

have twenty (20) additional days from the date of notification to purchase on the altered terms. Silence on the part of Curves will constitute rejection. If the proposed sale includes assets of Franchisee not related to the operation of Franchisee's Facility, Curves may, at its option, elect to purchase only the assets related to the operation of franchised Curves' facilities and an equitable purchase price will be allocated to each asset included in the proposed sale. An offer from a third party includes any transfer, conveyance, assignment, consolidation, merger or any other transaction in which legal or beneficial ownership of Franchisee's Facility granted by this Agreement is vested in someone or some entity other than Franchisee.

- B. The election of Curves not to exercise its right of first refusal as to any offer does not affect its right of first refusal as to any subsequent offer or the right to refuse a pending sale by Franchisee.
- C. Any sale, attempted sale, assignment or other transfer of the interests described in Sections 16 or 17 herein, without first giving Curves the right of first refusal described herein, is void and of no force and effect. Any waiver by Curves of the right of first refusal described herein does not relieve Franchisee from complying with Section 17 herein.

18. TERMINATION BY CURVES

- A. **Default and Termination Without Right to Cure.** Franchisee will be deemed to be in default of this Agreement, and Curves may, at its sole option and right, terminate the Agreement and all rights hereunder, without affording Franchisee an opportunity to cure the default, effective immediately upon delivery of notice by Curves to Franchisee's address listed herein or the last home address of which Franchisee has notified Curves in writing, if:
 - 1. Franchisee becomes insolvent or makes a general assignment for the benefit of creditors; or proceedings for a composition with creditors under any state or federal law should be instituted by or against Franchisee or a petition in bankruptcy is filed by Franchisee or such a petition if filed against and not opposed by Franchisee or Franchisee is adjudicated as bankrupt or insolvent or a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee or a receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed by any court of competent jurisdiction. Franchisee expressly and knowingly waives any rights that it may have under the provisions of the Bankruptcy Code and consents to the termination of this Agreement or any other relief which may be sought in a complaint filed by Curves to lift the provisions of the automatic stay of the Bankruptcy Code. Additionally, Franchisee agrees not to seek an injunctive order from any court in any jurisdiction relating to insolvency, reorganization or arrangement proceedings which would have the effect of staying or enjoining this provision; or
 - 2. A final judgment related to Franchisee remains unsatisfied or of record for thirty (30) days or longer (unless a supersedeas bond is filed); or the assets of

Franchisee's Facility are liquidated; or execution is levied against Franchisee; or suit to foreclose any lien or mortgage against Franchisee's Facility or its equipment is instituted against Franchisee and not dismissed within thirty (30) days; or the real or personal property of Franchisee's Facility must be sold after levy thereupon by any sheriff, marshal or constable; or

3. Franchisee has made any material misrepresentations or misstatements, or omits any material facts to Curves on the application to be a franchisee, or with respect to the ownership of Franchisee's Facility; or
4. Franchisee abandons the franchise relationship and/or Franchisee's Facility without the prior written consent of Curves at any time during the Term of this Agreement. The cessation of operation of Franchisee's Facility on the premises other than with the consent of Curves, or the failure of Franchisee to commence operating Franchisee's Facility in accordance with Section 5 herein, whether the premises remain vacant or are converted to any use, will be considered abandonment of the franchise relationship provided, however, that Franchisee's Facility will not be deemed abandoned if the cessation is due to circumstances beyond Franchisee's reasonable control (such as lack of electrical power not due to any action or inaction by Franchisee, weather conditions, earthquakes, strikes and the like) and Franchisee diligently undertakes to resume operations after the reason for such cessation has been abated; or
5. Franchisee ceases to occupy the premises of Franchisee's Facility. If the loss of possession is the result of governmental exercise of eminent domain, Franchisee may, with Curves' consent and subject to availability, relocate to other premises in the same market area for the balance of the Term of this Agreement; or
6. Engages in a similar business to that licensed and established under and pursuant to this Agreement without obtaining Curves' prior written consent, or violates the covenant against competition, or markets any service or product under a name or mark which, in Curves' sole opinion, is confusingly similar to the Curves Marks; or
7. Franchisee is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that Curves believes is reasonably likely to have an adverse effect upon Franchisee's Facility, the Curves Marks, the goodwill associated therewith, or Curves' interest therein; or
8. Franchisee discloses or divulges the contents of the Confidential Operations Manual or other confidential information provided to Franchisee by Curves, whether intentional or not, contrary to the terms of this Agreement, or Franchisee or any owner uses or duplicates the Curves System or engages in unfair competition in violation of Section 20 or discloses any trade secrets of Curves in violation of Section 20; or
9. Any sale, assignment, merger or transfer in violation of Sections 16 or 17 of this Agreement occurs; or

