

unreasonably withheld; and/or (b) Franchisee shall not be deemed to be in default of this clause with respect to seasonal closures that Franchisor has approved in writing;

- 14.2.3 If Franchisee or any Principal is convicted of a felony, a crime involving moral turpitude, or any other crime or offense that Franchisor believes is reasonably likely to have an adverse effect on the System, the Proprietary Marks, the goodwill associated therewith, or Franchisor's interest therein;
 - 14.2.4 If a threat or danger to public health or safety results from the construction, maintenance, or operation of the Club;
 - 14.2.5 If Franchisee fails to correct deficiencies in the Performance Levels, within the time limit provided in Section 1.6 of this Agreement;
 - 14.2.6 If Franchisee or any Principal purports to transfer any rights or obligations under this Agreement or any interest to any third party in a manner that is contrary to the terms of Section 13 of this Agreement;
 - 14.2.7 If Franchisee fails to comply with the covenants in Section 16.2 below or fails to obtain execution of the covenants required under Section 16.5 below;
 - 14.2.8 If, contrary to the terms of Sections 7 or 8 above, Franchisee discloses or divulges the contents of the Manuals or other confidential information provided to Franchisee by Franchisor;
 - 14.2.9 If an approved transfer of an interest in Franchisee is not effected within a reasonable time, as required by Section 13.9 above;
 - 14.2.10 If Franchisee knowingly maintains false books or records, or submits any false reports (including, but not limited to, information provided as part of Franchisee's application for this franchise) to Franchisor;
 - 14.2.11 If Franchisee, after curing a default pursuant to this Section 14, commits the same default again within a twelve (12) month period of the previous default, whether or not cured after notice; or
 - 14.2.12 If Franchisee repeatedly is in default under this Section 14 for failure substantially to comply with any of the requirements imposed by this Agreement, whether or not cured after notice.
- 14.3 Except as otherwise provided in this Agreement, upon any other default by Franchisee, Franchisor may terminate this Agreement only by giving written notice of termination (in the manner set forth under Section 20 below) stating the nature of such default to Franchisee at least thirty (30) days prior to the effective date of termination; provided, however, that Franchisee may avoid termination by immediately initiating a remedy to cure such default, curing it to Franchisor's satisfaction, and by promptly providing proof thereof to Franchisor within the thirty-day period. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement shall terminate without further notice to Franchisee effective immediately upon the expiration of the thirty (30) day period or such longer period as applicable law may require.

15 OBLIGATIONS UPON TERMINATION OR EXPIRATION.

Upon termination or expiration of this Agreement, all rights granted hereunder to Franchisee shall forthwith terminate, and:

- 15.1 Franchisee shall immediately cease to operate the Club, and shall not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former franchisee of Franchisor.
- 15.2 Franchisee shall immediately and permanently cease to use, in any manner whatsoever, any confidential methods, procedures and techniques associated with the System, the Proprietary Mark "Liberty Fitness," and all other Proprietary Marks and distinctive forms, slogans, signs, symbols, and devices associated with the System. In particular, Franchisee shall cease to use, without limitation, all signs, advertising materials, displays, stationery, forms, and any other articles which display the Proprietary Marks, or which have any reference to Franchisor.
- 15.3 Franchisee shall take such action as may be necessary to cancel any assumed name or equivalent registration which contains the Proprietary Mark "Liberty Fitness Club" or "Liberty Fitness" or any other service mark or trademark of Franchisor, and Franchisee shall furnish Franchisor with evidence satisfactory to Franchisor of compliance with this obligation within five (5) days after termination or expiration of this Agreement.
- 15.4 Franchisee shall, at Franchisor's option, assign to Franchisor any interest which Franchisee has in the lease or sublease the premises at which the Club is operated and/or for the building in which the Club is operated.
 - 15.4.1 If Franchisor does not elect or is unable to exercise its option to acquire, or to acquire the lease or sublease for the premises of the Club, Franchisee shall make such modifications or alterations to the premises operated hereunder (including, without limitation, the changing of the telephone number) immediately upon termination or expiration of this Agreement as may be necessary to distinguish the appearance of said premises from that of other Clubs under the System, and shall make such specific additional changes thereto as Franchisor may reasonably request for that purpose.
 - 15.4.2 If Franchisee fails or refuses to comply with the requirements of this Section 15.4, Franchisor shall have the right to enter upon the premises of the Club, without being guilty of trespass or any other tort, for the purpose of making or causing to be made such changes as may be required, at the expense of Franchisee, which expense Franchisee agrees to pay upon demand.
- 15.5 Franchisee agrees, if it continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy, or colorable imitation of the Proprietary Marks, either in connection with such other business or the promotion thereof, which is likely to cause confusion, mistake, or deception, or which is likely to dilute Franchisor's rights in and to the Proprietary Marks, and further agrees not to utilize any designation of origin, description, trademark, service mark, or representation which states, suggests, or implies a present or past association or connection with Franchisor, the System, the Clubs, or the Proprietary Marks.
- 15.6 Franchisee shall promptly pay all sums owing to Franchisor, including without limitation sums due for Royalty Fees, Advertising Contributions, amounts due for purchases made from Franchisor or its affiliates, and all other amounts due to Franchisor or its affiliates. If Franchisee is in default under this Agreement, then such sums shall include all damages, costs, and expenses

(including without limitation reasonable attorneys' fees) that Franchisor incurs as a result of the default.

