth herein, to induce the Franchisee to accept this franchise and execute this Agreement.
- 20.4 Receipt and Consultation with Professionals. Franchisee represents and acknowledges that he has received Franchisor's Uniform Franchise Offering Circular at least ten (10) business days prior to the date of execution of this Agreement, and that a copy of this Agreement with all blanks filled was received from Franchisor at least five (5) business days prior to the date of execution of this Agreement. Franchisee represents that he has read this Agreement in its entirety and that he has been given the opportunity to clarify any provisions that he did not understand and to consult with an attorney or other professional advisor. Franchisee further represents that he understands the terms, conditions and obligations of this Agreement and agrees to be bound thereby.

IN WITNESS WHEREOF the parties hereto have executed, sealed and delivered this Agreement on the date set forth below.

Contours Express, LLC
FRANCHISOR

Dated: _____

By: _____

William Helton

Its: President

FRANCHISEE

Dated: _____

Dated: _____

STATE OF KENTUCKY)
) ss:
COUNTY OF JESSAMINE)

The foregoing Franchise Agreement was acknowledged before me this _____ day of _____, 2006, by William Helton, President of Contours Express, LLC, on behalf of the company.

(SEAL)

Notary Public

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing Franchise Agreement was acknowledged before me this _____ day of _____, 2006, by _____.

(SEAL)

Notary Public

ADDENDUM 1 TO CONTOURS EXPRESS® FRANCHISE AGREEMENT

This Addendum is made and entered into by and between Contours Express, LLC, a Delaware limited liability company, having its principal place of business at 156 Imperial Way, Nicholasville, KY 40356 ("Franchisor"), and _____ whose address is _____ ("Franchisee").

1. Preservation of Agreement. Except as specifically set forth in this Addendum, the Franchise Agreement shall remain in full force and effect in accordance with its terms. Unless otherwise provided herein, all capitalized terms herein shall have the same meaning given to such terms in the Franchise Agreement. This Addendum is attached to and upon execution by both parties becomes an integral part of the Franchise Agreement.
2. Franchise Area. The parties agree that the Franchise Area referred to in Section 2.2 of the Franchise Agreement shall consist of the following:

Franchisee Agrees that, unless otherwise agreed to in writing by Franchisor, the Unit will be at least three quarters of a mile inside of the boundary of the Franchise Area, and no closer than two miles from any Contours Express Unit in existence as of the date hereof.

3. Authorized Location. The Authorized Location for Franchisee's Unit is as follows:
4. Unit Opening. Franchisee agrees to complete development of the Unit and to open the Unit for business no later than _____.
5. Option for Additional Unit. Upon payment to the Franchisor of the non-refundable Reservation Fee in the amount of Twelve Thousand Dollars (\$12,000.00) upon execution of this Addendum, the Franchisor hereby grants to Franchisee the right to open one additional Unit in the Franchise Area described below. Franchisee must open the second Unit for business no later than 10 months from the date of the opening of the first Unit. Franchisee shall forfeit the Deposit in the event (a) Franchisee is in breach or default of the Franchise Agreement for the initial Unit; (b) Franchisee fails to sign a Franchise Agreement for the second Unit at least 90 days prior to opening the second Unit; or (c) Franchisee fails to open the second Unit within 10 months from the date of the opening of the first Unit. Franchisee shall execute a separate Franchise Agreement for the second Unit on the same terms and conditions as the Franchise Agreement for the first Unit, except that this option to purchase an additional Unit shall not be applicable with respect to the second Franchise Agreement. The Franchise Area for the second Unit is as follows:

Franchisee agrees that, unless otherwise agreed to in writing by Franchisor, the second Unit will be at least three quarters of a mile inside of the boundary of the Franchise Area, and no closer than two miles from any Contours Express Unit in existence as of the date hereof.

In Witness Whereof, the parties have executed this Addendum as of the date indicated below their respective signatures.

Contours Express, LLC
FRANCHISOR

Dated: _____

By: _____

William Helton
President

Its:

FRANCHISEE

Dated: _____

Dated: _____

STATE OF KENTUCKY)
) ss:
COUNTY OF JESSAMINE)

The foregoing Franchise Agreement was acknowledged before me this _____ day of _____, 2006, by William Helton, the President of Contours Express, LLC., on behalf of the company.

(S E A L)

Notary Public

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing Franchise Agreement was acknowledged before me this _____ day of _____, 2006, by _____.

(S E A L)

Notary Public

**ADDENDUM 2 TO FRANCHISE AGREEMENT
OF CONTOURS EXPRESS, LLC
FOR THE STATE OF ILLINOIS**

THIS ADDENDUM TO FRANCHISE AGREEMENT ("Addendum"), is effective as of the date of execution of the Franchise Agreement by and between Contours Express, LLC. ("Franchisor") and _____ ("Franchisee"), dated _____, ____ (the "Franchise Agreement").

BACKGROUND

A. Contemporaneous with the execution of this Addendum, the parties have entered into a Franchise Agreement for the operation of a Contours Express franchise in _____, Illinois.