10. Franchisee knowingly maintains false books or records, or knowingly submits any false or fraudulent reports, statements or documents to Curves; or
 11. Franchisee misuses or makes any unauthorized use of the Curves Marks or any other identifying characteristics of the Curves System, or otherwise materially impairs the goodwill associated therewith or Curves' rights therein; or
 12. Franchisee fails to maintain insurance at all times in accordance with this Agreement; or
 13. Franchisee is repeatedly in default for failing to comply with any part of this Agreement, whether or not cured after notice; or
 14. Franchisee contests Curves' ownership of the Curves Marks or any other trademarks owned or used by Curves.
- B. Default With Opportunity to Cure.** Except as set forth in Section 19A herein, Franchisee will have ten (10) days after receipt of a written Notice of Default from Curves within which to remedy any default under this Agreement and provide evidence thereof to Curves; provided, however, that Franchisee may avoid termination by immediately initiating a remedy to cure such default and curing it to Curves' satisfaction within the ten (10) day period (or within such longer period as Curves may, at its sole option, grant), and by promptly providing proof thereof to Curves. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement will terminate upon further notice to Franchisee. Franchisee will be in default under this Agreement for failure to comply with any of the requirements imposed by this Agreement or the Confidential Operations Manual as it may from time to time be reasonably supplemented or fails to carry out the terms of this Agreement in good faith.
- C. No Waiver.** The failure of Curves to terminate this Agreement upon the occurrence of one or more events of default will not constitute a waiver or otherwise affect the right of Curves to terminate this Agreement because of a continuing or subsequent failure to cure one or more of the aforesaid events of default or any other default.
- D. Notice of Default As Required by Law.** Notwithstanding anything to the contrary contained in this Section, if applicable law or regulation limits Curves' rights to terminate or requires longer notice periods than those set forth above, this Agreement will be deemed amended to conform to the minimum notice periods or restrictions upon termination required by such laws and regulations. Curves will not, however, be precluded from contesting the validity, enforceability or application of such laws or regulations in any action, arbitration, hearing or dispute relating to this Agreement or the termination thereof.
- E. Cross-Default.** Any default by Franchisee under the terms and conditions of this Agreement or any other agreement between Curves and Franchisee, which permits Curves to terminate this Agreement or any other agreements, will be deemed to be a default of each and every other franchise agreement and any other agreements. Furthermore, in the event of termination, for any cause, of this Agreement or any other agreement between the parties hereto, Curves may, at its option, terminate any or all said

agreements and all other franchise agreements.

- F. **Non Compliance Damages.** If, as a result of any default or breach by Franchisee or its owners, this Agreement is terminated prior to the natural expiration of the Term of this Agreement, the damages that Curves would suffer for the loss of prospective fees, damage to the Curves Marks and the Curves System, damage to Curves' franchise system and other amounts payable to or for Curves in this Agreement would be difficult if not impossible to ascertain, such that Franchisee agrees to pay non-compliance damages based on a reasonable estimate of the probable damages that Curves would suffer in the form of lost fees, damage to the Curves Marks and the Curves System, damage to Curves' franchise system and other amounts payable hereunder, and not as a penalty, in an amount of Twenty-Eight Thousand Six Hundred Twenty Dollars (\$28,620.00), or, if there is less than thirty-six (36) months remaining in the Term of this Agreement at the time of termination, then such amount will be equal to Seven Hundred Ninety-Five Dollars (\$795.00) multiplied by the number of months remaining in the Term of this Agreement at the time of termination. In addition, if Franchisee continues to operate Franchisee's Facility or a similar business to Franchisee's Facility from and after the date of expiration or termination of this Agreement in violation of Section 20B of this Agreement, such continued operation will constitute willful trademark infringement and unfair competition by Franchisee, and Franchisee will be liable to Curves for non-compliance damages resulting from such infringement in an amount of Seven Hundred Ninety-Five Dollars (\$795.00) for each month that Franchisee continues to operate Franchisee's Facility or a similar business to Franchisee's Facility from and after the date of expiration or termination of this Agreement in violation of Section 20B of this Agreement. The agreements regarding the payment of noncompliance damages set forth in this Section are not an election of remedies and Curves may pursue all other remedies available to it under this Agreement and applicable law.