- 15.7 Franchisee shall pay to Franchisor all damages, costs and expenses (including without limitation reasonable attorneys' fees) that Franchisor incurs subsequent to the termination or expiration of the franchise granted under this Agreement in: (a) obtaining injunctive or other relief for the enforcement of any provisions of this Agreement (including without limitation this Section 20 and/or Section 19 above); and/or (b) successfully defending a claim that Franchisor defrauded Franchisee into signing this Agreement, that the provisions of this Agreement are not fair, were not properly entered into, and/or that the terms of this Agreement do not govern the parties' relationship.
- 15.8 Franchisee shall immediately deliver to Franchisor the Manuals, and all other manuals, records, and instructions containing confidential information (including without limitation any copies thereof, even if such copies were made in violation of this Agreement), all of which are acknowledged to be the property of the Franchisor.
- 15.9 Franchisor shall have the option, to be exercised within thirty (30) days after termination or default under prime lease, to purchase from Franchisee any or all of the furnishings, equipment, signs, fixtures, supplies, or inventory of Franchisee related to the operation of the Club, at the lesser of Franchisee's cost or fair market value. The cost shall be determined based upon a five year straight-line depreciation of original costs. For equipment that is five or more years old, the parties agree that fair market value shall be deemed to be ten percent (10%) of the equipment's original cost. If Franchisor elects to exercise any option to purchase herein provided, it shall have the right to set off all amounts due from Franchisee.

16 COVENANTS.

- 16.1 Franchisee covenants that during the term of this Agreement, except as otherwise approved in writing by Franchisor, Franchisee (or one designated management employee who will assume primary responsibility for the franchise operations and shall have been previously approved in writing by Franchisor) shall devote full time, energy, and best efforts to the management and operation of the business franchised hereunder.
- 16.2 Franchisee specifically acknowledges that, pursuant to this Agreement, Franchisee will receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of Franchisor and the System. Franchisee covenants that during the term of this Agreement, except as otherwise approved in writing by Franchisor, Franchisee shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation:
- 16.2.1 Divert or attempt to divert any business or customer of the Club or of any Club using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with Franchisor's Proprietary Marks and the System.
- 16.2.2 Unless released in writing by the employer, employ or seek to employ any person who is at that time employed by Franchisor or by any other franchisee or developer of

Franchisor, or otherwise directly or indirectly induce such person to leave his or her employment.

- 16.3 Franchisee covenants that, except as otherwise approved in writing by Franchisor, Franchisee shall not, during the term of this Agreement, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Club; and shall not for a continuous uninterrupted period of twenty-four (24) months from the date of: (a) a transfer permitted under Section 13, above; (b) expiration or termination of this Agreement (regardless of the cause for termination); or (c) a final order of a duly authorized arbitrator, panel of arbitrators, or a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to the enforcement of this Section 16.3; either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any persons, partnership, or corporation, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Club and which business is, or is intended to be, located within a five (5) mile radius of the Approved Location or within a five-mile radius of any Club then-operating under the System.
- 16.4 Section 16.3 above shall not apply to ownership by Franchisee of less than one percent (1%) beneficial interest in the outstanding equity securities of any publicly-held corporation. As used in this Agreement, the term "publicly-held corporation" shall be deemed to refer to a corporation which has securities that have been registered under the federal Securities Exchange Act of 1934.
- 16.5 At Franchisor's request, Franchisee shall require and obtain execution of covenants similar to those set forth in Sections 6.3.3, 8, 13, 15, and this Section 16 (as modified to apply to an individual) from any or all of the following persons: Franchisee's Club general managers, supervisors, and Principals. Every covenant required by this Section 16.5 shall be in a form satisfactory to Franchisor, including, without limitation, specific identification of Franchisor as a third party beneficiary of such covenants with the independent right to enforce them. Failure by Franchisee to obtain execution of a covenant required by this Section 16.5 shall constitute a default under Section 14.2.6 above.
- 16.6 The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section 16 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Franchisee expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section 16.
- 16.7 Franchisee understands and acknowledges that Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in Sections 16.2 and 16.3 in this Agreement, or any portion thereof, without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice thereof; and Franchisee agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 21 below.
- 16.8 Franchisee expressly agrees that the existence of any claims it may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Section 16. Franchisee agrees to pay all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the enforcement of this Section 16.

- 16.9 Franchisee acknowledges that Franchisee's violation of the terms of this Section 16 would result in irreparable injury to Franchisor for which no adequate remedy at law may be available, and Franchisee accordingly consents to the issuance of an injunction prohibiting any conduct by Franchisee in violation of the terms of this Section 16.

