

*Color Me Mine®*

# **COLOR ME MINE**

## **Franchise Agreement**

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#### **ATTACHMENTS:**

- 1: Accepted Location
- 2: Exclusive Area
- 3: Nondisclosure and Noncompetition Agreement
- 4: Personal Guaranty and Subordination Agreement
- 5: Receipt of Franchise-Related Documents
- 6: Appendix – Compliance Certification
- 7: Lease Assignment Agreement

**COLOR ME MINE®**  
**FRANCHISE AGREEMENT**

**1. PARTIES**

This Agreement is signed on 10/26/2019 by and between Color Me Mine Enterprises, Inc., hereinafter referred to as CMME ("CMME"), we, us ("we", "us"), a California corporation with its principal office in Los Angeles, California, and Julie Schroeder, JJS Studio LLC ("you").

**2. RECITALS**

**2.1. Ownership of System**

CMME is the owner of certain intellectual property rights, including the CMME Trade Name, "COLOR ME MINE®," and the MARKS, including the stylized words COLOR ME MINE and design. It has spent a considerable amount of time, effort, and money to construct, and continues to develop, business methods, technical knowledge, and marketing concepts, including trade secrets, administrative procedures, information on sources of supply, marketing strategies, business forms, advertising materials, distinctive signs, trade dress, and architectural design that, taken together, comprise a proprietary System for the operation of COLOR ME MINE® contemporary ceramic and craft Studios offering customers bisqueware, paint, glazing services, materials, and instruction for paint-your-own ceramics and other related craft activities as offered from time to time, which may include but not be limited to canvas painting, wet clay, mosaics, glass, tie dye and the like.

**2.2. Objectives of Parties**

CMME would like to grant to you and you would like to accept from CMME a franchise to own and operate a COLOR ME MINE® Studio, using the COLOR ME MINE® Trade Name, MARKS, and System, upon the terms and conditions below

We have full rights together with all goodwill connected with the use of the MARKS associated with CMME, and any other MARKS that we continue to develop, use, and control for our benefit and the use of our Franchise Owners in order to create uniformity, uniformity being essential in creating and maintaining public recognition, acceptance, and patronage; and, it is the purpose of this Agreement to set forth and ensure uniform standards of services, products, appearance, quality, and operation for all our franchised businesses, and to protect and enhance the name and MARKS, and you understand and acknowledge this; and, you wish to obtain a license to use the System and MARKS to operate a Franchised Business ("Franchised Business"), under our MARKS, and we wish to grant you this license in accordance with the terms and provisions of this Agreement and our Confidential Operations Manual(s), at one location, and for the term as set forth.

Therefore, in consideration of mutual agreements and promises contained in this Agreement, and for other good and valuable consideration, acknowledged to be satisfactory and adequate, the parties intending to be legally bound agree as follows:

**3. DEFINITIONS**

For purposes of this Franchise Agreement, when any of the following words and phrases begins with a small letter its meaning should be taken in the generic; and when it starts with a capital letter in its singular or plural, its meaning is defined in this Article 3:

### Agreement

"The Agreement" or "this Agreement" means "this Franchise Agreement."

### Accepted Location

"Accepted Location" means "the location that CMME has accepted in writing as a site at which you may own and operate a COLOR ME MINE® Studio," and which is described on Attachment 1 to (or to be attached to) this Agreement.

### Bundled Services

"Bundled Services" means "a bundled package for some or all services required under the Franchise Agreement, including but not limited to website hosting, email blast services, party booking services, group event and party invitation services, in-Studio music, social media management software, and @colormemine.com email accounts."

### Ceramic and Craft Product

"Ceramic and Craft Product" means "a ceramic and craft product that has been manufactured by CMME or its Related Party or under license from CMME or its Related Party or bearing the MARKS."

### CMME

"CMME" means "Color Me Mine Enterprises, Inc. or any person or entity to which Color Me Mine Enterprises, Inc. allocates all or part of its rights and obligations under this Agreement."

### COLOR ME MINE® Studio(s) or Studio(s)

"COLOR ME MINE® Studio(s)" or "Studio(s)" means "an enterprise that CMME has authorized you or another to conduct under the Trade Name, MARKS, and System at an Accepted Location under this Agreement."

### Confidential Operation Manuals

"Confidential Operation Manual" means "a set of written materials, printed and/or online, including a CMME Countdown to Opening section, CMME Construction Specifications section, CMME Confidential Operations section, CMME Marketing section, CMME To Go section, CMME Accounting section, Point of Sale section, Bisqueware Catalog, and other such resources as they are periodically developed and introduced into the COLOR ME MINE® System, containing both mandatory and suggested standards for the operation of COLOR ME MINE® Studios, and as they may be amended from time to time."

### Exclusive Area

"Exclusive Area" means "the area surrounding an Accepted Location shown on Attachment 2 to (or to be attached to) this Agreement within which CMME agrees to refrain from specified competitive activities."

### Franchise Network

"Franchise Network" means "the interdependent network composed of CMME, all CMME franchisees, CMME's Related Parties, and any other people or business entities that CMME has licensed to use the Trade Name, MARKS, System or any of them."

### Franchise Owner

"Franchise Owner" means the person or business entity that has signed a Franchise Agreement and operates a COLOR ME MINE® Studio.

Franchised Business

"Franchised Business" means the COLOR ME MINE® Studio business franchised to and operated by you under this Agreement.

Good Standing

"Good Standing" means "timely compliance by you and your Related Parties with all provisions of this Agreement and the Confidential Operations Manuals, specifically including provisions for timely payment of amounts you owe to CMME or its Related Party."

Gross Revenue

"Gross Revenue" means "the total amount of money or other compensation received or earned by you and your Related Parties for all goods sold and services rendered from the Accepted Location or in connection with the Trade Name or MARKS, excluding money received for sales tax, returned merchandise, sale of food and beverage items, and sale of types of items not currently constituting part of the COLOR ME MINE® System and specifically exempted from the definition of 'Gross Revenue' in writing by CMME, within an accounting period."

MARKS or Marks

"MARKS" or "Marks" means "selected trademarks, service marks, trade dress, logotypes, copyrights, slogans and other commercial symbols licensed by CMME to you under this Agreement, including the words "Color Me Mine."

Related Party

"Related Party" or "Related Parties" means "people and companies affiliated with CMME or you, as the context indicates, including, but not limited to, owners, general partners, limited partners owning a Substantial Interest in CMME or in you, members or shareholders owning a Substantial Interest in CMME or in you, corporations in which CMME or you have a Substantial Interest, corporations or limited liability companies in which any person or entity owning a Substantial Interest in you also has a Substantial Interest, or officers, directors, managers, employees or agents of CMME or of you. As used in this paragraph, the phrase 'Substantial Interest' means 'the right to twenty-five percent (25%) or more of the capital or earnings of a partnership or limited liability company or, alternatively, ownership of twenty-five percent (25%) or more of the voting stock of a corporation.'"

Resale

"Resale" means "any sale, gift, or other change in ownership of all or any part of the rights and obligations: 1) of this Agreement, 2) of the COLOR ME MINE® Studio, including the lease for the Accepted Location, or 3) of an ownership interest in you of a magnitude at least as great as that described in this Section. If you are a partnership, then one or more transactions (regardless of whether or not they are related) in which there is a cumulative change in the rights to thirty-four percent (34%) or more of your capital or profits will be considered to be a Resale. If you are a limited liability company, then one or more transactions (regardless of whether or not they are related) in which there is a cumulative change in beneficial ownership of thirty-four percent (34%) or more of your equity will be considered to be a Resale. If you are a corporation, then one or more transactions (regardless of whether or not they are related) in which there is a cumulative change in beneficial ownership of thirty-four percent (34%) or more of your voting stock will be considered to be a Resale."

Start Date

"Start Date" means "the earlier of \_\_\_\_\_ [agreed-upon deadline for opening] or the date when your COLOR ME MINE® Studio opens". The Start Date may be extended only with the written consent of CMME. For a renewal Agreement, "Start Date" means " \_\_\_\_\_ [the date the previous Agreement expired]".

### Studio Manager

"Studio Manager" means "a person whom you have appointed as general manager of your COLOR ME MINE® Studio."

### System

"System" means "the business methods, technical knowledge and marketing concepts licensed by CMME to you under this Agreement, including the right to use CMME's trade secrets, purchasing arrangements, commercial ideas, advertising materials, marketing strategies, information on sources of supply, administrative procedures, business forms, distinctive signs, trade dress, architectural design, and employee training techniques."

### Taxes

"Taxes" means "any present or future sales tax, use tax, services tax, excise or other tax of whatever nature (other than taxes generally assessed on the overall net income of the recipient) now or hereafter imposed by any governmental or other authority as well as all levies, imports, duties, charges or fees of whatever nature."

### Termination

"Termination" means "cease to be a Franchise Owner due to expiration of this Agreement; non-renewal of this Agreement; or termination, under any of the circumstances described in Article 10 of this Agreement, of the then-current term of this Agreement before it's normal expiration date."

### Trade Name

"Trade Name" means "the commercial name 'COLOR ME MINE®'."

### You

"You" means "the person or entity that is named as "you" in Article 1 of this Agreement." "You" means, in addition, "all people or entities that succeed to your interest by Resale or operation of law."

## **4. GRANT OF FRANCHISE**

### **4.1. Granting Clause**

CMME grants to you and you accept from CMME a franchise to operate one COLOR ME MINE® Studio under the Trade Name, MARKS and System in accordance with the terms of this Agreement. You acknowledge that we may supply similar products and services authorized under the CMMEMARKS and other trade and service marks in your territory through dissimilar channels of distribution.

### **4.2. Territory**

#### **4.2.1. Location of Your COLOR ME MINE® Studio**

Your COLOR ME MINE® STUDIO must be located at an Accepted Location. You may not establish your business premises at any other site, engage in related business activities at any other site except under another franchise agreement with CMME. You may not engage in mail order, internet, or catalog sales except as authorized by CMME in writing.

#### **4.2.2. Territorial Rights**

Each Accepted Location will be located in an Exclusive Area within which you may market your COLOR ME MINE® Studio. Your Exclusive Area will consist of the geographic area within a specified boundary surrounding your COLOR ME MINE® Studio as shown on Attachment 2 to this Agreement. During the initial term of this Agreement, CMME agrees not to authorize any other franchisee to base a COLOR ME MINE® Studio within the Exclusive Area,

base any company-owned Studio that uses the Trade Name or System within the Exclusive Area, nor allow any other franchisee or company-owned Studio using the Trade Name or System to relocate to a site within the Exclusive Area except within a military base or a theme park. CMME retains the right to place additional Studios adjacent to your Exclusive Area and in determining adjacent territories, will exclude from your COLOR ME MINE® Studio's customer database those customers you have marketed to outside your Exclusive Area.

Prior to each renewal term, CMME will evaluate your Exclusive Area and determine if the demographics and psychographics have increased to the level of supporting additional Studio(s). In that event, new boundaries will be drawn after reaching a good faith mutual agreement.

#### 4.3. Rights Reserved

CMME and any of its Related Parties reserve all rights in the Trade Name, MARKS and System not expressly granted in this Agreement, including the right to sell Ceramic and Craft Products within the Exclusive Area through any dissimilar means of distribution not specifically prohibited by Section 4.2.2 of this Agreement and to offer franchises to others for any site outside the Exclusive Area granted to you.

#### 4.4. Customer List

You acknowledge and agree that CMME has complete right, title and interest, and is the sole owner of any customer list generated by you by your conduct of business in owning this franchise. You agree upon Termination of this Agreement you will not use, disseminate or in any other way utilize the CMME customer list generated by you during the term of this Agreement.