19. EFFECT OF TERMINATION

- A. **Effect of Termination.** Upon termination, expiration or non-renewal of this Agreement for any reason, Franchisee agrees to and is required to do the following:
1. Cease to use the Curves Marks or any confusingly similar name, device, mark, service mark, trademark, trade name, slogan or symbol used in connection with Franchisee's Facility, including any reproduction, counterfeit copy, variation, emulation or colorable imitation thereof which is likely to cause confusion or mistake or deceive the public; and take any steps necessary to change the name of any corporation or entity which Franchisee may have formed, or under this Franchisee trades or does business, so that the name will not likely be confused with Curves Marks; and
 2. Immediately return to Curves the Confidential Operations Manual, or any other operations manual loaned to it, together with all materials containing Curves' trade secrets or Curves Marks or otherwise marked by Curves as confidential; and
 3. Cease to use Curves' System and methods of operation and comply with the post-term covenants contained in this Agreement; and

4. Grant to Curves the option to purchase all equipment used in the operation of Franchisee's Facility and other usable items bearing the Curves Marks at fair market value not to exceed \$1,000 and, regardless of Curves exercising that option, will not use for any business purposes or sell or give to any third parties for any business purposes any equipment used in the operation of Franchisee's Facility or other usable items bearing the Curves Marks; and
5. Promptly assign to Curves, upon Curves' demand, any interest and right that Franchisee may have in the premises where Franchisee's Facility granted herein is located and operates, unless Franchisee owns said premises; where landlord's consent is required to any such assignment Franchisee will use its best efforts to procure such consent; or, if Curves does not so demand such assignment, immediately make such removals or changes in signs and the building as Curves requests, so as to effectively distinguish the building and premises from its former appearance and from any other Curves facility. In the event Franchisee fails to make the changes, Franchisee consents to Curves entering the building and premises to make non-structural changes at Franchisee's expense; and
6. Promptly assign to Curves any interest that Franchisee may have in the telephone number and telephone listing used by Franchisee in connection with the operation of Franchisee's Facility. Franchisee will promptly transfer all telephone calls by call-forwarding to Curves, or to such other party or entity as Curves directs and execute any such instruments and take such actions as Curves may deem necessary to affect such transfer and call-forwarding of telephone calls. Franchisee acknowledges that this Agreement is conclusive evidence of Curves' rights to such telephone number and directory listings and its authority to direct this transfer; and
7. Promptly assign and deliver to Curves, or Curves' designee, in accordance with any applicable privacy laws and at Franchisee's expense, any and all check drafts for any and all memberships, any and all membership lists, past and present, and any and all leads for potential members for Franchisee's Facility. Franchisee must not duplicate any membership lists or leads, past or present, used in any manner with Franchisee's Facility, and after deliverance of said materials to Curves, Franchisee will destroy any and all copies of membership lists, leads and check drafts used in any manner with Franchisee's Facility; and
8. Promptly pay all sums and debts owing to all third-party creditors of Franchisee's Facility, as well as to Curves and its affiliates, whether such sums and debts owing to Curves and its affiliates are evidenced by promissory note, invoice, bill or other writing and notwithstanding the fact that such sums and debts owing to Curves and its affiliates may not at that time be fully due and payable, such debts being accelerated automatically without further notice to Franchisee. If termination is for any default of Franchisee, sums owing to Curves shall include all damages, costs and expenses (including reasonable attorney's fees) incurred by Curves as a result of the default, which obligation will give rise to and remain, until paid in full, a lien in favor of Curves against any and all of the vehicles, personal property, furnishings, equipment, signs, inventory, fixtures or other assets owned by Franchisee and used in Franchisee's Facility at the time of

default, and Franchisee authorizes Curves to file any documents Curves deems necessary to perfect this lien; and