17 TAXES, PERMITS, AND INDEBTEDNESS.

- 17.1 Franchisee shall promptly pay when due all taxes levied or assessed, including, without limitation, unemployment and sales taxes, and all accounts and other indebtedness of every kind incurred by Franchisee in the conduct of the business franchised under this Agreement. Franchisee shall pay Franchisor an amount equal to any sales tax, gross receipts tax, or similar tax (other than income tax) imposed on Franchisor with respect to any payments to Franchisor required under this Agreement, unless the tax is credited against income tax otherwise payable by Franchisor.
- 17.2 In the event of any bona fide dispute as to Franchisee's liability for taxes assessed or other indebtedness, Franchisee may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law; however, in no event shall Franchisee permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the premises of the Club, or any improvements thereon.
- 17.3 Franchisee shall comply with all federal, state, and local laws, rules, and regulations, and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the business franchised under this Agreement, including, without limitation, licenses to do business, health certificates, fictitious name registrations, sales tax permits, and fire clearances. To the extent that the requirements of said laws are in conflict with the terms of this Agreement, the Manuals, or other instructions of Franchisor, Franchisee shall comply with said laws and shall immediately provide written notice of such conflict to Franchisor.
- 17.4 Franchisee shall notify Franchisor in writing within five (5) days of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation of the Club or the financial condition of Franchisee.

18 INDEPENDENT CONTRACTOR AND INDEMNIFICATION.

- 18.1 It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them; that Franchisee shall be an independent contractor; and, that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.
- 18.2 At all times during the term of this Agreement and any extensions hereof, Franchisee shall hold itself out to the public as an independent contractor operating the business pursuant to a franchise from Franchisor. Franchisee agrees to take such action as may be necessary to do so, including, without limitation, exhibiting a notice of that fact in a conspicuous place at the Approved Location, the content of which Franchisor reserves the right to specify.
- 18.3 It is understood and agreed that nothing in this Agreement authorizes Franchisee to make any contract, agreement, warranty, or representation on Franchisor's behalf, or to incur any debt or

other obligation in Franchisor's name; and that Franchisor shall in no event assume liability for, or be deemed liable hereunder as a result of, any such action; nor shall Franchisor be liable by reason of any act or omission of Franchisee in its conduct of the Club or for any claim or judgment arising therefrom against Franchisee or Franchisor.

- 18.4 Franchisee shall indemnify and hold Franchisor, Franchisor's owners and affiliates, and their respective officers, directors, employees, and agents harmless against any and all claims arising directly or indirectly from, as a result of, or in connection with Franchisee's operation of the Club, as well as the costs, including attorneys' fees, of defending against them.

19 APPROVALS AND WAIVERS.

- 19.1 Whenever this Agreement requires the prior approval or consent of Franchisor, Franchisee shall make a timely written request to Franchisor therefor, and such approval or consent must be obtained in writing.
- 19.2 Franchisor makes no warranties or guarantees upon which Franchisee may rely, and assumes no liability or obligation to Franchisee, by providing any waiver, approval, consent, or suggestion to Franchisee in connection with this Agreement, or by reason of any neglect, delay, or denial of any request therefor.
- 19.3 No delay, waiver, omission, or forbearance on the part of Franchisor to exercise any right, option, duty, or power arising out of any breach or default by Franchisee under any of the terms, provisions, covenants, or conditions hereof, shall constitute a waiver by Franchisor to enforce any such right, option, duty, or power as against Franchisee, or as to subsequent breach or default by Franchisee. Subsequent acceptance by Franchisor of any payments due to it hereunder shall not be deemed to be a waiver by Franchisor of any preceding breach by Franchisee of any terms, provisions, covenants, or conditions of this Agreement.

20 NOTICES.

Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by registered mail, or by other means which affords the sender evidence of delivery, or of rejected delivery, to the respective parties at the addresses shown on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery.

21 ENTIRE AGREEMENT AND AMENDMENT.

This Agreement and the exhibits referred to herein constitute the entire, full, and complete Agreement between Franchisor and Franchisee concerning the subject matter hereof, and supersede all prior agreements, no other representations having induced Franchisee to execute this Agreement. Except for those permitted to be made unilaterally by Franchisor hereunder, no amendment, change, or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

22 SEVERABILITY AND CONSTRUCTION.

- 22.1 Except as expressly provided to the contrary herein, each portion, section, part, term, and/or provision of this Agreement shall be considered severable; and if, for any reason, any section, part, term, and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, and/or provisions of this Agreement as may remain otherwise intelligible; and the latter shall continue to be given full force and effect and bind the parties hereto; and said invalid portions, sections, parts, terms, and/or provisions shall be deemed not to be a part of this Agreement.
- 22.2 Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Franchisee, Franchisor, and such of Franchisee's and Franchisor's respective successors and assigns as may be contemplated (and, as to Franchisee, permitted) by Section 13 above, any rights or remedies under or by reason of this Agreement.
- 22.3 Franchisee expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision hereof, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof any portion or portions which a court may hold to be unenforceable in a final decision to which Franchisor is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.
- 22.4 All captions in this Agreement are intended solely for the convenience of the parties, and none shall be deemed to affect the meaning or construction of any provision hereof.
- 22.5 All provisions of this Agreement which, by their terms or intent, are designed to survive the expiration or termination of this Agreement, shall so survive the expiration and/or termination of this Agreement.