#### 4.5. Relocation

You may relocate the COLOR ME MINE® Studio within the Exclusive Area only with CMME's prior written consent, which will be granted only if the following conditions are fulfilled:

- (a) You and your Related Parties are in Good Standing under the Franchise Agreement, any other agreement between CMME or CMME's Related Party and you, and the Confidential Operations Manuals;
- (b) You and any Related Parties that have signed the original Franchise Agreement have signed a copy of the Franchise Agreement that is then-currently effective at the time of relocation;
- (c) You agree to plan, construct, equip, and furnish your new COLOR ME MINE® Studio so that the premises meet the standards of appearance and function applicable to the premises of new COLOR ME MINE® Studios at the time of relocation;
- (d) You and any Related Parties that are parties to the Franchise Agreement have signed a general release of claims in a form satisfactory to CMME with respect to past dealings with CMME and its Related Parties;
- (e) You have paid CMME a relocation fee of three thousand dollars (\$3,000) to defray the cost to CMME of site inspection and construction design review; and
- (f) CMME has given its prior written acceptance to the new site and the provisions of the lease for the new premises. CMME's acceptance of the new site may be withheld, at its sole option, because of the site's proximity to another COLOR ME MINE® Studio(s). Our failure to communicate our acceptance or rejection shall not be construed as acceptance of your site.



#### 4.6. Term and Renewal

##### 4.6.1. Initial Term

The Franchise Agreement is co-terminus with the lease for the Accepted Location. The initial term of the franchise will begin on the Start Date and will continue for a period of five (5) years unless the lease is terminated earlier.

##### 4.6.2. Renewal

You will have the right to renew the Franchise for additional consecutive five- (5-)year terms (or less than five years if necessary to coincide with the termination of your lease) with no additional franchise fee on the same terms and conditions as those on which CMME is customarily granting new franchises at the time of renewal if at the time of renewal the following conditions are fulfilled:

- (a) You and your Related Parties are in Good Standing under this Agreement, any other Agreement between CMME or CMME Related Party and you, and the Confidential Operations Manuals;
- (b) You have notified CMME in writing at least one hundred twenty (120) days before the expiration date of this Agreement of your wish to renew;
- (c) You and any Related Parties that have signed this Agreement have signed the Franchise Agreement that is then-currently effective at the time of renewal not less than thirty (30) days before the expiration of this Agreement or thirty (30) days after you receive a copy of the new Franchise Agreement from CMME, whichever is later;
- (d) You have, before the beginning of the renewal term, at your own expense, remodeled, modernized and redecorated the COLOR ME MINE® Studio premises and replaced and modernized the fixtures, equipment, and signs used in the COLOR ME MINE® Studio so that the premises of the COLOR ME MINE® Studio meets the then standards of appearance and function applicable to the premises of new COLOR ME MINE® Studios at the time of renewal;
- (e) You and any Related Parties that are parties to this Agreement have signed a general release of claims in a form satisfactory to CMME with respect to past dealings with CMME and its Related Parties; and
- (f) You have renewed or have the right to renew the lease for the Accepted Location for the renewal term of the Franchise Agreement.

You understand that the terms of the standard franchise agreement in use by CMME at the times of renewal may be materially different than those contained in this Agreement, including, but not limited to, increased Royalty and Marketing Materials Development Fees. You understand that your right to renew will be contingent upon your acceptance of the new terms as set out in such standard franchise agreement.

#### 5. SERVICES TO FRANCHISEE

CMME agrees to perform the following services for you at locations selected by CMME provided that you are, at the time when service is to be rendered, in Good Standing under this Agreement, any other agreement with CMME or CMME's Related Party, and the Confidential Operations Manuals.



### 5.1. Construction-Related Services

CMME or a third party authorized by us will render the following mandatory construction-related assistance in helping you develop your COLOR ME MINE® Studio. You must submit all drawings, specifications, and orders for goods and services to CMME, or our designee, for our final review in determining adherence to all CMME standards and specifications. The following assistance will be provided to you:

- (a) Assist in reviewing construction clauses in your lease;
- (b) Assist in reviewing preliminary and final working drawings and make suggestions, if appropriate, on how to reduce costs while implementing design;
- (c) Assist you in analyzing estimates for exterior signs, review sign and awning designs, and offer placement suggestions;
- (d) Assist you in evaluating contractors and determining if estimates are reasonable, and, if necessary, assist you in negotiating with contractor;
- (e) Assist in reviewing demolition bids and assist in negotiating other contractor's bids;
- (f) Offer ongoing telephone support throughout construction period;
- (g) Assist in placing orders and tracking delivery of items purchased through CMME;
- (h) Assist in "punch list review" of contractor's performance and in determining tasks required to finish Studio.

Upon delivery from your landlord of your premises and our approval, you must begin remodeling/construction in accordance with our specifications within Thirty (30) days. You are also responsible for the following:

- (a) Obtaining all the required building, utility, sign, health and business permits and licenses and any other required permits and licenses necessary to commence remodeling/construction and operate your business; and,
- (b) Purchasing, as we specify in our Confidential Operations Manual(s) the required equipment, furniture and fixtures, signs, supplies, opening inventory, and all other items that we may require you to have in order to commence business; and,
- (c) Construct or cause to be constructed; install or cause to be installed all required furniture, fixtures, signs, equipment, and the like necessary for the total completion of your COLOR ME MINE® Studio; and all leasehold required improvements to your premises, and decorating the Franchised Business premises all in compliance with designs, layouts and specifications approved by us.

### 5.1.2. Initial Training.

Before the opening of your COLOR ME MINE® Studio, CMME will conduct an initial training program in the operation of the COLOR ME MINE® Studio under the CMME System for you. You must attend and successfully complete the training program to the satisfaction of CMME before you may open a COLOR ME MINE® Studio. We will make available to you a mandatory initial orientation and training course of up to 10 days. This initial orientation and training course will be provided at our corporate headquarters or other training locations as we may designate.

During and after your Franchised Business commencement, an additional training segment comprised of approximately three days will be provided to you in your COLOR ME MINE® Studio.

There is no charge for the initial orientation and training course, except that you will be responsible for any travel, room and board and other expenses which you incur in connection with this training and for any salary and other expenses paid or incurred by or on behalf of you in connection with this training. There is no charge for the additional training segment to take place at your COLOR ME MINE® Studio, except that you will pay for travel, lodging and per diem for the opening trainer.

If you fail the initial training and orientation course, then at our option we may: (1) retrain you at your expense until you successfully complete the course; or (2) Terminate this Agreement and return to you 50% of the initial franchise fee if and when the Exclusive Area defined in this Agreement is sold to a third party.

You are an independent operator, and are solely responsible for all personnel management in your Studio, including but not limited to hiring and terminating, training, scheduling, disciplining, establishing wages, and setting working conditions and rules. Your employee applications and other employee forms must include your legal business name as sole employer. Your employees must sign a statement that they are solely employed by your business and not by CMME. Any support and initial training provided to you by CMME is not in lieu of your responsibility to train and supervise your employees. No employee management services are provided by CMME. You may seek qualified employment and human resource consultants and payroll services of your own choosing. CMME may offer continuing education programs on matters related to the operation or promotion of the COLOR ME MINE® Studio on an optional or mandatory basis, as it considers appropriate. In the event that you request additional assistance after your Franchised Business begins operation, and we deem it appropriate in our sole discretion, we will provide a representative at times and places as we deem necessary and convenient. You must pay our then current costs, as well as per diem and all reasonable travel and living expenses in connection with such assistance. Our training will be provided to you and, in some cases, your Studio Manager. It is your responsibility to train your employees and contract labor.

### 5.2. Confidential Operations Manuals

CMME will lend you an extensive set of Confidential Operations Manuals, catalogs, and instructional handbooks, including a COLOR ME MINE® Countdown to Opening, COLOR ME MINE® Construction Specifications Manual, COLOR ME MINE® Studio Owner Training Manual, COLOR ME MINE® Marketing Manual, COLOR ME MINE® Business Procedures and Royalty Requirements Manual, Point of Sale Manual, and other such resources as they are

periodically developed and introduced into the CMME System. These materials are referred to collectively as "the Confidential Operations Manuals." To the extent any information in the Confidential Operations Manuals addresses personnel matters, those materials and resources are not mandatory but are merely recommendations, suggestions or guidelines. They do not include any mandatory personnel policies and procedures. CMME will revise the Confidential Operations Manuals periodically to conform to the changing needs of the Franchise Network and will provide updated information containing these revisions online. Certain confidential information will be disclosed to or learned by Franchise Owner in connection with its ownership and operation of the Franchised Business. The Confidential Information is made available to Franchise Owner by us solely on the condition that Franchise Owner agrees, and Franchise Owner does hereby agree, that Franchise Owner (and each of its owners): (1) will not use the Confidential Information in any other business or capacity; (2) will maintain the absolute confidentiality of the Confidential Information during and after the term; (3) will not make unauthorized disclosure of any portion of the Confidential Information disclosed in our Confidential Operations Manual(s) or in other written, digital or electronic form; and (4) will adopt and implement all procedures prescribed from time to time by us to prevent unauthorized use or disclosure of the Confidential Information.

### 5.3. Advertising

#### 5.3.1. Marketing Materials Development Fund

CMME will administer the Marketing Materials Development Fund consisting of money contributed under §6.3 of this Agreement. Marketing Materials Development Fund money will be accounted for separately on CMME's books and will be kept in CMME's general bank account. The purpose of the Marketing Materials Development Fund is to pool marketing money of CMME and each of its franchisees so as to achieve greater benefits for all in promoting the Trade Name and MARKS. The Marketing Materials Development Fund may be used to pay for market research, advertising materials, media space and time, a referral program, a website, or any combination of them. In addition, the Marketing Materials Development Fund may be used to pay for point-of-purchase materials or public relations projects. Up to twenty percent (20%) of the Marketing Materials Development Fund money may be used to compensate CMME for overhead and other expenses incurred in connection with its administration of the Marketing Materials Development Fund. CMME will distribute to its franchisees, once a year, a Marketing Materials Development Fund report which will set out the total amounts of money collected and spent by the Marketing Materials Development Fund during the past year and list, by general category, the manner in which the money was spent.

#### 5.3.2. Allocation of Expenditures

CMME will give preference to Marketing Materials Development Fund projects that are regional or national, but may make allocations of Marketing Materials Development Fund money to regional groups of franchisees or individual franchisees when it considers it desirable. CMME franchisees may make non-binding recommendations on use of the Marketing Materials Development Fund. However, because the benefits of advertising, marketing, and promotion are difficult to measure precisely and because it is important that the Franchise Network be capable of taking decisive action in regard to these functions, CMME will have the right and responsibility to ultimately decide how Marketing Materials Development Fund money will be spent.

### 5.4. Ceramic and Craft Products Availability

CMME will use its best efforts to ensure that CMME, its Related Party, or a designated supplier will at all times have a full line of Ceramic and Craft Products for sale to you. You

recognize, however, that there will be times when one or more types of Ceramic and Craft Products will be temporarily out-of-stock. If, in CMME's reasonable discretion, the duration or extent of an out-of-stock condition is substantial enough to cause serious inconvenience or economic detriment to members of the Franchise Network, CMME will evaluate and approve purchase of substitute products meeting reasonable quality standards from other sources of supply during the period of unavailability.

#### 5.5. Suggested Suppliers

CMME will give you, in the Confidential Operations Manuals or otherwise in writing, a list of names and addresses of suppliers of goods and services that then-currently meet CMME's standards and specifications. The procedure for soliciting CMME's approval of a supplier is described in § 7.2.3. In advising you of suppliers which meet its standards and specifications, CMME expressly disclaims any warranties or representations as to the condition of the goods or services sold by such suppliers, including, without limitations, expressed or implied warranties as to merchantability or fitness for any intended purpose. You agree to look solely to the manufacturer of goods or the supplier of services for the remedy for any defect in the goods or services.

#### 5.6. Financial Services Reports

CMME will provide you, in a password protected online format, periodic financial services reports based on data polled from your POS system and Franchise Network-wide polling, including reports on Comparative Sales, Cost of Sales, Labor Hours, Group Sales, Inventory Management, Gross and Estimated Net Profit, Sales Detail, and Exceptions. There may be changes to the reports from time to time at CMME's sole option.

At our sole option, CMME may also provide custom reporting or financial analysis upon your request. The fee for such services will be based on an hourly rate and the cost will vary depending on the project.

#### 5.7. Information Services

In consideration of the mandatory monthly MIS Information Services Fee, defined in section 6.4, CMME will provide software support for your POS system, social media management software, and In-Studio Marketing System during normal business hours. After hours software support and consulting services may also be available for an additional charge. You agree to install and use all software updates or upgrades required by CMME. You must permit CMME to access the customer database via high-speed Internet and to use the information for analysis and marketing purposes.