9. Upon termination, expiration or non-renewal of this Agreement for any reason, Franchisee agrees to satisfactorily resolve all customer disputes or reimburse Curves or any franchisee who does so for the reasonable cost of such services.
- B. **Execution of Documents.** Curves may, if Franchisee fails or refuses to do so, execute in Franchisee's name and on its behalf, any and all documents necessary to effect the obligations of Franchisee under this Agreement, and Franchisee hereby irrevocably appoints Curves as Curves' attorney-in-fact to do so.
- C. **Curves' Rights Not Prejudiced.** The expiration, termination or non-renewal of this Agreement for any reason will be without prejudice to Curves' rights against Franchisee and such expiration, termination or non-renewal will not relieve Franchisee of any of its obligations to Curves existing at the time of expiration, termination or non-renewal, including claims for damages arising directly or indirectly out of any breach or default, nor will it terminate those obligations of Franchisee which by their nature survive the expiration, termination or non-renewals of this Agreement.

20. RESTRICTIVE COVENANTS

- A. **Manuals and Confidential Information.** During the Term of this Agreement or any time thereafter, Franchisee will not (except as otherwise contemplated by this Agreement) communicate, divulge or use for itself or for the benefit of any other person, persons, partnership, association, corporation or entity any information, knowledge or know-how concerning the Confidential Operations Manual and Curves System. Franchisee acknowledges that the Confidential Operations Manual and Curves System are confidential, proprietary and trade secrets and will not, at any time, contest the confidentiality of the information in them or Curves' sole ownership of them.
- B. **Covenant Not to Compete.** Franchisee acknowledges that any type of ownership as prohibited below of a competing business of a Curves Franchise in any way would be inherently unfair to Curves and all of Curves' franchises. Therefore Franchisee will not own an interest in, conduct or operate, directly or indirectly, or be employed by or associated in any way with any aerobics, fitness and/or weight loss business, men's, women's or co-ed, including the sale of other weight loss products, other than that of Curves during the Term of this Agreement. Franchisee acknowledges that the Curves Marks and the business reputation and goodwill associated thereto, the methods and techniques employed by Curves, the training and instruction to be provided under and pursuant to this Agreement, the knowledge of the services and methods of Curves, and the opportunities, associations and experience established and acquired by Franchisee under and pursuant to this Agreement and as a member of the license system, are of considerable value. In consideration thereof, Franchisee therefore covenants and agrees that, by its signature hereinbelow, specifically consents that Franchisee will not, directly or indirectly, as a proprietor, partner, investor, shareholder, member, director, officer, employer, employee, principal, agent, adviser, franchisor, franchisee, consultant or in any other individual or representative capacity or otherwise for a period of one (1) year immediately following the later of the expiration, termination or non-renewal of this

Agreement for any reason or the date on which Franchisee actually ceases operation:

1. Engage in or participate in or derive any benefit from any similar business to that licensed and established under and pursuant to this Agreement within ten (10) miles of the location of Franchisee's Facility and within ten (10) miles of the location of any other Curves Franchise; or
 2. Employ or seek to employ any person who is employed by Curves or any other Franchisee, or otherwise induce or seek to induce such person to leave his or her employment; or
 3. Interfere or attempt to interfere with any of the business relationships and/or advantages of Curves or any other Franchisee; or
 4. Divert or attempt to divert any customer or business from Curves or any other Franchisee or solicit or endeavor to obtain the business of any person who shall have been a customer of Franchisee's Facility.
- C. **Curves Manuals, Curves System and Curves Marks.** Upon the expiration, termination or non-renewal of this Agreement for any reason or the date on which Franchisee actually ceases operation, Franchisee will never use any confidential information from Curves' manuals or Curves System in any manner in any similar business to that licensed and established under and pursuant to this Agreement, and Franchisee will never use the Curves Marks, or any form of the Curves Marks, any other mark owned by Curves at the time of expiration, termination or non-renewal of this Agreement, or any confidential information from Curves' manuals or Curves System in any manner to engage in or participate in or derive any benefit from any similar business to that licensed and established under and pursuant to this Agreement.
- D. **Injunctive Relief.** Franchisee acknowledges and agrees that the damage caused to Curves by Franchisee's violation of any portion of this Section 20 constitutes irreparable injury for which there is no adequate remedy at law and, accordingly, acknowledges and agrees that Curves may seek enforcement of this Section 20 by temporary restraining order, temporary and/or permanent injunction, and such other legal or equitable relief as may be appropriate.
- E. **Ancillary to Agreement.** Franchisee acknowledges that the restrictive covenants set forth in this Section 20 are ancillary to this Agreement and are reasonable and necessary for the protection of Curves' legitimate interests in the goodwill of the business operated by Curves, but, if it is determined that the covenants set forth in this Section 20 are not enforceable for any reason (including but not limited to being unenforceable for the full stated period of time or the stated geographic region), such covenants will not be stricken, but will be reformed to the extent required to be enforceable under and comply with applicable law and as reformed will be fully enforceable.