23 FORCE MAJEURE.

- 23.1 Neither party shall be responsible to the other for nonperformance or delay in performance occasioned by causes beyond its control, including without limiting the generality of the foregoing: (a) acts of God; (b) acts of war, terrorism, or insurrection; (c) strikes, lockouts, boycotts, fires and other casualties; and/or (d) the inability of Franchisor or its affiliates to purchase, deliver, and/or manufacture any products for which it is the sole source under this Agreement.
- 23.2 The inability of either party to obtain and/or remit funds shall be considered within control of such party for the purpose of Section 23.1 above. If any such delay occurs, any applicable time period shall be automatically extended for a period equal to the time lost; provided, however, that the party affected makes reasonable efforts to correct the reason for such delay and gives to the other party prompt notice of any such delay; and further provided, however, that Franchisee shall remain obligated to promptly pay all fees owing and due to Franchisor hereunder, without any such delay or extension.
- 23.3 Nothing in this Section 23 shall be construed to result in an extension of the term of this Agreement.

24 APPLICABLE LAW.

- 24.1 This Agreement takes effect upon its acceptance and execution by Franchisor, and shall be interpreted and construed exclusively under the laws of the State of Delaware, which laws shall prevail in the event of any conflict of law (without regard to, and without giving effect to, the application of Delaware choice-of-law rules). Nothing in this Section 24.1 is intended by the parties to subject this Agreement to any franchise or similar law, rule, or regulation of the State of Delaware to which this Agreement would not otherwise be subject.
- 24.2 The parties agree that any action brought by Franchisee against Franchisor in any court that is not subject to the mediation and arbitration requirements set forth in Section 24.8, whether federal or state, shall be brought within such state and in the judicial district in which Franchisor has its principal place of business. Any action brought by Franchisor against Franchisee in any court, whether federal or state, may be brought within the state and judicial district in which Franchisor has its principal place of business. The parties agree that this Section 24.2 shall not be construed as preventing either party from removing an action from state to federal court. Franchisee hereby waives all questions of personal jurisdiction or venue for the purpose of carrying out this provision. Any such action shall be conducted on an individual basis, and not as part of a consolidated, common, or class action.
- 24.3 No right or remedy conferred upon or reserved to Franchisor or Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.
- 24.4 Nothing herein contained shall bar Franchisor's right to obtain injunctive relief against threatened conduct that will cause it loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.
- 24.5 Franchisor and Franchisee irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either of them against the other, whether or not there are other parties in such action or proceeding.
- 24.6 Any and all claims and actions arising out of or relating to this Agreement, the relationship of Franchisee and Franchisor, or Franchisee's operation of the franchised business, brought by any party hereto against the other, shall be commenced within one (1) year from the occurrence of the facts giving rise to such claim or action, or such claim or action shall be barred.
- 24.7 Franchisor and Franchisee hereby waive to the fullest extent permitted by law any right to or claim of any punitive or exemplary damages against the other, and agree that in the event of a dispute between them each shall be limited to the recovery of any actual damages sustained by it.
- 24.8 Mediation and Arbitration.
- a. If a dispute arises out of or relates to this Franchise Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation at a mutually agreed upon location within the state and jurisdiction of Liberty Fitness Holdings' headquarters, currently Travis County, Texas, administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration, as described in Section 24.8.b, below.

b. Any controversy or claim arising out of or relating to this Franchise Agreement, or the breach thereof, which cannot be settled by negotiation or mediation shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules including the Emergency Interim Relief Procedures, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. This arbitration provision shall be limited to the parties to this Franchise Agreement, and shall not apply to resolution of the claims of multiple complainants or a class of complainants. Any arbitration proceeding under this Franchise Agreement shall take place at a mutually agreed upon location within the state and jurisdiction of Liberty Fitness Holdings' headquarters, currently Travis County, Texas. Notwithstanding this provision, we retain the right to seek equitable, emergency or temporary injunctive relief in a court of law in situations where our Marks or our other intellectual property is being misused, infringed upon, or otherwise violated.

25 ACKNOWLEDGMENTS.

- 25.1 Franchisee acknowledges that it has conducted an independent investigation of the business franchised hereunder, recognizes that the business venture contemplated by this Agreement involves business risks, and that its success will be largely dependent upon the ability of Franchisee and if a corporation or a partnership, its owners as independent businesspersons. Franchisor expressly disclaims the making of, and Franchisee acknowledges that it has not received, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement.
- 25.2 Franchisee acknowledges that it received a copy of this Agreement, the Exhibit(s) hereto, and agreements relating hereto, if any, with all of the blank lines therein filled in, at least five (5) business days prior to the date on which this Agreement was executed. Franchisee further acknowledges that it received the uniform franchise offering circular required by the Federal Trade Commission Franchise Rule at least ten (10) business days prior to the date on which this Agreement was executed.
- 25.3 Franchisee acknowledges that it has read and understood this Agreement, the exhibits hereto, and agreements relating thereto, if any, and that Franchisor has accorded Franchisee ample time and opportunity to consult with advisors of Franchisee's own choosing about the potential benefits and risks of entering into this Agreement.
- 25.4 Each party represents and warrants to the others that there are no other agreements, court orders, or any other legal obligations that would preclude or in any manner restrict such party from: (a) negotiating and entering into this Agreement; (b) exercising its rights under this Agreement; and/or (c) fulfilling its responsibilities under this Agreement.
- 25.5 Franchisee acknowledges that it shall have sole and complete responsibility for the choice of the Approved Location; that Franchisor has not (and shall not be deemed to have, even by virtue of Franchisor's approval of the proposed Approved Location) given any representation, promise, or guarantee of Franchisee's success at the Approved Location; and that Franchisee shall be solely responsible for its own success at the Approved Location.