### 6. PAYMENTS BY FRANCHISEE

#### 6.1. Initial Fee

When you sign this Agreement, you will pay an initial franchise fee to CMME. The initial franchise fee will be thirty thousand dollars (\$30,000). With the exception of you failing our training program, the initial fee is not refundable. In Minnesota, this fee is due when you are open for business.

For each CMME franchise granted to you after your first franchise, whether or not the franchises are granted simultaneously, CMME will waive five thousand dollars (\$5,000) of the then-current initial franchise fee.

Only if you are in Good Standing you may, at our sole option and discretion, purchase as a separate franchise, a satellite operation to your existing COLOR ME MINE® Studio, in your

Exclusive Area, for an Initial Fee of one half the Initial Fee you have paid for the purchase of this franchise.

## 6.2. Royalty

On or before the tenth (10th) day of each month during the term of this Agreement, you will pay CMME a monthly Royalty of five (5) percent of Gross Revenue, as that term is defined in section 3 of this Agreement, received or earned by your COLOR ME MINE® Studio during the immediately preceding month.

## 6.3. Marketing Materials Development Fee

On or before the tenth (10th) day of each month during the term of this Agreement, you must pay to us the Marketing Materials Development Fee, a monthly fee of one percent (1%) of the Gross Revenue of your COLOR ME MINE® Studio during the previous month.

## 6.4. MIS Support and Help Desk Fee, Bundled Services Fee, and Software Update Payment

On or before the tenth (10th) day of each month during the term of this Agreement, you will pay to CMME a monthly MIS Support and Help Desk Fee of ninety dollars (\$90.00) and the Bundled Services Fee of one-hundred-and-forty-nine dollars (\$149.00). The MIS Support and Help Desk Fee and the Bundled Services Fee, individually, may each increase or decrease, based on services offered and the fees paid by CMME to licensed service providers. In addition, you must pay an annual amount of two-hundred-and-twenty-five dollars (\$225.00) directly to the POS software provider for annual updates.

## 6.5. Payments Due CMME or Related Parties

6.5.1 Your obligation to pay ongoing monthly Royalty fees, Marketing Materials Development Fees, MIS Support and Help Desk Fees, and Bundled Services Fee begins on the Start Date of this Agreement, as defined above.

6.5.2 "Pay" means "to complete the transfer of funds to CMME's designated bank account by the payment platform approved by CMME", no later than the date when payment must be made. Alternatively, at our sole option, you may be required to make payments by credit card or automatic withdrawal from your bank account. In that case, "pay" means "to give CMME, in written form specified by CMME, authorization to assess monthly Royalty, Marketing Materials Development Fees, MIS Support and Help Desk Fee, and Bundled Services Fee against a credit card account or bank account you designate in advance."

6.5.3 If you are late more than three (3) times in any 12-month period with any payment to CMME or any of its Related Parties, then CMME may require automatic payment by credit card or automatic withdrawal from your bank account for any future fees due.

6.5.4 In the event operations are suspended due to fire, condemnation or Act of God, minimum Royalty and Marketing Materials Development Fees will be calculated as an average of your previous 12 months, and will be included as a fixed expense in your business interruption insurance claim.

6.5.5 You must prepay the full purchase price, plus an additional amount to cover the costs of shipping, freight insurance, and any applicable sales or use tax for each order for Ceramic and Craft Products or Proprietary Products from CMME or its Related Party. CMME and its Related Party have the right to require prepayment, payment in any specific form, including cash,



electronic funds transfer, cashier's check, e-bill express, or other means of making funds immediately accessible in the reasonable discretion of CMME.

6.6. Audit.

CMME will have the right during normal working hours to audit your books and records, including your tax returns, with respect to the COLOR ME MINE® Studio. If an audit discloses an underpayment of Royalty or Marketing Materials Development Fees payable under this Agreement, you will immediately pay these amounts to CMME together with accrued interest on the amount underpaid in accordance with Section 6.10 of this Agreement. In addition, if the underpayment exceeds three percent (3%) of the total Royalty or Marketing Materials Development Fees payable for any period covered under the audit, you must reimburse CMME for all expenses actually incurred by CMME in connection with the audit. CMME, in its sole discretion, may Terminate this Agreement, without any recourse by you, if such audit discloses an underpayment of any fees duly owed by you under this Agreement for a period of one (1) year or more.

6.7. Ongoing Training Fees and Costs.

For any continuing educational programs, or for any training offered by CMME or its agents, you must pay any costs of travel, lodging, meals and other incidental expenses that you or your Studio Manager incur, including any costs associated with the delivery of the educational or training programs. We do not require any of your employees to attend our training or educational programs in addition to you and, in some cases, your Studio Manager. If a representative of CMME comes to your COLOR ME MINE® Studio, you must also reimburse CMME for costs of travel, per diem and lodging incurred while providing the on-site training and opening assistance.

6.8. Resale Fee

As a condition of Resale of this franchise, you must pay, before Resale, a Resale fee of three thousand five hundred dollars (\$3,500).

6.9. Relocation Fee

As a condition of Relocation of this franchise, you must pay, before Relocation, a relocation fee of three thousand dollars (\$3,000)

6.10. Interest, Late Fee and Lien on Late Payments

Payments not received by CMME or its Related Party when due will incur a late fee of \$100 and will bear interest at eighteen percent (18%) per year or at the highest rate allowed by applicable law on the date when payment is due, whichever is less. Interest charges and late fees on late payments are intended to partially compensate CMME for loss of use of the funds and for internal administrative costs resulting from late payment, which would otherwise be difficult to measure with precision. The fact that such charges are imposed should not be construed as a waiver of CMME's right to timely payment. CMME will have the right to file a UCC-1 lien on the assets of your business in the event your payments are late by sixty (60) days and/or total two thousand five hundred dollars (\$2,500.00) or more.

6.11. Payments Free of Taxes

You will make all payments described in this Article 6 free and clear of, and without any deduction or withholding on account of, any Taxes. You will be responsible for paying the Taxes, if any. If you are required by law to deduct or withhold Taxes on any payment in this Article 6, you will increase the amount to be paid to CMME as necessary so that the net amount to be received by CMME after the deduction or withholding equals the amount CMME would have received if no deduction or withholding was required.

#### 6.12. Annual Minimum Advertising Budget

You must spend annually a minimum of two percent (2%) of your Gross Revenue per year on local advertising and promotion that conform to the specifications in the Confidential Operations Manuals.

### 7. YOUR OBLIGATIONS

#### 7.1. Use of Trade Name and MARKS

##### 7.1.1. Context

You may use the Trade Name, MARKS and System only in the operation of a COLOR ME MINE® Studio at an Accepted Location and only in your Exclusive Area unless you have obtained CMME's written approval in advance. You may not register the Trade Name or MARKS in your state. You may not use any other trade name or marks in connection with a COLOR ME MINE® Studio unless you have obtained CMME's written approval in advance. Unless approved otherwise in writing by CMME, the COLOR ME MINE® Studio premises must not be used to conduct any business or sell any products other than goods and services offered within the CMME System. You agree that all ceramic work, artwork, graphics, layouts, instruction materials, slogans, names, titles, text, or similar materials incorporating or being used in connection with the MARKS which may be created by you, your employees, agents or subcontractors and any other party with whom you may contract to have such materials produced shall become the sole property of CMME or its Related Party, including copyright and trademark rights. At CMME's request, you must provide such materials to CMME in a form suitable for distribution. All of our Trade Name, MARKS or System must be used in accordance with our standards and specifications outlined in our Confidential Operations Manual which specifically prohibits any use not completely related to the operation of your business. Use of MARKS includes trade dress, and requires that you must maintain the trade dress as outlined in the Confidential Operations Manual, including but not limited to trade dress colors, furniture and fixtures, tables set up per Manual, department signs on shelves, and such other requirements as developed by CMME from time to time. Your millwork must be prominently marked with a Proprietary Trade Dress notice as provided by CMME.

##### 7.1.2. Use of MARKS Outside the United States

**If this Franchise Agreement has enfranchised you for a site/territory outside the United States, you are required to pay all expenses with establishment and/or the timely renewal of our MARKS as we will specify. You acknowledge and agree that your payment for registration and renewal of our Mark(s) does not give you right, title or interest in these MARKS, now or in the future.**

##### 7.1.3. Changes in Trade Name and MARKS

CMME and its Related Party have invested substantial time, energy, and money in the promotion and protection of the Trade Name and other MARKS as they exist on the Start Date. It has no present intention of altering them. However, CMME recognizes that rights in intangible property such as the Trade Name and MARKS are often difficult to establish and defend and that changes in the cultural and economic environment within which the System operates or third-party challenges to CMME's rights in the MARKS may make changes in the Trade Name and MARKS desirable or necessary. CMME and its Related Party therefore reserve the right to change the Trade Name and MARKS and the specifications for each when CMME believes that such changes will benefit the Franchise Network. You agree that you will promptly conform to any such changes.



#### 7.1.4. Advertising and Marketing Programs and Materials.

You agree to actively participate in all national marketing and promotional programs provided to you, including but not limited to Adventures in Art®, Give A Dog A Bowl®, Paint Me A Story®, children and adult workshops, gift card programs, email programs, and all cross-promotional programs CMME is successful in negotiating such as Disney, Warner Bros., Parents Magazine or similar marketing partners, movies or DVDs, nonprofit organizations, and the like. You are restricted from using any movies, books, or other trademarks in your marketing or promotions unless specifically authorized by CMME. You agree to prominently display the most current seasonal marketing materials developed by and available through CMME. You agree to use Facebook, Instagram, Twitter, or other specified social media to market your Studio within your Exclusive Area under CMME's guidelines and policies in the Confidential Operations Manual. You agree to submit to CMME copies of all marketing materials that you propose to use before the first time they are broadcast, posted on the Internet, or social media, or published. CMME will review the materials within a reasonable time and will promptly notify you whether it approves or rejects them. CMME may not withhold its approval unreasonably. You must prominently include on all advertising and all social media posts such Facebook, Instagram, Twitter and other similar posts, the identifying name of your Studio by city and/or location. You must include CMME's website address in all marketing and promotional materials. For purposes of this paragraph, marketing materials that differ from previously accepted materials only in such variables as date or price will be considered accepted. Even if CMME has accepted specified materials, it may later withdraw its approval if it reasonably believes it necessary to make the marketing conform to changes in the System or to correct unacceptable features of the marketing, including any misrepresentation in the marketing material. You agree that all advertising or marketing materials of any nature conceived, developed, prepared, paid for or produced, in whole or in part, by you, your employees, agents or subcontractors are the sole property of CMME or its Related Party.

#### 7.1.5. Trademark Infringement

You agree to notify CMME immediately in writing if you become aware of any unauthorized use of the Trade Name, MARKS, or System. You will promptly notify CMME in writing of any claim, demand, or suit against you or against your principals in connection with your use of the Trade Name or MARKS. CMME is under no obligation to defend a possible infringement to its MARKS if, in CMME's sole opinion, the possible infringement is inconsequential or too costly to defend. In any action or proceeding arising from or in connection with any such claim, demand, or suit, you agree that CMME or its Related Party may select legal counsel and has the right to control the proceedings. CMME has the right to hire counsel to represent you at its own expense.