21. RESOLUTION OF DISPUTES

- A. **Non-Binding Mediation.** Franchisee agrees to attempt to resolve any dispute between

Franchisee and Curves that arises out of this Agreement, save and except any dispute relating to Section 20 herein. The mediation procedure to be followed by the parties will be in accordance with Curves' then current procedures for resolving disputes (the "Procedures") which will be made available to Franchisee upon written request to Curves. All non-binding mediation will occur at the Curves' offices in Waco, Texas. All parties will pay their respective costs and expenses of mediation.

- B. Institution of Legal Proceedings.** Franchisee will not institute any legal or administrative proceeding for claims arising out of a dispute pursuant to this Agreement without first attempting to resolve the dispute through negotiation and non-binding mediation.

22. MISCELLANEOUS: GENERAL CONDITIONS

- A. Fiduciary Duty.** Curves and Franchisee specifically agree and acknowledge that Curves will not be deemed a fiduciary for or with respect to Franchisee or the operation of Franchisee's Facility.
- B. Construction and Interpretation.** The Introduction and Recitals are considered a part of this Agreement. Section captions are used only for convenience and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular Sections to which they refer. Words of any gender used in this Agreement include any other gender, and words in the singular include the plural, where the context requires. If any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision has the meaning which renders it valid. The Section headings used herein are descriptive only and shall have no legal force or effect whatsoever. The term "affiliate" as used in this Agreement is applicable to any company directly or indirectly owned or controlled by Curves. The word "corporation(s)" as used in this Agreement includes limited liability companies and such other similar organizations as are duly formed and existing pursuant to state law. The word "partnership(s)" as used in this Agreement includes limited liability partnerships and such other similar organizations as are duly formed and existing pursuant to state law. All words in this Agreement are deemed to include all genders and the singular as well as the plural, as the context of this Agreement requires.
- C. Governing Law, Forum Selection and Compliance.**
1. This Agreement will become valid when executed and accepted by Curves. The parties agree that it will be deemed made and entered into in the State of Texas and will be governed and construed under and in accordance with the laws of the State of Texas.
 2. Franchisee and Curves acknowledge and agree that the U.S. District Court for the Western District of Texas or the judicial district courts (or successor) in and for McLennan County, Texas, will be the venue and exclusive proper forum in which to adjudicate any case or controversy arising either, directly or indirectly, under or in connection with this Agreement or the relationship between Curves and Franchisee except to the extent otherwise provided in this Agreement and the

parties further agree that, in the event of litigation arising out of or in connection with this Agreement or the relationship between Curves and Franchisee in these courts, they will not contest or challenge the jurisdiction or venue of these courts.

3. Anything in this Agreement to the contrary notwithstanding, Franchisee will conduct its business in a lawful manner and faithfully comply with applicable laws or regulations of the United States and the state, city or other political subdivision in which Franchisee's Facility is located.