IN WITNESS WHEREOF, the parties hereto have duly signed and delivered this Agreement in duplicate on the day and year first above written.

Liberty Fitness Holdings, LLC Franchisor:

By: _____

Name: _____

Title: _____

Franchisee Entity: _____

By: _____

Printed Name: _____

Title: _____

Address for Notices:

Liberty Fitness Holdings, LLC
1701 Directors Blvd.
Suite 110
Austin, Texas 78744
Attn: President

Address for Notices:

Fax: () _____ - _____
Attn: _____

APPROVED LOCATION AND OPENING DATE
EXHIBIT A

1. The street address of the Approved Location (Section 1.2) is:

2. The radius for the Protected Territory (Section 1.3) is _____ ()
miles.

3. The Opening Date (Section 1.6)
is: _____

...or...

☐

These details are not available as of the date this Agreement was signed. Instead, the parties have signed a site selection addendum. The parties will later confirm their understanding as to these details (for example, after a site has been proposed, approved, and a lease obtained along with the landlord's signature to the lease rider required by Franchisor) and may do so in a separate document that is signed by both parties.

Initialed:

Franchisor

Franchisee

SITE SELECTION ADDENDUM
TO
LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT

EXHIBIT B

Liberty Fitness Holdings, LLC ("**Franchisor**") and _____ ("**Franchisee**") have on this date, _____, 200____, entered into a "Liberty Fitness Holdings, LLC Franchise Agreement" ("**Franchise Agreement**") and wish to supplement its terms, as set out in this Site Selection Addendum (the "**Addendum**"). The parties therefore agree as follows:

1. Within one hundred and eighty (180) days after execution of the Franchise Agreement (the "**Period**"), Franchisee shall acquire or lease, at Franchisee's expense, a location for the Liberty Fitness Club franchised under the Franchise Agreement (the "**Club**" or "**Franchised Business**") at a site approved by Franchisor as provided in this Addendum. Such location shall be within the following area:

(the "**Site Selection Territory**"). The Site Selection Territory is described solely for the purpose of selecting a site for the Club.

2. The Site Selection Territory is non-exclusive and Franchisor may establish, or license another party to establish, a Club within the Site Selection Territory. Any protected territory will be granted under the Franchise Agreement once Franchisor has approved the location. (Franchisor intends to provide Franchisee with a Protected Territory that will include 25,000 to 50,000 persons, which Franchisor believes will be a territory that is a circle with a radius of 1 to 5 miles (although in some areas, that may be smaller or larger, depending on population density). The radius of Franchisee's Protected Territory may also be smaller in urban centers, where there may be a high concentration of residential and working populations. For example, Franchisor anticipates that in New York County, New York (Manhattan), the Protected Area will be one block in each direction from the Club.)

3. If Franchisee does not acquire or lease a site for the Club within the Period, that shall constitute a default under Section 14.2.1 of the Franchise Agreement and this Site Selection Addendum.

4. If Franchisee will occupy the premises from which the Franchised Business is conducted under a lease or sublease, Franchisee shall, before signing the lease or sublease, submit the proposed lease or sublease to Franchisor for its written approval.

5. Within one hundred and twenty (120) days after signing the Franchise Agreement, Franchisee shall submit to Franchisor, in the form specified by Franchisor, a completed site approval form (in the form approved or required by Franchisor), and such other information or materials as Franchisor may reasonably require, together with an option contract, letter of intent, or other evidence satisfactory to Franchisor that confirms Franchisee's favorable prospects for obtaining the site. Franchisee acknowledges that time is of the essence. Franchisor shall have thirty (30) days after receipt of such information and materials from Franchisee to approve or disapprove, in its sole discretion, the proposed site as the location

for the Club. If Franchisor does not disapprove a proposed site by written notice to Franchisee within said thirty (30) days, then Franchisor shall be deemed to have approved the proposed site. Within twenty (20) days after Franchisor's site approval, Franchisee shall execute a lease (or sublease), after obtaining Franchisor's prior written approval of the lease (or sublease) terms (if the premises are to be leased), or a binding agreement to purchase the site.

6. Franchisor shall furnish to Franchisee the following:

a. Site selection guidelines, including Franchisor's minimum standards for a location for the Franchised Business, and such site selection counseling and assistance as Franchisor may deem advisable.

b. Such site evaluation as Franchisor may deem advisable in response to Franchisee's requests for site approval; provided, however, that Franchisor shall not provide on-site evaluation for any proposed site.

7. After the location for the Club is approved by Franchisor and leased or acquired by Franchisee pursuant to Paragraph 5 hereof, the location shall constitute the "Approved Location" described in Section 1.2 of the Franchise Agreement.

8. This Addendum shall be considered an integral part of the Franchise Agreement between the parties hereto, and the terms of this Addendum shall be controlling with respect to the subject matter hereof. Except as modified or supplemented by this Addendum, the terms of the Franchise Agreement are hereby ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed, and delivered this Site Selection Addendum in duplicate on the day and year first above written.