#### 7.1.6 Acts of Derogation

You agree that as between CMME and you, CMME is the exclusive owner of the MARKS. You now assert no claim and will hereafter assert no claim to any goodwill, reputation or ownership of the MARKS by virtue of your franchised use thereof or otherwise. It is expressly understood and agreed that ownership and goodwill are and, as between you and CMME, shall remain vested solely in CMME or its Related Party, and the use of the MARKS is only coextensive with the term of this Agreement. You acknowledge that the material and information provided or revealed to you pursuant to this Agreement (including in particular, but without limitation, the Confidential Operations Manuals) are Trade Secrets of CMME or its Related Party and are revealed in confidence, and you expressly agree to keep and respect the confidence so reposed, both during the term of this Agreement and thereafter. CMME or its

Related Party, as the owner of the MARKS, respectively, expressly reserve all rights with respect to the MARKS, Trade Secrets, method of operation and other proprietary information, except as may be expressly granted to you hereby or in the Confidential Operations Manuals. CMME shall disclose its Trade Secrets to you by loaning you for the term of this Agreement the Confidential Operations Manuals and other written materials containing the Trade Secrets, through training and assistance provided to you, and by and through the performance of CMME's other obligations under this Agreement. You acknowledge that CMME or its Related Party is the sole owner of all proprietary information and Trade Secrets; that such information is being imparted to you only by reason of your special status as a franchisee of the System; and that the Trade Secrets are not generally known to the ceramic and craft industry, the paint-your-own ceramic industry, or to the public at large and are not known to you except by reason of such disclosure. You further acknowledge that you shall acquire no interest in the Trade Secrets, other than the right to utilize them in the development and operation of the COLOR ME MINE® Studio during the term of this Agreement. In addition, you acknowledge that the use or duplication of the Trade Secrets except as expressly permitted by this Agreement shall constitute an unfair method of competition and that CMME or its Related Party shall suffer irreparable injury thereby. You agree that you will not do or permit any act or thing to be done in derogation of any of the rights of CMME or its Related Party in connection with the MARKS, either during the term of this Agreement or thereafter, and that you will use same only for the uses and in the manner franchised and licensed hereunder and provided in this Agreement. Furthermore, you and your employees and agents will not engage in any acts or conduct that materially impairs the goodwill associated with the MARKS.

## 7.2. Site Selection.

You must, on your own initiative and at your own expense, locate, obtain and occupy the site for the COLOR ME MINE® Studio. CMME's prior acceptance of the proposed site must be obtained. CMME's acceptance may depend on the site assessment based on CMME's proprietary real estate criteria. To seek CMME's acceptance, you must advise CMME of the street address of the proposed site and provide a copy of the proposed lease. By accepting a particular site for the premises of a COLOR ME MINE® Studio, CMME does not guarantee that the COLOR ME MINE® Studio operating at that location will be successful. CMME will base its acceptance on the following criteria: The site must be accepted by CMME and the lease must contain language and terms that, among other things, provide that CMME is granted an option, without cost or expense to CMME, to assume or authorize its assignee to assume the lease if the Franchise Agreement is Terminated for any reason, including the expiration of the term or non-renewal, or if you should be in default under the lease. Signing by you and the lessor of the Lease Assignment Agreement is one way in which the foregoing condition can be met.

## 7.2 Compliance with CMME Standards and Specifications.

### 7.2.1. Opening.

You may not open your COLOR ME MINE® Studio to the public until CMME indicates in writing that, in the view of its management, you and your employees are prepared to do so. By accepting a particular site for the premises of a COLOR ME MINE® Studio, CMME does not guarantee that the COLOR ME MINE® Studio operating at that location will be successful.

### 7.2.2 Compliance with Confidential Operations Manual and Forms

You must operate the COLOR ME MINE® Studio in compliance with the standards and specifications set out in the Confidential Operations Manuals. However, notwithstanding the foregoing, the Confidential Operations Manuals do not contain any mandatory personnel

policies or procedures. CMME may make changes in these standards and specifications, when, in CMME's reasonable discretion, change is needed for the continued success and development of the Franchise Network. Such changes may necessitate the purchase of equipment, supplies, furnishings or other goods, completion of additional training by your employees, or other cost to you. You must promptly conform to the modified standards and specifications. You must at all times keep your copy of the Confidential Operations Manuals current by inserting in it revised pages given to you by CMME and deleting superseded pages. If there is any dispute as to the requirements of the Confidential Operations Manuals at any point in time, the terms of the master copy of the Confidential Operations Manuals maintained by CMME will control.

#### 7.2.3. Products and Services Offered.

You must offer substantially all the products and services that CMME has authorized you to provide. At CMME's request, these products are to include new products developed by CMME or its Related Party. In order to maintain brand identity, CMME requires fully stocked shelves meeting standards as set out in the Confidential Operations Manual, with bisque inventory at no less than the wholesale value for at least 300 SKUs.

In order to achieve economies of scale or to maintain consistent quality standards throughout the System, CMME will require you to buy certain types of products only from CMME, its Related Party, or a designated supplier. CMME will enforce this for a proprietary product or for a product with unique characteristics, or when it will result in the same or lower price, or when it will result in the same or higher quality.

In the event CMME, its Related Party, or a designated supplier does not offer a proprietary product or a product with unique characteristics, or a product at the same or lower prices, or a product with the same or higher quality, you may purchase products that are to be sold or used in the COLOR ME MINE® Studio from any supplier that has been accepted as meeting the standards established by CMME.

The products you sell or use must be lead-free, non-toxic (as defined by applicable law) and in compliance with all environmental and other applicable laws. The products also must meet the specifications set out in the current version of the Confidential Operations Manuals. You must use authorized universal SKU numbers as provided by CMME.

If you would like to use or sell any product not previously certified by CMME to meet CMME specifications or which is sold by a supplier not previously accepted by CMME, you must advise CMME of this fact and, upon CMME's request, give CMME product specifications, sample products, and/or information about the supplier. Within thirty (30) days, CMME will communicate to you either its approval or its reasons for withholding its approval. CMME will not ask you to reimburse it for expenses incurred by CMME in inspecting the supplier's premises, checking the supplier's credentials, or testing the product. As a condition of approving a supplier of any product that bears the Trade Name or MARKS, CMME may require that the supplier sign CMME's License Agreement. CMME may withdraw its approval of a supplier or product if either or both no longer meet CMME's or any of our Related Party's standards or specifications.

#### 7.2.4. Inspections.

CMME may conduct inspections of your COLOR ME MINE® Studio during normal business hours. Inspections may be unannounced. You must promptly correct any deficiencies in your operation of which you are advised by CMME. If you do not take effective steps to bring your operation up to CMME standards, your failure to do so may constitute a material breach of this Agreement.

### 7.2.5. Use of Ceramic and Craft Products.

The quality, variety and brand identity of the Ceramic and Craft Products used in the COLOR ME MINE® Studio is integral to the success of the System. CMME will require you to buy Ceramic and Craft Products only from CMME or its designated supplier whenever CMME has reasonably determined that one of these sources offers a product of comparable or better quality at the same price or at a lower price than another vendor charges. CMME will require that you purchase 100% of the proprietary Ceramic and Craft Products available only through CMME or its designated supplier, and 85% of the non-proprietary items offered by CMME or its designated supplier.

### 7.2.6. Notification of Complaints.

You must notify CMME promptly if you are served with a complaint in any legal proceeding that is in any way related to the COLOR ME MINE® Studio or if you become aware that you are the subject of any complaint to or investigation by a governmental licensing authority or consumer protection agency.

## 7.3. Owner's Participation, Management and Staffing.

### 7.3.1. Management

You or, in a multi-Studio situation, your COLOR ME MINE® Studio Manager, as defined in section 3 of this Agreement, must devote all your productive time and effort to the management and operation of the COLOR ME MINE® Studio for a minimum of forty (40) hours per week. The minimum hours of operation for your Studio must be from 11 a.m. to 8 p.m. daily, or as required by your lease, unless you have CMME's prior written approval. You or your Studio Manager who has successfully completed CMME initial training program must be available to the Accepted Location whenever the COLOR ME MINE® Studio is open for business. If you own more than one COLOR ME MINE® Studio, an additional Studio Manager must be employed for each. If CMME, in its sole discretion, determines that a Studio Manager is not properly performing his duties, CMME will advise you and you must correct the situation. You must keep CMME informed as to the identity of your COLOR ME MINE® Studio Manager.

### 7.3.2. Employees.

You must maintain at all times a staff of trained employees sufficient to operate the COLOR ME MINE® Studio.

### 7.3.3. Annual and Regional Meetings

At your sole cost and expense, you must attend the Annual Franchisee Meeting if offered, and one of the Regional Franchisee Meetings, if offered, each year.

### 7.3.4. Participation in Communication System

You must actively and regularly participate in any system provided by CMME for communication among the Franchise Network.

## 7.4. Advertising

### 7.4.1. Local Advertising

You must spend annually a minimum of two percent (2%) of your Gross Revenue per year on local advertising and promotion that conform to the specifications in the Confidential Operations Manuals. For purposes of this paragraph, "local advertising" means advertising that is primarily directed to people or entities within the Exclusive Area. Upon request from CMME, you must submit copies of receipts for advertising materials, media, or promotional activities showing compliance with the provisions of this paragraph during the immediately preceding

quarter. Advertising expenditures in excess of the required minimum in any six-(6-)month period may be used to offset shortfalls in any later quarter, as long as the total advertising expenditures for your fiscal year, on a cumulative basis, equal or exceed the stated minimum. Any contribution made to your Shopping Center marketing fund may be applied to your local advertising expenditures.

#### 7.4.2. Signs.

You must permanently display, at your own expense, on your business premises of your COLOR ME MINE® Studio, COLOR ME MINE® signs of any nature, form, color, number, location and size, and containing any legends that CMME has designated in writing. You must post your hours of operation in a form specified by CMME on the front window of your Studio.

#### 7.4.3. Franchise Sales Materials

You must prominently display signs and other promotional sales materials supplied by CMME at its own expense with which members of the public may inquire about CMME franchises.

#### 7.4.4. Point-of-Purchase Materials

You must prominently display all current point-of-purchase promotional materials developed by CMME.

### 7.5. Financial Information.

#### 7.5.1. Records.

You must use CMME's Point-of-Sale system in accordance with the Confidential Operations Manuals. You must retain daily sales reporting forms and accompanying data for at least three years after the year of sale. If your Point-of-Sale system must be repaired, a replacement Point-of-Sale system must be used in its absence.

#### 7.5.2. Reports.

You must submit to CMME, on or before the tenth (10th) day of February following each year, annual financial reports on the income and expenses of the COLOR ME MINE® Studio in the format specified in the Confidential Operations Manuals. You must purchase or lease computer and communications equipment and software that meet specifications set out in the Confidential Operations Manuals to facilitate the creation of standardized financial records and their conveyance to CMME. You must install and maintain DSL, cable or Fios ("always on, high-speed") Internet connection for electronic communications; your internet router must be capable of wireless connections. You must permit CMME to poll your point-of-sale system on a daily basis; and you must use approved computer software that allows the use of the POS for inventory and labor. Additionally or alternatively, at CMME's sole option, you must submit a statement of Gross Revenue on a form designated by CMME with each Royalty and Marketing Materials Development Fees payment. You must also submit to CMME, at the time of filing, copies of all annual federal, state and local income tax returns. Upon CMME's request, you must also submit local and state sales tax returns.

### 7.6. Entry And Inspection

We have the right at any time to inspect the COLOR ME MINE® Studio and your business records and files, bookkeeping records, sales receipts, purchase orders, invoices, payroll records, check stubs, sales tax records and returns, and any other records and documents including any electronic version, without notice.



In order to preserve the validity and integrity of the MARKS and to assure that you are properly employing them in the operation of your business, and to assure that you are properly using our System in your business operation, we will at all times have the right to observe the manner in which you are rendering services and selling products to the public, and to confer with your employees and customers.

7.7. Electronic Access, Gift Card and Credit Card Processing, Website, Radio and Bundled Services

You must use an email address using the @colormemine.com domain name and its user name and password, as assigned to you by CMME. **You are not permitted to use any other email address in association with the operation or marketing of your Studio for any reason without CMME's prior written approval.** You must keep CMME advised of your current personal email address and must permit its publication in an intra-Franchise Network directory.

You must use a website address and its user name and password that will be assigned to you by CMME and must be used in all marketing materials. **You are not permitted to use any other website address, URL or domain name in association with the operation or marketing of your Studio for any reason, including but not limited to sales, parties, gift cards, promotions and the like without CMME's prior written approval.** At any time during the term of this Agreement, CMME, at its sole cost and discretion, may access your website and may make any and all changes CMME deems appropriate.

You must use the Bundled Services, including user names and passwords, assigned to you by CMME.

You must have a working In-Studio Digital Marketing System. You must purchase from a CMME approved vendor a credit card and gift card processor with terminal and printer described in section 7.6.2 and engage said vendor's services to process credit cards and gift cards.

You are restricted from playing unlicensed music from any service not intended for commercial use, including from any non-commercial streaming service such as Pandora or the like, or from your own digital or other play list. You must install and use COLOR ME MINE® Radio.