B. The parties desire by this Addendum to amend certain terms of the Franchise Agreement entered into simultaneously herewith so as to comply with Illinois law.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree that, solely to the extent the laws of Illinois apply to the parties (without acknowledging such application), the following shall apply to the extent required by applicable law:

1. Sections 17.6 and 17.7 of the Franchise Agreement is hereby amended as follows:
 - a. Section 4 of the Illinois Franchise Disclosure Act dictates that "any provision in the franchise agreement which designates jurisdiction or venue in a forum outside of this State is void with respect to any cause of action which otherwise is enforceable in this State, provided that a franchise agreement may provide for arbitration in a forum outside of this State."
 - b. Any governing law or choice of law clause granting authority to a state other than Illinois effectively negates the Illinois Franchise Disclosure Act. This Agreement shall be interpreted under the laws of the State of Illinois, without giving effect to choice of law or conflicts of law rules.
2. Notwithstanding the provisions of Section 17.11 of the Franchise Agreement, Section 27 of the Illinois Franchise Disclosure Act provides: "No action shall be maintained under Section 26 of this Act to enforce any liability created by this Act unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of one year after the franchisee becomes aware of facts or circumstances reasonably indicating that he may have a claim for relief in respect to conduct governed by this Act, or 90 days after delivery to the franchisee of a written

notice disclosing the violation, whichever shall first expire. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act. Every cause of action under this Act survives the death of any person who might have been a plaintiff or defendant."

3. Notwithstanding the provisions of Section 17.8 of the Franchise Agreement, Section 705/41 of the Illinois Franchise Disclosure Act provides: "Waivers Void. Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void. This Section shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of this Act, nor shall it prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code."

This Addendum shall modify the Franchise Agreement only to the extent expressly provided herein, and all other terms, conditions and obligations of the Franchise Agreement shall continue to remain in full force and effect. All initially capitalized terms not otherwise defined in this Addendum shall have the same meaning as defined in the Franchise Agreement.

Witnesses:

FRANCHISOR

By: _____

Its: _____

FRANCHISEE:

By: _____

Its: _____

**ADDENDUM TO FRANCHISE AGREEMENT
OF CONTOURS EXPRESS, LLC
FOR THE STATE OF MARYLAND**

THIS ADDENDUM TO FRANCHISE AGREEMENT ("Addendum"), is effective as of the date of execution of the Franchise Agreement by and between Contours Express, LLC ("Franchisor") and _____ ("Franchisee"), dated _____, ____ (the "Franchise Agreement").

BACKGROUND

A. Contemporaneous with the execution of this Addendum, the parties have entered into a Franchise Agreement for the operation of a Contours Express franchise in _____, Maryland.

B. The parties desire by this Addendum to amend certain terms of the Franchise Agreement entered into simultaneously herewith so as to comply with Maryland law.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree that, solely to the extent the laws of Maryland apply to the parties (without acknowledging such application), the following shall apply to the extent required by applicable law:

1. Notwithstanding the provisions of Sections 12.2F and 12.2 D of the Franchise Agreement, these provisions may not be enforceable under current U.S. Bankruptcy Laws.

2. Notwithstanding the provisions of Sections 3.2G and 11.2 of the Franchise Agreement, the requirement that the Franchisee sign a general release of claims as a condition of the sale, transfer or renewal of the Franchise Agreement, will not apply to any claims that arise under the Maryland Franchise Law.

3. Notwithstanding the provisions of Section 17.11 of the Franchise Agreement, the period of limitations set forth in such Section shall not apply to any claims arising under Maryland Franchise Law.

4. Notwithstanding the provisions of Sections 16.1 and 17.7 of the Franchise Agreement, Franchisee can file a civil lawsuit in Maryland alleging a violation of the Maryland Franchise Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

5. Notwithstanding the provisions of Section 1.11 of the Franchise Agreement, the representations contained in such Section are not intended to, nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

6. Notwithstanding any other provisions of the Franchise Agreement, if the Franchise Agreement is terminated for failure of the Franchisee to complete the training program to the satisfaction of the Franchisor, or in the event the Franchisee fails to select a site acceptable to the Franchisor within 90 days of the signing of the Franchise Agreement, the purchase price for the initial exercise equipment will be refunded to the Franchisee upon return of the exercise equipment to the Franchisor or its designee.

7. Notwithstanding the provisions of Article XX of the Franchise Agreement, nothing in the acknowledgments or representations by Franchisee in such Article are intended to nor shall they act as a release, estoppel or waiver of any liability of Franchisor under the Maryland Franchise Registration and Disclosure Law.

This Addendum shall modify the Franchise Agreement only to the extent expressly provided herein, and all other terms, conditions and obligations of the Franchise Agreement shall continue to remain in full force and effect. All initially capitalized terms not otherwise defined in this Addendum shall have the same meaning as defined in the Franchise Agreement.

In Witness Whereof, the parties have executed this Addendum to Franchise Agreement as of the ____ day of _____, 20__.