Liberty Fitness Holdings, LLC
Franchisor:

[Franchisee]

By: _____

By: _____

By: _____

By: _____
Name: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____
Title: _____

Attachment A

EXHIBIT C

LEASE RIDER

LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT

THIS LEASE RIDER is made and entered into _____, 200__ by and among:

- ♦ _____, a corporation with offices at (the "Landlord");
- ♦ _____, a corporation with offices at (the "Tenant"); and
- ♦ LIBERTY FITNESS HOLDINGS, LLC, a Delaware limited liability company with offices at 1701 Directors Blvd., Suite 110, Austin, Texas 78744 ("LFH").

RECITALS:

- A. This Lease Rider supplements and forms part of the attached Lease Agreement between the Landlord and the Tenant dated _____ (the "Lease") for premises situated at _____ (the "Premises") to be used by the Tenant as a Liberty Fitness Club.
- B. This Lease Rider is entered into in connection with LFH's approval of the location of the Premises as a Liberty Fitness Club and the grant of a franchise to the Tenant pursuant to a Franchise Agreement dated _____, 200__ (the "Franchise Agreement").
- C. This Lease Rider is intended to provide LFH with the opportunity to reserve the Premises as a Liberty Fitness Club under the circumstances set out below and to assure the Landlord that LFH exercises the option set out below on the basis that any defaults of the Tenant under the Lease will be cured by LFH before it takes possession of the Premises.
- D. The Landlord agrees that LFH shall have the right but not the obligation to assume the Lease of the Premises on the terms, covenants and conditions contained in this Lease Rider.

THE PARTIES HEREBY AGREE:

1. UPON DEFAULT OF TENANT UNDER THE LEASE. If Tenant fails to comply with the terms of the Lease, and Landlord seeks to exercise remedies to dispossess Tenant from the Premises (including but not limited to termination of the Lease, eviction from the Premises, and other similar remedies) (together, "Remedies"), the parties agree that before any such remedies are exercised, Landlord shall afford LFH the right to take an assignment of the Lease and to cure the Tenant's defaults under the Lease, and that LFH shall have such a right (but not an obligation) to take an assignment of the Lease. To implement that understanding, the parties agree that:

1.1 Landlord shall send LFH a copy of any notice to Tenant relating to a default, expiration or termination of the lease, eviction from the Premises, and/or an amendment of the Lease (a "Notice"). Landlord agrees to send such copy to LFH at the same time as Landlord sends such Notice to Tenant.

1.2 If Tenant does not cure any default under the Lease, before Landlord seeks to exercise any Remedies, Landlord shall send LFH an additional notice to inform LFH of Tenant's failure to cure (an "Option Notification"). LFH shall have thirty (30) days after receipt of that Option Notification to exercise its right to take an assignment of the Lease. If LFH wishes to exercise its right to take an assignment of the Lease, then:

1.2.1 LFH shall so notify Landlord in writing within the thirty-day period after receipt of the Option Notification; and

1.2.2 LFH shall cure the defaults and/or begin paying rent upon the Landlord delivering possession of the Premises to LFH.

1.3 If it becomes necessary for the Landlord to pursue legal remedies in order to remove the Tenant and deliver possession of the premises, LFH shall, upon written request of the Landlord, pay into the trust account of the Landlord's lawyer to be held upon escrow on an "at call" interest-bearing account, such amounts as are necessary to cure the Tenant's defaults. If the Landlord is unable to deliver possession of the Premises to LFH within nine (9) months following the date of exercise referred to above in this Section 1, LFH shall hereafter have the right, at any time, until the Landlord delivers possession of the Premises, to rescind the exercise of its option by written notice to the Landlord, whereupon all amounts held in escrow including accrued interest shall be returned to LFH.

2. UPON TERMINATION OF THE FRANCHISE AGREEMENT. If the Franchise Agreement is terminated for any reason during the term of the Lease or any extension or renewal of the Lease, LFH shall have the right (but not the obligation) to take an assignment of the Lease. If LFH wishes to exercise that right, it shall promptly give written notice to landlord to that effect. Within thirty (30) days after receipt of such notice, Landlord shall give LFH written notice specifying any defaults of the Tenant under the Lease and the provisions of Section 4.3 below shall apply.

3. UPON NON-RENEWAL OF THE LEASE TERM. If the Lease contains term renewal or extension right(s) and if Tenant allows the term to expire without exercising such right(s), before the Lease expires, Landlord agrees to give LFH written notice to this effect. LFH shall have the right (but not the obligation) to exercise an option for thirty (30) days following receipt of such notice to exercise the Tenant's renewal or extension right(s) on the same terms and conditions as are contained in this Lease. If LFH elects to exercise such right(s), it shall give Landlord written notice of that election, whereupon Landlord and LFH shall promptly execute and exchange an agreement whereby LFH assumes the Lease effective at the date of termination of any holding over period by the Tenant (to the effect that such extension or renewal term shall have subtracted from it the number of days constituting such holding over period).