7.8. Insurance

You must purchase and maintain a policy or policies of comprehensive public liability insurance, including product liability coverage, covering all COLOR ME MINE® Studio assets, personnel, and activities on an occurrence basis with a combined single limit for bodily injury, death or property damage of not less than One Million Dollars (\$1,000,000). CMME may increase the minimum coverage requirement annually if necessary to reflect inflation or other changes in circumstances. You must also carry 1) casualty insurance in a minimum amount equal to the replacement value of your interest in the COLOR ME MINE® Studio premises, including furniture, fixtures and equipment, and 2) business interruption insurance in an amount sufficient to cover the rent of the COLOR ME MINE® Studio premises, salary or wages of key personnel, and other fixed expenses, including fees payable to CMME. Such insurance policies must contain a provision that the policy cannot be canceled without ten (10) days' written notice to CMME. It must be issued by an insurance company of recognized responsibility, designate CMME as additional named insured, including a waiver of subrogation, and be satisfactory to CMME in form, substance and coverage. You must deliver a certificate of the issuing insurance company evidencing each policy to CMME within ten (10) days after the policy is issued or

renewed. In the event operations are suspended due to fire, condemnation or Act of God, minimum Royalty fee and marketing fees will be calculated as an average of your previous 12 months, and will be included as a fixed expense in your business interruption insurance claim.

In addition to the policies required in the above paragraph, you must maintain policies of worker's compensation insurance, disability insurance, and any other types of insurance related to employment required by applicable law. You are the sole employer of your staff and you must not name CMME as an additional named insured on any policies related to employment.

#### 7.9. Financial and Legal Responsibility.

##### 7.9.1. Compliance with Law.

You must comply with all federal, state, and local laws and regulations pertaining, directly or indirectly, to the COLOR ME MINE® Studio. You must keep current all licenses, permits, bonds, and deposits made to or required by any government agency in connection with the operation of the COLOR ME MINE® Studio.

##### 7.9.2. Payment of Indebtedness.

You must pay promptly when due all taxes, leases and debts that you incur in the conduct of your business.

### 8. RELATIONSHIP OF PARTIES

#### 8.1. Interest in MARKS and System.

You may not at any time do or cause to be done anything contesting or impairing CMME's or its Related Party's interest in the Trade Name, MARKS or System. You acquire no rights in any of these things except for your right to use them in accordance with the express terms of this Agreement. CMME retains the right to grant other franchises or licenses to use the Trade Name, MARKS and System upon any terms that CMME wishes, subject only to your limited territorial rights described in Article 4 of this Agreement. You expressly agree that any goodwill associated with the MARKS or System, including and goodwill, products or services which might be deemed to have arisen through your activities, inures directly and exclusively to CMME's or its Related Party's benefit and ownership.

#### 8.2. Independent Status.

You are an independent legal entity and must make this fact clear in your dealings with suppliers, lessors, government agencies, employees, customers and others. You will rely on your own knowledge and judgment in making business decisions, subject only to the requirements of this Agreement and the Confidential Operations Manuals. You may not expressly or implicitly hold yourself out as an employee, partner, shareholder, joint venturer or representative of CMME, nor may you expressly or implicitly state or suggest that you have the right or power to bind CMME or to incur any liability on CMME's behalf. OTHER THAN AS A DBA, YOU MAY NOT USE THE TRADE NAME COLOR ME MINE® OR ANY DERIVATIVE THEREOF AS PART OF YOUR CORPORATE, LIMITED LIABILITY COMPANY, PARTNERSHIP OR ANY LEGAL ENTITY NAME. Your DBA must include the name of the city in which the Studio is located, or another identifier such as the name of a mall, as approved by CMME.

#### 8.3. Display of Disclaimer.

You must conspicuously display a sign that states that "THIS COLOR ME MINE® STUDIO IS INDEPENDENTLY OWNED AND OPERATED" at the Accepted Location. Business cards, stationery, purchase order forms, employee applications and forms, invoices, leases, tax returns and other documents you use in your business dealings with suppliers, lessors,



government agencies, employees and customers must clearly identify you as an independent legal entity.

#### 8.4. Confidentiality

You acknowledge and agree that the information, ideas, forms, marketing plans and other materials disclosed to you under this Agreement, whether or not included in the Confidential Operations Manuals, are confidential and proprietary information and trade secrets of CMME. You agree to maintain the confidentiality of all such material. You may not disclose any such information to any third party, except to your employees and agents as necessary in the regular conduct of the COLOR ME MINE® Studio and except as authorized in writing by CMME. You will be responsible for requiring compliance of your Related Parties and employees with the provisions of this section. You must obtain written non-disclosure agreements, in the form of Attachment 3 to this Agreement, from your Related Parties and employees and must send CMME a copy of each such agreement within ten (10) days after each Related Party or employees begins his or her relationship with you.

#### 8.5. Indemnification.

If you are made a party to a legal proceeding arising from your use of the Trade Name and MARKS, or any of them, you must immediately notify CMME. CMME has the right to hire counsel to represent you in any such proceeding at its own expense.

You will indemnify and hold CMME harmless from all expenses and liabilities of any kind arising from or in any way connected to your act or omission, including expenses or liabilities caused by CMME's or its Related Party's own active or passive negligence related to or in any way connected to any activity of yours. If CMME is made a party to a legal proceeding in connection with such an act or omission, CMME may hire counsel to protect its interests and bill you for all costs and expenses incurred by CMME. You must promptly reimburse CMME.

#### 8.6. Covenant Not to Compete.

You may not, during the term of this Agreement and for two (2) years after its Termination, operate or own more than a ten percent (10%) beneficial interest in any company that is competitive with any COLOR ME MINE® Studio owned by others and that is located within fifty (50) miles of the territory of any existing or anticipated COLOR ME MINE® Studio owned by others in the Franchise Network. You agree to obtain the individual written agreement of each of your Related Parties and employees to the provisions of this section in the form of Attachment 3 to this Agreement within ten (10) days after each Related Party or employee assumes that status with you and to forward copies of each of these agreements to CMME.

### 9. RESALE OF FRANCHISE

#### 9.1. Purpose of Conditions for Approval of Resale.

CMME's grant of this franchise is made in reliance upon your integrity, ability, experience and financial resources. Neither the franchise nor the COLOR ME MINE® Studio operated under it may be Resold unless you have first obtained CMME's prior written consent, which may not be unreasonably withheld. In order to ensure that no Resale jeopardizes the Trade Name, the MARKS, or CMME's interest in the successful operation of the COLOR ME MINE® Studio, CMME will consent to a Resale only if you comply with the provisions of Sections 9.2 and 9.3 of this Agreement and if the conditions described in Section 9.5 are fulfilled.

#### 9.2. Notice of Proposed Resale.

If you would like to Resell this franchise, you must submit to CMME:

- (a) the form of franchise purchase application and confidentiality agreement currently in use by CMME, completed and signed by the prospective transferee;
- (b) a written notice, describing all the terms and conditions of the proposed Resale; and
- (c) the Resale fee described in Article 6 of this Agreement.

If the Resale is not accepted by CMME, or if the proposed Resale is not finalized for any other reason, CMME will return the Resale fee to you after deducting direct costs incurred in connection with the proposed Resale.

### 9.3. Consent by CMME; Right of First Refusal.

After CMME has received your notice of Resale, CMME must respond in writing to your written notice within fifteen (15) days after receiving it, or, if CMME requests additional information and/or a personal meeting with the proposed transferee, within the later date of fifteen (15) days after receipt of the additional information or the personal meeting, or the final day of the original fifteen (15) day period CMME may either consent to the Resale, tell you its reason for refusing to consent, or purchase the COLOR ME MINE® Studio from you itself upon the same terms and conditions as those offered by the third party. Silence by CMME may not be construed as consent. If CMME consents to the Resale, then you may Resale the interest described in the notice only to the named transferee and only upon the terms and conditions stated in the notice. Consent by CMME to a particular Resale will not constitute consent to any other or subsequent Resale. If CMME decides to exercise its right of first refusal, it may substitute cash or a cash equivalent for any non-cash consideration offered by your proposed transferee.

However, CMME may not exercise a right of first refusal if:

- (a) A proposed Resale is between or among individuals (including members of your immediate families and their respective spouses) who, at the time of the proposed Resale, have an ownership interest in you or the franchise, and who have guaranteed your obligations under a then outstanding indebtedness which is guaranteed by the United States Small Business Administration ("SBA") (Owner/Guarantors); or
- (b) A proposed Resale involves a third-party other than an Owner/Guarantor and the proposed Resale involves a non-controlling ownership interest in you or the franchise, unless such non-controlling interest: (1) represents less than a 20% ownership interest in you or in the franchise, or (2) CMME (in combination with you) qualifies as a small business and the exercise of the right does not affect the eligibility of the borrower to qualify for the SBA loan guarantee program.

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

### 9.3.1. Conditions for Consent to Resale.

The consent of CMME is subject to certain conditions, including but not limited to:

- (a) Satisfaction of CMME that the proposed transferee meets all of the criteria of character, business experience, financial responsibility, net worth and other standards that CMME customarily applies to new franchisees at the time of Resale; CMME may require a personal meeting with the proposed transferee at its principal office;
- (b) Payment of all your outstanding debts to CMME and its Related Party prior to training of the transferee, from the first proceeds of any Resale;
- (c) Cure of all defaults under the Franchise Agreement, any other agreement(s) between CMME or its Related Party and you, and the Confidential Operations Manuals;
- (d) Signing by the transferee of the then-current form of franchise agreement, amended to waive payment of an initial fee by the proposed transferee;
- (e) Your payment of the Resale fee described in Article 6 of this Agreement;
- (f) Receipt by CMME of an executed copy of the Purchase Agreement and Bill of Sale.
- (g) Completion by the transferee of the CMME initial training program to CMME's satisfaction;
- (h) Your signing of a general release of claims in favor of CMME.
- (i) Return of all Confidential Operations Manuals to CMME, or a payment of \$500 for each Confidential Operations Manuals not returned.
- (j) Compliance by you of all of your obligations to CMME, whether under this Agreement or any other agreement, arrangement or understanding with CMME.
- (k) If the seller holds any debt from the buyer as a consequence of the sale, the debt must be subordinated to any and all interest CMME may hold through the operation of this Agreement.

### 9.3.2. Changes of Ownership Considered Not To Be Resales

As used in this Agreement, the term "Resale" does not mean an assignment to:

- (a) Any Trustee, Guardian or Conservator for the account and benefit of a spouse, ancestor or descendent;
- (b) Any business entity if the beneficial ownership of the business entity immediately following the assignment is the same and in the same proportions as the beneficial ownership immediately before the assignment. However, no such assignment will relieve the original party of any of its obligations under this Agreement. Information on the identity of the shareholders and officers of the corporation, the percentage of ownership, and the address where corporate records are maintained must be submitted promptly to CMME; or
- (c) Any of your employees under any employee stock option plan or stock purchase plan, provided that any share certificate distributed under such a plan is marked with a legend describing the restrictions and conditions of Resale required by this Agreement.

#### 9.4. Resale Upon Death.

If you die within the term of this Agreement, your heirs or beneficiaries may have sixty (60) days within which to demonstrate to CMME's satisfaction that they meet all of the criteria of character, business experience, financial responsibility, net worth and other standards that CMME requires of new franchisees at that time. If CMME approves your heirs or beneficiaries as transferee of the franchise, CMME will waive any Resale fee in connection with the Resale. If CMME advises your heirs or beneficiaries in writing that CMME will not approve them as transferees of the franchise, or if CMME fails to approve or disapprove the Resale within sixty (60) days following your death, your heirs or beneficiaries may have one hundred twenty (120) additional days from the date of disapproval of the Resale or the end of the sixty- (60-)day period, whichever is first, within which to find and notify CMME of a proposed Resale to a qualified transferees in conformity with the provisions of Sections 9.2, 9.3, and 9.4 of this Agreement. If your heirs or beneficiaries do not advise CMME of qualified transferees within the specified period, the franchise will automatically Terminate at the end of the period unless a written extension of time has been granted by CMME.