Witnesses:

FRANCHISOR

By: _____
Its: _____

FRANCHISEE:

By: _____
Its: _____

**ADDENDUM TO FRANCHISE AGREEMENT
OF CONTOURS EXPRESS, LLC
FOR THE STATE OF MINNESOTA**

THIS ADDENDUM TO FRANCHISE AGREEMENT ("Addendum"), is effective as of the date of execution of the Franchise Agreement by and between Contours Express, LLC ("Franchisor") and _____ ("Franchisee"), dated _____, ____ (the "Franchise Agreement").

BACKGROUND

A. Contemporaneous with the execution of this Addendum, the parties have entered into a Franchise Agreement for the operation of a Contours Express franchise in the State of Minnesota.

B. The parties desire by this Addendum to amend certain terms of the Franchise Agreement entered into simultaneously herewith so as to comply with Minnesota law.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree that, solely to the extent the laws of Minnesota apply to the parties (without acknowledging such application), the following shall apply to the extent required by applicable law:

1. Notwithstanding the provisions of Sections 17.6 and 17.7 of the Franchise Agreement, Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit the franchisor from requiring litigation to be conducted outside Minnesota. In addition, nothing in the offering circular or franchise agreement can abrogate or reduce any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or the franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

2. Notwithstanding the provisions of Sections 3.2 and Article XII of the Franchise Agreement, with respect to franchises governed by Minnesota law, the franchisor will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 which require, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement.

3. Notwithstanding the provisions of Sections 4.4 and 4.5 of the Franchise Agreement, The franchisor will protect the franchisee's right to use the trademarks, service marks, trade names, logotypes or other commercial symbols and/or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the Contours Express name.

4. Notwithstanding the provisions of Sections 17.8 of the Franchise Agreement, Minn. Rule Part 2860.4400J prohibits a franchisee from waiving his rights to a jury trial or waiving his

rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes.

5. Notwithstanding the provisions of Section 3.2(G) of the Franchise Agreement, Minn. Rule 2860.4400D prohibits a franchisee to assent to a general release. Any release assented to by a franchisee must exclude claims under the Minnesota Franchise Law.

6. Notwithstanding the provisions of Section 17.11 of the Franchise Agreement, any limitations of claims must comply with Minn. Stat. §80C.17, Subd. 5.

This Addendum shall modify the Franchise Agreement only to the extent expressly provided herein, and all other terms, conditions and obligations of the Franchise Agreement shall continue to remain in full force and effect. All initially capitalized terms not otherwise defined in this Addendum shall have the same meaning as defined in the Franchise Agreement.

In Witness Whereof, the parties have executed this Addendum to Franchise Agreement as of the ____ day of _____, 20__.

Witnesses:

FRANCHISOR

By: _____

Its: _____

FRANCHISEE:

By: _____

Its: _____

**ADDENDUM 2 TO FRANCHISE AGREEMENT
OF CONTOURS EXPRESS, LLC
FOR THE STATE OF NORTH DAKOTA**

THIS ADDENDUM TO FRANCHISE AGREEMENT ("Addendum"), is effective as of the date of execution of the Franchise Agreement by and between Contours Express, LLC. ("Franchisor") and _____ ("Franchisee"), dated _____, ____ (the "Franchise Agreement").

BACKGROUND

A. Contemporaneous with the execution of this Addendum, the parties have entered into a Franchise Agreement for the operation of a Contours Express franchise in _____, **North Dakota**.

B. The parties desire by this Addendum to amend certain terms of the Franchise Agreement entered into simultaneously herewith so as to comply with **North Dakota** law.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree that, solely to the extent the laws of **North Dakota** apply to the parties (without acknowledging such application), the following shall apply to the extent required by applicable law:

1. The provisions of Section 3.2.G of the Franchise Agreement is hereby deleted in its entirety.
2. The provisions of Section 13.7 of the Franchise Agreement is hereby deleted in its entirety.
3. A new subsection 15.2.E. is hereby added as follows: "E. Covenants not to compete such as those mentioned in this Article XV are generally considered unenforceable in the State of North Dakota."
4. The last sentence of Section 16.1 is deleted in its entirety and replaced with the following: "Arbitration shall take place at a location mutually acceptable to all parties. If the parties cannot agree on the location of arbitration, arbitration shall take place in the County in which the Franchise Unit is located."
5. The reference to "Kentucky" in Section 17.6 is hereby replaced with "North Dakota".
6. The provisions of Section 17.7 are hereby eliminated in their entirety.
7. The provisions of Section 17.8 are hereby deleted in their entirety.
8. The provisions of Section 17.11 are hereby eliminated in their entirety.

This Addendum shall modify the Franchise Agreement only to the extent expressly provided herein, and all other terms, conditions and obligations of the Franchise Agreement shall continue to remain in full force and effect. All initially

capitalized terms not otherwise defined in this Addendum shall have the same meaning as defined in the Franchise Agreement.

Witnesses:

FRANCHISOR

By: _____

Its: _____

FRANCHISEE:

By: _____

Its: _____