D. Reasonable Business Judgment. Reasonable Business Judgment (as defined herein) applies in all circumstances involving or requiring Curves' approval or consent, unless provided otherwise in the Agreement. Reasonable Business Judgment means that Curves' determinations or choices will prevail, even if other alternatives are also reasonable or arguably preferable, if Curves intends to benefit or is acting in a way that could benefit the Curves System by, for example, enhancing the value of the Marks, increasing customer satisfaction, minimizing possible customer confusion as to the Marks or location, or increasing the financial strength of Curves. Except where otherwise indicated in this Agreement, Curves agrees to use Reasonable Business Judgment when discharging its obligations and exercising its rights and discretion. Franchisee has agreed to this concept of Reasonable Business Judgment in recognition of the fact that Curves should have at least as much discretion in administering the Curves System as a corporate board of directors has in directing a corporation, and because the long-term interests of the Curves System, all franchisees and owners of Curves' facilities in the Curves System, and Curves and its shareholders, taken together, require that Curves have the latitude to exercise Reasonable Business Judgment. Curves will not be required to consider Franchisee's particular economic or other circumstances or to slight its own economic or other business interests when exercising its Reasonable Business Judgment. Franchisee acknowledges that Curves has a legitimate interest in seeking to maximize the return to its shareholders and the fact that Curves benefits economically from an action will not be relevant to showing that Curves did not exercise Reasonable Business Judgment. Neither Franchisee nor any third party (including but not limited to any third party acting as a trier of fact) will substitute its judgment for Curves' Reasonable Business Judgment. Franchisee has the sole burden of proving that Curves failed to exercise this Reasonable Business Judgment in any respect.

E. Severability. Each provision contained in this Agreement will for all purposes be construed to be separate and independent. If any provision of this Agreement or the application thereof to any person or circumstance will to any extent be invalid and unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of the other provisions of this Agreement; and the remainder of the Agreement, and the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, it being hereby agreed that such provisions are severable and that this Agreement will be construed in all respects as if such invalid or unenforceable provisions were omitted. Each provision of this Agreement will be valid and shall be enforceable to the fullest extent permitted by law.

F. Notices.

1. All notices to Curves must be in writing and must be delivered or sent by registered or certified mail, postage fully prepaid, addressed to it at its offices at 100 Ritchie Road, Waco, Texas 76712, Attention: General Counsel, or at such other address as Curves shall from time to time designate in writing.
2. All notices to Franchisee must be in writing and must be hand delivered, which includes but is not limited to delivery by any courier service, or sent by registered or certified mail or telegraph or facsimile, addressed to Franchisee at Franchisee's Facility or Franchisee's address as provided in this Agreement. Franchisee is solely responsible for notifying Curves by certified mail addressed to the Legal Department at 100 Ritchie Road, Waco, Texas 76712, Attention: General Counsel of any change of address where, upon such notification, Curves will deliver any notices as required or permitted under this Agreement.
3. Notices will be deemed delivered on the earlier of actual receipt or the third (3rd) day after being deposited in the U.S. Mail or with any courier service as provided herein.

G. Performance. This Agreement is performed in McLennan County, Texas. Both parties agree that this Agreement is executed in and is performable in McLennan County, Texas.

H. Waiver and Delay. The acceptance by Curves of any payment specified to be paid by Franchisee hereunder with knowledge of a breach of any covenant or agreement hereof will not be, nor be construed to be, a waiver of any breach of any term, covenant or condition of this Agreement. The failure or delay to enforce any of the provisions of this Agreement will not constitute a waiver of rights or a waiver of any subsequent enforcement of the provisions of this Agreement. The waiver or remedy of any default or breach hereunder will not waive or affect the default remedied or any prior or subsequent default. However, either party may, by written notice, unilaterally waive or reduce any obligation or restriction of the other party. The waiver or reduction may be revoked at any time for any reason on ten (10) days' written notice. All rights and remedies herein enumerated will be cumulative and none shall exclude any other right or remedy allowed by law, and said rights and remedies may be exercised and enforced concurrently and whenever and as often as the occasion therefore arises. If one (1) year has elapsed since an action that Franchisee has against Curves for any default or breach of this Agreement or the relationship between Franchisee and Curves first originated, then, if Curves has not received written notification of such action from Franchisee, Franchisee agrees that such action is waived and Franchisee is restricted from seeking recovery for such action.

I. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original; and it will not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

J. Savings Clause. If any term hereof may be construed to obligate Franchisee to pay interest in excess of the highest legal amount, it is agreed that such term is a mistake in calculation or wording and, notwithstanding same, it is agreed that neither Franchisee nor

any other person or entity obligated for the payment of any sums hereunder will ever be obligated to pay interest in excess of the highest lawful amount.