#### 9.5. Assignment by CMME

CMME may assign this Agreement or any rights or obligations created by it at any time without your consent upon the following conditions: a) CMME reasonably believes that the assignee is capable of performing CMME's obligations under this Agreement; and b) the assignee expressly agrees in writing to assume CMME's obligations under this Agreement.

### 10. TERMINATION OF FRANCHISE

#### 10.1. Termination by Consent of the Parties

This Agreement may be Terminated upon the mutual written consent of the parties.

#### 10.2. Termination by CMME

Upon the occurrence of any of the defaults described in section 10.2.2, CMME at its option, may Terminate this Agreement:

##### 10.2.1. Notice of Default

Termination will be effective thirty (30) days after written notice of default is given to you if any of the defaults described in subsections (a) through (c) or subsection (o) has not been cured. Termination will be effective ten (10) days after written notice is given to you if the default described in subsection (d) has not been cured. Termination will be effective immediately upon written notice to you if any of the defaults described in subsections (e) through (o) below occurs.

##### 10.2.2. Acts of Default.

- (a) If you fail to cure within thirty (30) days after notice any failure to submit to CMME in a timely manner any information you are required to submit under this Agreement;
- (b) If you fail to cure within thirty (30) days after notice any failure to begin operation of a COLOR ME MINE® Studio by the Start Date of this Agreement or operate your COLOR ME MINE® Studio in accordance with this Agreement and/or the Confidential Operations Manuals;
- (c) If you default in the performance of any material obligation under this Agreement or any other agreement with CMME or its Related Party, or are in default under your lease agreement for the Studio premises, and fail to cure the default within thirty (30) days after notice;

- (d) If you fail to make any payment when due under this Agreement or any other agreement between you and CMME or a Related Party of CMME;
- (e) If you misuse the MARKS or the System or engage in conduct which reflects materially and unfavorably upon the goodwill associated with them, or if you identify your COLOR ME MINE® Studio with any trade names, marks, systems, logotypes or symbols that CMME has not authorized you to use, or if you use the MARKS outside of your Studio's Exclusive Area, or if you use the MARKS in any way that is not in full compliance with the Confidential Operations Manual;
- (f) If you or any of your Related Parties has any direct or indirect interest in the ownership or operation of any business that is confusingly similar to a COLOR ME MINE® Studio or uses the System or the MARKS, or if you fail to give CMME a signed copy of the Non-Disclosure and Non-Competition Agreement for each of your Related Parties within ten (10) days after the Related Party assumes that status with you;
- (g) If you attempt to assign your rights under this Agreement in any manner not authorized by this Agreement;
- (h) If you or your Related Party has made any material misrepresentation in connection with the acquisition of a COLOR ME MINE® Studio or to induce CMME to enter into this Agreement; including but not limited to any misrepresentation on the CMME franchise application and your financial statements.
- (i) If you act without CMME's prior written approval or consent in regard to any matter for which CMME prior written approval or consent is expressly required by this Agreement;
- (j) If you cease to operate the COLOR ME MINE® Studio, unless: (i) operations are suspended for a period of no more than one hundred eighty (180) days and (ii) the suspension is caused by fire, condemnation, or act of God;
- (k) If you fail to permanently correct a breach of this Agreement or to meet the standards set out in the Confidential Operations Manuals after being twice requested in writing by CMME to correct the breach and/or meet the standards set out in the Confidential Operations Manuals in any twelve- (12-)month period;
- (l) If CMME makes a reasonable determination that the operation of your COLOR ME MINE® Studio poses a threat to public health or safety;
- (m) Except as otherwise required by the United States Bankruptcy Code, if you become insolvent, are adjudicated a bankrupt, or file or have filed against you a petition in bankruptcy, reorganization or similar proceeding;
- (n) If you are convicted of any criminal misconduct which is materially relevant to the operation of the COLOR ME MINE® Studio or to the public's perception of its management or if you are convicted of a felony;
- (o) If you fail to renew this Agreement.

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### 10.3. Rights and Obligations After Termination.

Upon Termination of this Agreement for any reason, including expiration of this Agreement, the parties will have the following rights and obligations:

- (a) CMME will have no further obligations under this Agreement;



- (b) You must give CMME a final accounting for the COLOR ME MINE® Studio, including Profit & Loss and Balance Sheet, pay CMME and any Related Party all payments due directly out of the proceeds of any sale or dissolution of the assets, and return the Confidential Operations Manuals and any other property belonging to CMME to CMME or pay CMME \$500 for each Confidential Operations Manuals not returned.
- (c) You must immediately and permanently stop using the MARKS or any confusingly similar marks, the System, or any advertising, signs, stationery, or forms that bear identifying marks or colors that might give others the impression that you are operating a COLOR ME MINE® Studio;
- (d) The physical assets of the Studio, including but not limited to the furniture, fixtures, equipment, inventory, supplies and marketing materials, cannot be transferred to a third party outside the Franchise System.
- (e) The Studio premises must not be rented, leased, subleased, or assigned to any person or legal entity offering paint- your-own ceramic services outside the Franchise System.
- (f) You must promptly sign any documents and take any steps that in the judgment of CMME are necessary to (i) delete your listings from classified or online telephone directories and disconnect or, at CMME's option, assign to CMME all telephone numbers that have been used in your COLOR ME MINE® Studio; (ii) transfer to CMME all rights, usernames and passwords to any and all email addresses, websites, and social media accounts that have been used in connection with the operation or promotion of your COLOR ME MINE® Studio or used any of CMME's MARKS; (iii) terminate all other references that indicate you are or ever were affiliated with CMME. By signing this Agreement, you irrevocably appoint CMME your attorney-in-fact to take the actions described in this paragraph if you do not do so yourself within seven (7) days after Termination of this Agreement.
- (g) You must maintain all records required by CMME under this Agreement for a period of not less than three (3) years after final payment of any amounts you owe to CMME when this Agreement is Terminated.
- (h) CMME has an option to purchase any or all of the physical assets of your COLOR ME MINE® Studio, including equipment, supplies and inventory, during a period of sixty (60) days following the effective date of Termination, valued as follows:
  - 1. The lower of cost or fair market value of the supplies and inventory; and
  - 2. Depreciated value of other tangible personal property calculated on the straight line method over a five- (5-) year life, less any liens or encumbrances; CMME must send written notice to you within thirty (30) days after Termination of this Agreement of its election to exercise the option to purchase. If the parties do not agree on a price within the option period, the option period may be extended for up to fifteen (15) business days to permit appraisal by an independent appraiser who is mutually satisfactory to the parties. If the parties fail to agree upon an appraiser within the specified period, each must appoint an appraiser and the two appraisers thus appointed must agree on a third appraiser within ninety (90) days after Termination who must determine the price for the physical assets of the COLOR ME MINE® Studio in accordance with the standards specified above. This determination will be final and binding upon both CMME and you.

You must sign a bill of sale and any other documents necessary to complete the sale on the terms set out above.

- (i) CMME has an option to replace you as lessee under any lease for equipment that is used in connection with the COLOR ME MINE® Studio. Upon request by CMME, you must give CMME copies of the leases for all equipment used in the COLOR ME MINE® Studio immediately upon Termination. Upon request by CMME you must allow CMME the opportunity, at a mutually satisfactory time, to inspect the leased equipment. CMME must request the information and access described in this paragraph within fifteen (15) days after Termination; it must advise you of its intention to exercise the option within fifteen (15) days after it has received the information and inspected the equipment. CMME may assume any equipment lease in consideration of its assumption of future obligations under the lease. Upon exercise of this option by CMME you will be fully released and discharged from future rents and other future liabilities under the lease if the terms of the lease permit it, but not from any debts to the lessor that already exist on the date when the option is exercised.
- (j) CMME has an option to replace you as lessee or owner of the premises of the COLOR ME MINE® Studio.  
 If you rent the premises of the COLOR ME MINE® Studio, CMME may assume the lease in return for its assumption of future obligations under the lease. Upon exercise of this option by CMME, you will be fully released and discharged from future rents and other future liabilities under the lease if the terms of the lease permit it, but not from any debts to the lessor that already exist on the date when the option is exercised.  
 If you own the premises of the COLOR ME MINE® Studio, you have the right to decide, at your option, in your sole discretion, to offer to sell the premises to CMME or any of its Affiliates, as the case may be, within thirty (30) days of the Termination or expiration of this Agreement by written notice. In the event of such an offer, within thirty (30) days of your written notice and at its option, CMME will have the right to purchase the premises from you in consideration of the fair market value of the property to be mutually determined by the parties.

If the franchise granted in this Agreement is Terminated because of your default, the rights of CMME described above may not necessarily be CMME's exclusive remedies, but will instead supplement any other equitable or legal remedies available to CMME. If this Agreement is Terminated because of your material default, CMME may recover damages as compensation for lost profits. Termination of this Agreement will not end any obligation of either party that has come into existence before Termination. All obligations of the parties that by their terms or by reasonable implication are to be performed in whole or in part after Termination will survive Termination.

## 11. MISCELLANEOUS PROVISIONS

### 11.1. Construction of Contract.

Section headings in this Agreement are for reference purposes only and will not in any way modify the statements contained in any section of this Agreement. Each word in this Agreement may be considered to include any number or gender that the context requires, including words with the first letter capitalized.



## 11.2. Governing Law.

This Agreement is made in the State of California and its provisions will be governed by and interpreted under the laws of that State, except that a) the arbitration clause is exclusively governed by and should be construed in accordance with the Federal Arbitration Act and b) the provisions of the Franchise Investment Law and California Franchise Relations Act will not apply unless they would be applicable without this Agreement's designation of governing law.

## 11.3. Notices

The parties to this Agreement should direct any notices to the other party at the address below that party's name on the final page of this Agreement or at another address if advised in writing that the address has been changed. Notice may be delivered by courier or first class mail. Notice by courier will be considered delivered upon delivery; and by first class mail, three days after posting. Notice of Termination or Non-renewal must be given by a receipted form of delivery.

## 11.4. Amendments

This Agreement may be amended only by a document signed by all of the parties to this Agreement or by their authorized agents.

## 11.5. Waiver

Waiver of any breach of this Agreement may not be interpreted as a waiver of any subsequent breach.

## 11.6. Integration

This Agreement and any exhibits or attachments to it are the entire agreement between the parties concerning the franchise it grants. All other agreements and representations are superseded by it.

## 11.7. Negotiation and Mediation.

### 11.7.1. Agreement to Use Procedure

The parties have reached this Agreement in good faith and in the belief that it is mutually advantageous to them. In the same spirit of cooperation, they pledge to try to resolve any dispute without litigation or arbitration. They agree that, if any dispute arises between them, before beginning any legal action to interpret or enforce this Agreement, they will first enter into a formal Mediation. Upon initiation of Mediation, the Mediation procedures will be mutually agreed between the parties and the Mediator. Good faith participation in these procedures to the greatest extent reasonably possible, despite lack of cooperation by one or more of the other parties, is a precondition to maintaining any legal action to interpret or enforce this Agreement.

## 11.8. Arbitration

Any dispute arising out of or in connection with this Agreement, if not resolved by the negotiation and mediation procedure described above, must be determined in Los Angeles County by JAMS/ENDISPUTE ("JAMS"). This arbitration clause will not deprive either party of any right it may otherwise have to seek provisional injunctive relief from a court of competent jurisdiction. The arbitrator must be an attorney with substantial experience in franchise law. The parties ask that the arbitrator limit discovery to the greatest extent possible consistent with basic fairness in order to minimize the time and expense of arbitration. If proper notice of any hearing has been given, the arbitrator will have full power to proceed to take evidence or to perform any other acts necessary to arbitrate the matter in the absence of any party who fails to appear. By agreeing to arbitration, both parties waive any rights they may have to demand trial by jury or to

seek punitive damages from one another. The arbitrator will have no power to 1) stay the effectiveness of any pending Termination of franchise; 2) assess punitive damages against either party; or 3) make any award that modifies or suspends any lawful provision of this Agreement. All expenses of arbitration must be paid by the party against which the arbitrators render a decision. Judgment upon any award may be entered by any court of competent jurisdiction.