4. ADDITIONAL PROVISIONS

4.1 Tenant agrees that termination of the Franchise Agreement shall be a default under the Lease. In the event of termination of the Franchise Agreement, or if the Tenant fails to timely cure any defaults under the Lease, Tenant shall within ten (10) days after written demand by LFH, assign all of its right, title and interest in and to the Lease to LFH. If the Tenant fails to do so within the said ten (10) days, Tenant hereby designates LFH as its agent to execute any and all documents, agreements and to take all action as may be necessary or desirable to effect the assignment of the Lease and the relinquishment of

any and all of the Tenant's rights thereunder. Landlord hereby consents to such assignment subject to LFH executing an assignment of the Lease and curing all defaults of the Tenant under the Lease before taking possession of the Premises. Tenant further agrees to promptly and peaceably vacate the Premises and to remove its personal property at LFH's written request. Any property not so removed by Tenant within ten (10) days following receipt of such written request shall be deemed abandoned by Tenant and immediately and permanently relinquished to LFH. LFH acknowledges that if LFH enters into an assignment or sub-letting as referred to in Section 4.5 below it will attempt to procure, if the assignee is a company (other than a listed public company), a Deed of Guarantee in customary form approved or prepared by Landlord from the principal shareholders of the assignee company and (if required by the landlord) by the Directors of the assignee company.

4.2 The Tenant shall be and remain liable to Landlord for all of its obligations under the Lease, notwithstanding any assignment of the Lease to LFH. LFH shall be entitled to recover from Tenant all amounts it pays to Landlord to cure Tenant's defaults under the Lease including but not limited to interest thereon, LFH's reasonable collection costs, and LFH's legal fees.

4.3 LFH, upon taking possession of the Premises, shall concurrently cure any as-yet-uncured defaults that were specified by Landlord in its Notice and/or the Option Notification (and any defaults that occurred in the intervening time before taking over the Premises), and LFH shall execute and deliver to the Landlord its assumption of Tenant's rights and obligations under the Lease in a form to be reasonably agreeable to both LFH and Landlord. LFH shall pay, perform and be bound by all of the duties and obligations under the Lease. LFH shall pay, perform and be bound by all of the duties and obligations of the Lease applicable to Tenant.

4.4 No amendment may be made to the Lease without LFH's prior written consent. LFH may elect not to be bound by the terms of any amendment to Lease executed by Tenant without obtaining LFH's prior written approval to such amendment, which approval shall not be unreasonably withheld or delayed.

4.5 After LFH assumes the Tenant's interest under the Lease, LFH may, at any time, sublet the Premises to a LFH franchisee without having to obtain Landlord's prior written consent.

4.6 After LFH assumes the Tenant's interest under the Lease, LFH may, at any time, assign or sublet its interest under the Lease but only with Landlord's prior written consent of and the usual provisions of the Lease concerning assignment and any necessary consents shall apply. Upon receipt by Landlord of an assignment agreement pursuant to which the assignee agrees to assume the Lease and to observe the terms, conditions and agreements on the part of the Tenant to be performed under the Lease, LFH shall thereupon be released from all liability as Tenant under the Lease from and after the date of assignment, without any need of a written acknowledgment of such release by the Landlord.

4.7 If the Lease or Franchise Agreement is terminated and LFH elects to exercise its option as described in this Agreement, Tenant agrees, upon LFH's written demand, to de-identify the Premises as a "Liberty Fitness Club" and to promptly remove signs, décor, trade dress, and any other items that LFH reasonably requests be removed as being distinctive of a "Liberty Fitness Club." LF may enter upon the Premises without being guilty of trespass or tort to effect de-identification if Tenant fails to do so within ten (10) days after receipt of LFH's written demand following termination of the Franchise Agreement or Lease. Tenant shall reimburse LFH for LFH's reasonable costs and expenses in effecting the de-identification. Landlord shall not be obligated to LFH for such costs unless the Landlord and Tenant share one (1) or more common owners, partners, beneficiaries or shareholders (as the case may be). Tenant agrees and accepts that its obligations to Landlord in respect to the provisions of the Lease concerning the removal of signage and additions and alterations at the termination of the Lease subsist notwithstanding the right made available to LFH pursuant to this Section.

4.8 BY EXECUTING THIS LEASE RIDER TO THE LEASE, LFH DOES NOT ASSUME ANY LIABILITY WITH RESPECT TO THE PREMISES OR ANY OBLIGATION AS TENANT UNDER THE LEASE UNLESS AND UNTIL LFH EXPRESSLY ASSUMES SUCH LIABILITY AND/OR OBLIGATION AS DESCRIBED IN THIS LEASE RIDER.

4.9 All notices pursuant to this Lease Rider shall be in writing and shall be personally delivered, sent by registered mail or reputable overnight delivery service or by other means which afford the sender evidence of delivery or rejected delivery to the addresses described above or to such other address as any party to this Deed may, by written notice, instruct that notices be given.

EXECUTED by the parties as follows:

SIGNED by LANDLORD in the presence of _____, Attest

[landlord]

By: _____

Printed Name: _____

Title: _____

SIGNED by TENANT in the presence of _____, Attest

[tenant]

By: _____

Printed Name: _____

Title: _____

SIGNED by LFH in the presence of _____, Attest

Liberty Fitness Holdings, LLC

By: _____

Printed
Name: _____

Title: _____

GUARANTEE, INDEMNIFICATION, AND ACKNOWLEDGMENT
EXHIBIT D

As an inducement to Liberty Fitness Holdings, LLC ("**Franchisor**") to execute the Liberty Fitness Franchise Agreement between Franchisor and

dated _____, 200__ ("**Franchisee**") (the "**Agreement**"), the undersigned, jointly and severally, hereby unconditionally guarantee to Franchisor and Franchisor's successors and assigns that all of Franchisee's monetary obligations under the Agreement will be punctually paid and performed.