- K. Modification of Agreement.** Any modification of this Agreement or additional obligation assumed by either party in connection therewith must be binding only if placed in writing and signed by all parties hereto.
- L. Legal Fees.** In the unlikely event that a dispute occurs or an action in law or equity arises between Curves and Franchisee concerning the operation, enforcement, construction or interpretation of this Agreement, Curves, if it prevails on most issues, will be entitled to recover reasonable attorney's fees, court costs and expenses incurred in the action.
- M. Acknowledgments.** Franchisee acknowledges that Curves and its subsidiaries and affiliates have certain rights reserved to them to grant licenses and rights to others, which may or may not be similar to the license and rights conveyed hereunder; to market Curves-approved products; and to otherwise use Curves Marks and Curves System as set forth in this Agreement. Franchisee acknowledges that, prior to the execution of this Agreement, Franchisee has had the opportunity to contact existing franchisees of Curves. Franchisee acknowledges that Franchisee had the opportunity to independently investigate, analyze and construe both the business opportunity being offered hereunder and the terms and provisions of this Agreement itself, utilizing the services of such independent attorneys, accountants, or other advisers as Franchisee so elects. Franchisee acknowledges that no representation or statement has been made by Curves or any employee, agent or salesman thereof and relied upon by Franchisee regarding the future growth of Curves' franchise system, the anticipated income, earnings and growth of Franchisee, the actual sales or income of existing Curves businesses or the viability of the business opportunity conveyed hereunder. FRANCHISEE ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT AND ACKNOWLEDGES THAT IT HAS READ ALL OF THE FOREGOING AGREEMENT AND THAT IT HEREBY ACCEPTS AND AGREES TO EACH AND ALL OF THE PROVISIONS, COVENANTS AND CONDITIONS THEREOF.
- N. No Implied Covenant.** Curves and Franchisee have negotiated the terms of this Agreement and agree that neither party will claim the existence of an implied covenant of good faith and fair dealing to contravene or limit any term, condition or covenant of this Agreement.
- O. Submission of Agreement.** Submission of this Agreement does not constitute an offer, and this Agreement will become effective only upon the execution hereof by both Curves and Franchisee and delivery of an executed copy to Franchisee. THIS AGREEMENT IS NOT BINDING ON CURVES UNLESS AND UNTIL IT HAS BEEN ACCEPTED AND SIGNED BY CURVES AND FRANCHISEE HAS RECEIVED AN EXECUTED COPY OF THIS AGREEMENT. THIS AGREEMENT IS NOT EFFECTIVE UNTIL AND UNLESS FRANCHISEE HAS BEEN FURNISHED BY CURVES WITH ALL DISCLOSURE DOCUMENTS, IN WRITTEN FORM, AS MAY BE REQUIRED UNDER OR PURSUANT TO APPLICABLE LAW, FOR REQUISITE TIME PERIODS.

P. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties and may not be altered, amended or added to unless such amendment or addition is in writing and signed by both an authorized officer of Curves and by Franchisee. This Agreement is deemed to cancel and supersede the terms of all prior written or oral agreements and understandings, if any, between Curves and Franchisee pertaining to such license. Nothing in this Agreement or in any related agreement is intended to disclaim any written representations made in the federally required franchise disclosure document provided by Curves.

Q. Effective Date. This Agreement is effective as of the date first above written.

IN WITNESS WHEREOF, the parties have duly executed this Agreement in multiple originals, each of which may stand alone as an original, and acknowledge that they signed this in their stated capacities, on the date set forth hereinabove.

CURVES INTERNATIONAL, INC.

By: _____
Roger Schmidt, Sr. Vice President

ATTEST:

FRANCHISEE:

(Signature)

EXHIBIT A

Curves International, Inc. grants a franchise to operate one (1) *Curves*® thirty minute fitness and weight loss center at the location set out below on the terms and conditions contained in this Agreement executed simultaneously herewith:

The description representing the boundaries set forth on this page above is identified as of the date of this Agreement. Except when both Franchisor and Franchisee agree in writing, the area, as stated herein as of the date of this Agreement, will not be altered in any manner in the future as to size or location regardless of any future alterations to the identifying marks representing the description of the boundaries herein.

(Signature)

EXHIBIT B

Curves International, Inc. provides Franchisee with the following equipment as part of the Initial Franchise Fee:

Curves Equipment

The following equipment will be provided to Franchisee:

Biceps/Triceps
Leg Extension/Leg Curl
Shoulder/Laterals
Chest/Back
Hip Ab/Ad
Squat
Leg Press
AB/Back
Glute
Oblique
Running Squares (10)
Stretching Station