#### 11.9. Injunctive Remedy for Breach

You recognize that you are a member of a Franchise Network and that your acts and omissions may have a positive or negative effect on the success of other businesses operating under CMME's Trade Name and in association with its MARKS. Failure on the part of a single franchisee to comply with the terms of its franchise agreement is likely to cause irreparable damage to CMME and to some or all of the other franchisees of CMME. You therefore agree that if CMME can demonstrate to a court of competent jurisdiction that there is a substantial likelihood of your breach or threatened breach of any of the terms of this Agreement, CMME will be entitled to an injunction restraining the breach or to a decree of specific performance, without showing or proving any actual damage, until a final determination is made by an arbitrator.

#### 11.10. Limitation of Actions

Neither party may maintain an arbitration against the other party unless a) the party delivers written notice of any claim to the other party within one hundred eighty (180) days after the event complained of becomes known to the party, b) thereafter follows the negotiation and mediation procedures described above, and c) files an arbitration within one (1) year after the notice.

#### 11.11. Individual Dispute Resolution

The parties agree to resolve any dispute with one another or their Related Parties on an individual basis and not to join in any arbitration or lawsuit on a consolidated or class basis.

#### 11.12. Attorneys' Fees and Costs

If legal action, including any action on appeal, or arbitration is necessary to enforce the terms and conditions of this Agreement, the prevailing party will be entitled to recover reasonable compensation for preparation, investigation, and court or arbitral costs or both and reasonable attorney fees, as fixed by a court of competent jurisdiction or by the arbitrator.

#### 11.13. Severability

Each provision of this Agreement will be considered severable. If any provision of it is determined to be invalid or in conflict with any existing or future law or regulation, that provision will not impair the operation of the remaining provisions of this Agreement. The invalid provisions will be considered not to be a part of this Agreement. However, if CMME determines that the finding of illegality adversely affects the basic consideration for its performance under this Agreement, CMME may, at its option, Terminate this Agreement..

#### 11.14. Approval and Guaranties

If you are a corporation all officers and shareholders with a ten percent (10%) or greater interest in you, or, if you are a partnership, all your general partners must approve this Agreement, permit you to furnish the financial information required by CMME, and agree to the restrictions placed on them, including restrictions on the re-salability of their interests in the franchise and COLOR ME MINE® Studio and limitations on their rights to compete, and sign separately written guaranties of your payments and performance in the form of Attachment 4 to this Agreement. If you are an individual, individuals or husband and wife, you must sign

separately written guaranties of your payments and performance in the form of Attachment 4 to this Agreement.

#### 11.15. Acceptance by CMME

This Agreement will not be binding on CMME unless and until an authorized officer of CMME has signed it.

#### 11.16. DISCLAIMER OF REPRESENTATIONS.

NO REPRESENTATIONS OR PROMISES OF ANY KIND ARE MADE BY CMME TO INDUCE YOU TO SIGN THIS AGREEMENT EXCEPT THOSE SPECIFICALLY STATED IN THE FRANCHISE DISCLOSURE DOCUMENTS THAT HAVE BEEN DELIVERED TO YOU. NEITHER CMME NOR ANY OTHER PERSON HAS MADE ANY GUARANTEE, EXPRESS OR IMPLIED, THAT YOU WILL SUCCEED IN THE OPERATION OF THE COLOR ME MINE® STUDIO OR HAS PROVIDED ANY SALES OR INCOME PROJECTIONS OF ANY KIND TO YOU. YOU HAVE MADE AN INDEPENDENT INVESTIGATION OF ALL IMPORTANT ASPECTS OF THE COLOR ME MINE® STUDIO. YOU UNDERSTAND THAT CMME IS NOT A FIDUCIARY AND HAS NO SPECIAL RESPONSIBILITIES BEYOND THE NORMAL RESPONSIBILITIES OF A SELLER IN A BUSINESS TRANSACTION.

#### 11.17. Caveat

You agree that the success of the business venture to be undertaken by you by virtue of this Agreement depends, to a large extent, upon your ability as an independent businessperson, and your active participation in the daily affairs of the business as well as other factors. We do not make any representation or warranty, express or implied, as to the potential success of your business venture.

You acknowledge that you have entered into this Agreement after making an independent investigation of our operations; you also acknowledge that we have not made any other representations, including any representation of sales or profits to be realized by you in connection with the Franchised Business which are not expressly set forth here or in our Franchise Disclosure Document to induce you to accept this franchise and execute this Agreement.

You acknowledge receipt of our Franchise Disclosure Document, and stipulate that you have not paid any monies to us in the fourteen (14) calendar-day period immediately subsequent to your receipt of our Franchise Disclosure Document.


You represent that you are not a party to or subject to other agreements that might conflict with the terms of this Agreement. You agree not to enter into any other agreement that may conflict with this Agreement during the term of this Agreement.

#### 11.18 Electronic Signatures

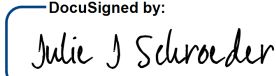
Each party to this Agreement agrees to use electronic signatures; and be subject to the provisions of the U.S. E-SIGN Act (i.e., the Electronic Signatures in Global and National Commerce Act (ESIGN, Pub.L. 106229, 14 Stat. 464, enacted June 20, 2000, 15 U.S.C. ch.96).

IN WITNESS TO THE PROVISIONS OF THIS AGREEMENT, the following parties have signed it on the date stated in Article 1.

FRANCHISOR  
COLOR ME MINE ENTERPRISES, INC.

DocuSigned by:  
  
By: \_\_\_\_\_  
Name: Sean Goodwin  
Title: Vice President, Operations and Administration  
Address: 630 S Anderson Street, Los Angeles, CA 90023  
Email address: franchising@colormemine.com

FRANCHISEE

DocuSigned by:  
  
Name: Julie Schroeder, Individually  
JJS Studio, LLC  
Address: 11327 Apennine Way, Inver Grove Heights, MN 55077

## ACCEPTED LOCATION

9140 Hudson Rd - E511  
Woodbury, Minnesota 55125

## **EXCLUSIVE AREA**

To be mutually agreed upon.

## **NONDISCLOSURE AND NONCOMPETITION AGREEMENT**

In return for the grant of a franchise to Confidant or to a company in which he or she has an ownership interest, or the grant of a Territory under a Non-Refundable Reservation Agreement, or his or her training by Color Me Mine Enterprises, Inc. ("CMME") to operate a COLOR ME MINE® Studio, or his or her employment by CMME or one of its franchisees, Julie Schroeder, JJS Studio LLC ("Confidant") agrees as follows:

### **1.1. Non-Disclosure of Trade Secrets and Confidential Information**

Confidant agrees, during the term of the Franchise Agreement or Non-Refundable Reservation Agreement and following Termination, expiration or assignments of the Agreement, not to disclose, duplicate, sell, reveal, divulge, publish, furnish or communicate, either directly or indirectly, any Trade Secret or other Confidential Information of CMME to any other person or entity unless authorized in writing by CMME. Confidant agrees, during the term of the Franchise Agreement or Reservation Agreement and following Termination, expiration or assignments of the Agreement, not to use any Trade Secrets or Confidential Information for his or her personal gain or for purposes of others, whether or not the Trade Secret or Confidential Information has been conceived, originated, discovered or developed, in whole or in part, by Confidant or represents Confidant's work product. If Confidant has assisted in the preparation of any information that CMME considers to be a Trade Secret or Confidential Information or has himself or herself prepared or created the information, Confidant assigns any rights that he or she may have in the information as its creator to CMME, including all ideas made or conceived by Confidant.

### **2. Definition of Trade Secrets and Confidential Information**

For purposes of this Agreement, the term "Trade Secrets" and "Confidential Information" means any knowledge, techniques, processes or information made known or available to Confidant that CMME treats as confidential, whether existing now or created in the future, including but not limited to information about the cost of materials and supplies; supplier lists or sources of supplies; internal business forms, orders, customer accounts, manuals and instructional materials describing CMME's methods of operation, including CMME's Confidential Operations Manual; products; drawings, designs, plans, proposals, and marketing plans; all concepts or ideas in, or reasonably related to CMME's business that have not previously been publicly released by CMME; and any other information or property of any kind of CMME that may be protected by law as a Trade Secret, confidential or proprietary. The Trade Secrets and Confidential Information described in this Agreement are the sole property of CMME.

### **3. Return of Proprietary Materials**

At the end of the relationship with CMME or a COLOR ME MINE® Confidant, Confidant must surrender to CMME all materials considered proprietary by CMME, technical or non-technical, whether or not copyrighted, which relate to Trade Secrets, Confidential Information or conduct of the operations of CMME.

Confidant expressly acknowledges that any such materials of any kind given to him or her are and will remain the sole property of CMME.

### **4. Solicitation of Employees**

Confidant further agrees that he or she will not furnish to or for the benefit of any competitor of CMME, or the competitor's Confidants, or the competitor's subsidiaries, the name of any person who is employed by CMME or by any other Confidant of CMME.



**5. Non-Competition**

Confidant agrees and covenants that because of the confidential and sensitive nature of the Confidential Information and because the use of the Confidential Information in certain circumstances may cause irrevocable damage to CMME, Confidant will not, until the expiration of two (2) years after the Termination of the employment relationship between Confidant and CMME or the CMME franchisee that employs him or her, or termination of the Franchise Agreement or Non-Refundable Reservation Agreement, or termination of the ownership interest of Confidant in a COLOR ME MINE® franchise, engage, directly or indirectly, or through any corporations or Related Parties, in any business, enterprise or employment that is directly competitive with the CMME franchise and is located within fifty (50) miles of the territory of an existing or anticipated COLOR ME MINE® Studio.

**6. Saving Provision**

Confidant agrees and stipulates that the agreements and covenants not to compete contained in the preceding paragraph are fair and reasonable in light of all the facts and circumstances of the relationship between Confidant and CMME; however, Confidant and CMME are aware that in certain circumstances courts have refused to enforce certain agreements not to compete. Therefore, in furtherance of the provisions of the preceding paragraph, Confidant and CMME agree that if a court or arbitrator should decline to enforce the provisions of the preceding paragraph, that paragraph must be considered modified to restrict Confidant's competition with CMME to the maximum extent, in both time and geography, which the court or arbitrator finds enforceable.

**7. Irreparable Harm to CMME**

Confidant understands and agrees that CMME will suffer irreparable injury that cannot be precisely measured in monetary damages to its Trade Secrets if Confidential Information or proprietary information is obtained by any person, firm or corporation and is used in competition with CMME. Accordingly, Confidant agrees that it is reasonable and for the protection of the business and goodwill of CMME for Confidant to enter into this Agreement. Thus, if there is a breach of this Agreement by Confidant, Confidant consents to entry of a temporary restraining order or other injunctive relief and to any other relief that may be granted by a court having proper jurisdiction.

**8. Binding Effect**

This Agreement will be binding on Confidant's heirs, executors, successors and assignees as though originally signed by these people.

**9. Applicable Law**

This Agreement is made in the State of California and its provisions will be governed by and interpreted under the laws of that State. If any provision of this Agreement is void or unenforceable in the State referenced in the General Territory in Attachment 1, the remainder of the Agreement will be fully enforceable according to its terms.

Date: 10/26/2019

**CONFIDANT**

DocuSigned by:

*Julie J Schroeder*

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Julie Schroeder, JJS Studio LLC

## PERSONAL GUARANTY AND SUBORDINATION AGREEMENT

The undersigned, to induce Color Me Mine Enterprises, Inc. ("CMME") to enter into or permit assignment of a certain COLOR ME MINE® Franchise Agreement, dated 10/26/2019, with Julie Schroeder, JJS Studio LLC ("Franchisee"), unconditionally, jointly and severally, personally guaranties to CMME, its successors, or its assignees, the prompt full payment and performance of all obligations of Franchisee that are or may become due and owing to CMME or its Related Parties, including, but not limited to, all obligations arising out of the Franchise Agreement or any other agreement between the parties and all extensions or renewals of it in the same manner as if the Franchise Agreement was signed between CMME or its Related Parties and the undersigned directly, as Franchisee.

The undersigned expressly waive notice of the acceptance by CMME to or for the benefit of Franchisee, of the purchase of inventory and goods by Franchisee, the maturing of bills and the failure to pay the same, the incurring by Franchisee of any additional future obligations and liability to CMME or its Related Parties, and any other notices and demands. This Personal Guaranty will not be affected by the modification, extension, or renewal of any agreement between CMME or its Related Parties and Franchisee, the taking of a note or other obligation from Franchisee or others, the taking of security for payment, the granting of an extension of time for payment, the filing by or against Franchisee of bankruptcy, insolvency, reorganization or other debtor relief afforded Franchisee under the Federal Bankruptcy Act or any other state or federal statute or by the decision of any court, or any other matter, whether similar or dissimilar to any of the foregoing; and this Personal Guaranty will cover the terms and obligations of any modifications, notes, security agreements, extensions, or renewals. The obligations of the undersigned will be unconditional in spite of any defect in the validity of the Franchisee's obligations or liability to CMME or its Related Parties, or any other circumstances whether or not referred to in this Guaranty that might otherwise constitute a legal or equitable discharge of a surety or guarantor.

This is an irrevocable, unconditional and absolute guaranty of payment and performance and the undersigned agrees that his, her, or their liability under this guaranty will be immediate and will not be contingent upon the exercise or enforcement by CMME of whatever remedies it may have against the Franchisee or others, or the enforcement of any lien or realization upon any security CMME or its Related Parties may at any time possess.

The undersigned agree that any current or future indebtedness by the Franchisee to the undersigned will always be subordinate to any indebtedness owed by Franchisee to CMME. The undersigned will promptly modify any financing statements on file with state agencies to specify that CMME's rights are senior to those of Guarantor.

The undersigned further agree that as long as the Franchisee owes any money to CMME or its Related Parties (other than Royalty and Marketing Development Fund payments that are not past due) the Franchisee will not pay and the undersigned will not accept payment of any part of any indebtedness owed by Franchisee to any of the undersigned, either directly or indirectly, without the written consent of CMME.

In connection with any litigation or arbitration to determine the undersigned's liability under this Personal Guaranty, the undersigned expressly waives his, her, or its right to trial by jury and agrees to pay costs and reasonable attorney fees fixed by the court or arbitrator.

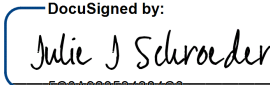
If this Personal Guaranty is signed by more than one individual, each person signing this Personal Guaranty will be jointly and severally liable for the obligations created in this it.

This Personal Guaranty will remain in full force and effect until all obligations arising out of and under the Franchise Agreement, including all renewals and extensions, are fully paid and satisfied.

Dated: 10/26/2019 \_\_\_\_\_

IN WITNESS TO THE FOREGOING, the undersigned signed this guaranty.

GUARANTORS

DocuSigned by:  
  
5C0A920534384C8...  
Julie Schroeder, JJS Studio LLC

## RECEIPT OF FRANCHISE-RELATED DOCUMENTS

The undersigned acknowledges receipt of the Multi-State COLOR ME MINE® Franchise Agreement, in form for signing, and the following attachments relating to the franchises offered by CMME:

- 1: Accepted Location
- 2: Exclusive Area
- 3: Nondisclosure and Non-Competition Agreement
- 4: Personal Guaranty and Subordination Agreement
- 5: Receipt of Franchise-Related Documents
- 6: Appendix – Compliance Certification
- 7: Lease Assignment Agreement

I further acknowledge that it is my responsibility to review all the documents so that I understand them before I sign them.

Dated: 10/26/2019

DocuSigned by:  
  
5C0A920534384C8...  
Julie Schroeder, JJS Studio LLC

## APPENDIX TO THE FRANCHISE AGREEMENT

### COMPLIANCE CERTIFICATION

You and we are preparing to enter into a Franchise Agreement for the establishment and operation of a Color Me Mine Enterprises, Inc. ("CMME") Franchised Business. One of the purposes of this Compliance Certification is to determine whether any statements or promises were made to you that we have not authorized and that may be untrue, inaccurate or misleading.

Please review each of the following questions and statements carefully and provide honest and complete responses to each. You understand that your answers are important to us and that we will rely on them when making our decision to award you a franchise. Please remember that our franchisees are not our representatives for purposes of answering these questions.

1. Have you received and personally reviewed the CMME Franchise Disclosure Document (FDD) provided to you?  
Yes   x   No
2. Did you sign a receipt for the FDD indicating the date that you received it?  
Yes   x   No
3. We recommend that you consult with your own independent advisors. Have you been given the opportunity to discuss the benefits and risks of operating a CMME franchise with an attorney, accountant or other professional advisor?  
Yes   x   No
4. Have you received and personally reviewed the CMME Franchise Agreement and related agreements attached?  
Yes   x   No
5. Do you understand that the Franchise Agreement contains the entire agreement between you and us about your rights for the CMME franchise, meaning that any oral or written statements not in the Franchise Agreement will not be binding on us?  
Yes   x   No
6. Do you understand that in all dealings with you, our officers, directors, employees and agents act only in a representative capacity and not in an individual capacity and such dealings are solely between you and us?  
Yes   x   No

7. The purchase of a CMME franchise is primarily the purchase of a license to establish and operate a business under the CMME name and trademark. Do you understand that the purchase of a CMME franchise is a business decision that has many of the same risks associated with starting any type of business and that the operation of a new business involves a number of business risks?
- Yes ☒ No ☐
8. The ability to operate a profitable CMME franchise requires some level of business and management skills and the capability of providing good customer service. CMME franchisees must always provide excellence in customer service. Do you understand that how you treat customers is critical to the franchised business?
- Yes ☒ No ☐
9. We have disclosed an estimate of the working capital that you should have available to invest in the franchised business in its start-up phase. Do you understand that no amount of investment can guarantee you will have a profitable franchised business, that we cannot and do not guarantee the success of your CMME franchise or that it will ever achieve profitability, and that the success or failure of your CMME franchise will depend in part upon economic factors beyond our control or your control?
- Yes ☒ No ☐
10. Although we recommend methods to establish pricing, as an independent business owner, you must establish your own pricing for products and services sold by your franchised business. Do you understand that if you elect to price products and services too low, you may adversely affect your profit margin, and if you elect to set your prices too high, you may lose business to your competitors?
- Yes ☒ No ☐
11. We produce and distribute various training materials, programs, Confidential Operations Manuals and newsletters to our franchisees. While we can make recommendations and suggestions on how to improve your franchised business, it is up to you to avail yourself of and use the information and ideas we provide. Do you understand that your failure to operate the franchised business in accordance with the System may have a negative effect on the franchised business?
- Yes ☒ No ☐
12. Your franchised business will be subject to a variety of federal, state, and local laws and governmental regulations, including future new legislation, and must pay all existing and any new taxes and fees imposed on businesses by various governmental entities. Do you understand that we cannot advise you with regard to all such laws and it is your responsibility to know and comply with them?
- Yes ☒ No ☐



If you have answered “**No**” to any of questions 1-12, please provide a full explanation of each answer below (attach additional pages if needed).

<u>Question No</u>	<u>Explanation</u>
--------------------	--------------------

13. Have you entered into any binding agreement with us about the purchase of this franchise before today?

Yes \_\_\_\_\_ No   x  

14. Have you paid any money to us about the purchase of this franchise before today?

Yes \_\_\_\_\_ No   x  

15. Have you at any time had any discussions with or received any information about us or about the CMME franchise opportunity that is different from the information in the FDD?

Yes \_\_\_\_\_ No   x  

16. Has anyone speaking for us made any statement or promise to you about the actual or possible amount of money you may earn, revenues, profits or operating costs of a CMME franchised business that is different from the information in the FDD?

Yes \_\_\_\_\_ No   x  

17. Do you understand that any breakeven spreadsheet template is provided so that you can make your own projections of sales and costs, and any numbers or percentages within the template are estimates only, and not intended as a projection by CMME of money you may earn, revenues, profits or operating costs of a CMME franchised business?

Yes   x   No \_\_\_\_\_

18. Has anyone speaking for us made any statement, agreement or promise to you about the advertising, marketing, training, support service or assistance that we will furnish to you that is different from the information contained in the FDD?

Yes \_\_\_\_\_ No   x

19. Starting a new business is a complicated undertaking and will require both a financial investment and a commitment of your personal time. Although we will provide assistance and advice, we cannot guarantee your success as a franchisee. Has anyone speaking for us made any statement or promise to you about the likelihood of success in operating the CMME franchised business?

Yes \_\_\_\_\_ No   x  

If you have answered “**Yes**” to any of questions 13-19, please provide a full explanation of each answer below (attach additional pages if needed).

<u>Question No</u>	<u>Explanation</u>
--------------------	--------------------

17	This is a yes answer and should be moved to the section above.
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By signing below, you are representing that you have considered each question carefully, responded truthfully and that you FULLY UNDERSTAND AND ACCEPT ALL OF THE BUSINESS RISKS described above.

10/26/2019

Date

DocuSigned by:

*Julie J Schroeder*

Julie Schroeder, JJS Studio LLC

## LEASE ASSIGNMENT AGREEMENT

THIS LEASE ASSIGNMENT AGREEMENT (the "Assignment") is made on 10/26/2019, by and between Color Me Mine Enterprises, Inc., a California corporation ("CMME"), Julie Schroeder, JJS Studio LLC ("Franchisee"), and RPT ("Lessor"), concerning the COLOR ME MINE® Studio located at 9140 Hudson Road woodbury, MM ("Accepted Location") to be operated by Franchisee under a franchise agreement with CMME dated 10/26/2019, (the "Franchise Agreement").

### 1. Assignment

Franchisee assigns to CMME all of his, her, or its interest in and to the lease for the Accepted Location (the "Lease"); however, the Assignment will become effective only upon CMME's exercise of the option granted to CMME under Paragraph 3 in this document. CMME will have the right, in its sole discretion, to exercise the option if either of the two events specified in subparagraphs 1.1 or 1.2 occurs:

#### 1.1 Default under Lease

If Franchisee defaults in the performance of any material term of the Lease and does not cure the default within the designated cure period, if any, Lessor must notify CMME of the default. CMME will then have thirty (30) days from its receipt of the notice to exercise its option. If CMME does not exercise the option, Lessor may terminate the Lease at the expiration of thirty (30) days from CMME's receipt of the notice of default or immediately upon written notice that CMME does not intend to exercise its option. CMME will indemnify Lessor against all losses of rent suffered by Lessor as a result of the delay in terminating the Lease caused by this subparagraph.

#### 1.2 Default under Franchise Agreement

CMME may exercise its option under the Assignment upon the Termination of Franchisee's franchise rights by reason of any default by Franchisee under the Franchise Agreement, and according to the Franchise Agreement's terms.

### 2. Consent to Assignment

This Assignment will remain in effect during the entire term of the Lease and any and all renewals or extensions of the Lease. Lessor agrees that the Lease may not be amended, assigned, extended, renewed or surrendered, nor may the Accepted Location, or any part of it, be sublet, nor may the Lease, or any interest in it be assigned or encumbered by Franchisee without the prior written consent of CMME.

### 3. Exercise of Option by CMME

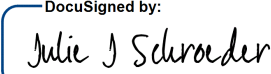
CMME may exercise the option granted in the Assignment by giving written notice to Franchisee and Lessor. Franchisee must vacate the Accepted Location immediately upon receiving the notice. CMME will have the right, at the same time as or after CMME's exercise of the option granted in the Assignment, to assign its rights under the Assignment to a new franchisee selected by CMME to operate the COLOR ME MINE® Studio.

#### 4. Attorney Fees and Costs

If legal action is necessary to enforce the terms and conditions of the Assignment, the prevailing party will be entitled to recover reasonable compensation for preparation, investigation and court costs and reasonable attorney fees, as fixed by a court of competent jurisdiction.

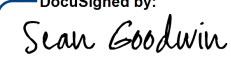
IN WITNESS TO THE PROVISIONS OF THIS AGREEMENT, the people named in it have signed it as of the date stated in its opening paragraph.

FRANCHISEE:

By:   
Name: Julie Schroeder, Individually  
JJS Studio, LLC  
Address: 11327 Apennine Way, Inver Grove Heights, MN 55077

FRANCHISOR:

COLOR ME MINE ENTERPRISES, INC.

By:   
Name: Sean Goodwin  
Title: Vice President, Operations and Administration  
Address: 630 S Anderson Street, Los Angeles, CA 90023