Upon demand by Franchisor, the undersigned will immediately make each payment required of Franchisee under the Agreement. The undersigned hereby waive any right to require Franchisor to: (a) proceed against Franchisee for any payment required under the Agreement; (b) proceed against or exhaust any security from Franchisee; or (c) pursue or exhaust any remedy, including any legal or equitable relief, against Franchisee. Without affecting the obligations of the undersigned under this Guarantee, Franchisor may, without notice to the undersigned, extend, modify, or release any indebtedness or obligation of Franchisee, or settle, adjust, or compromise any claims against Franchisee. The undersigned waive notice of amendment of the Agreement and notice of demand for payment by Franchisee, and agree to be bound by any and all such amendments and changes to the Agreement.

The undersigned hereby agree to defend, indemnify and hold Franchisor harmless against any and all losses, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorney's fees, reasonable costs of investigation, court costs, and fees and expenses) resulting from, consisting of, or arising out of or in connection with any failure by Franchisee to perform any obligation of Franchisee under the Agreement, any amendment thereto, or any other agreement executed by Franchisee referred to therein.

The undersigned hereby acknowledge and agree to be individually bound by all of the covenants contained in Sections 6, 8, 13, 15, and 16 of the Agreement. The undersigned acknowledge and agree that this Guarantee does not grant the undersigned any right to use the "Liberty Fitness" marks or system licensed to Franchisee under the Agreement.

This Guarantee shall terminate upon the termination or expiration of the Agreement, except that all obligations and liabilities of the undersigned which arose from events which occurred on or before the effective date of such termination shall remain in full force and effect until satisfied or discharged by the undersigned, and all covenants which by their terms continue in force after the expiration or termination of the Agreement shall remain in force according to their terms. Upon the death of an individual guarantor, the estate of such guarantor shall be bound by this Guarantee, but only for defaults and obligations hereunder existing at the time of death; and the obligations of the other guarantors will continue in full force and effect.

Unless specifically stated otherwise, the terms used in this Guarantee shall have the same meaning as in the Agreement, and shall be interpreted and construed in accordance with Section 24 of the Agreement. This Guarantee shall be interpreted and construed under the laws of the State of Delaware. In

the event of any conflict of law, the laws of the State of Delaware shall prevail (without regard to, and without giving effect to, the application of Delaware conflict of law rules).

IN WITNESS WHEREOF, each of the undersigned has signed this Guarantee as of the date of the Agreement.

GUARANTOR(S):

Signed: _____ (Seal)

Printed Name: _____

Home Address: _____

Signed: _____ (Seal)

Printed Name: _____

Home Address: _____

Signed: _____ (Seal)

Printed Name: _____

Home Address: _____

LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT
EXHIBIT E
LIST OF PRINCIPALS

Name of Principal **Address** **Interest (%)**

Initialed:

Franchisee

Franchisor

LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT
EXHIBIT F
AUTHORIZATION AGREEMENT FOR ACH PAYMENTS (DIRECT DEBITS)

_____ (Name of Person or Legal Entity) (ID Number)

The undersigned depositor ("**Depositor**" or "**Franchisee**") hereby authorizes Liberty Fitness Holdings, LLC ("**Franchisor**") to initiate debit entries and/or credit correction entries to the undersigned's checking and/or savings account(s) indicated below and the depository designated below to debit or credit such account(s) pursuant to Franchisor's instructions.

Depository:	Branch:
City:	State:
Bank Transit Number:	Account Number:

This authorization is to remain in full and force and effect until sixty (60) days after Franchisor has received written notification from Franchisee of its termination.

_____ Depositor (Franchisee)

By: _____

Printed Name: _____

Title: _____

Date: _____

LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT
EXHIBIT G
FORM OF E-MAIL AND FAX AUTHORIZATION

The undersigned, as a condition of her/his service with _____ ("Franchisee") in the capacity of _____ agrees to the following:

- 1) Liberty Fitness Holdings, LLC and certain of its employees, vendors, and affiliates, on matters pertaining to the Franchisee's business (together, these are referred to as "**Official Senders**") need to communicate with the Franchisee by use of e-mail and by sending faxes. Because the undersigned serves the Franchisee, and as a condition of that position, s/he agrees to accept (and not to opt-out of receiving) e-mails and faxes from Official Senders.
- 2) The authorization provided in the previous paragraph will continue for so long as the undersigned serves in any capacity with the Franchisee, and applies to any e-mail address or fax number that the undersigned uses in connection with handling business for the Franchisee, including home e-mail addresses and fax numbers when used for that purpose.

Signed:

By: _____

Printed Name _____

Position: _____

Date:

LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT
EXHIBIT H
ADA CERTIFICATION

Liberty Fitness Holdings, LLC ("**Franchisor**") and _____ ("**Franchisee**") are parties to a franchise agreement dated as of _____ for the operation of a Liberty Fitness Club at _____.
(the "**Club**"). In accordance with Section 5.3 of the Franchise Agreement, Franchisee certifies to Franchisor that, to the best of Franchisee's knowledge, the Club and its adjacent areas comply with all applicable federal, state and local accessibility laws, statutes, codes, rules, regulations and standards, including but not limited to the Americans with Disabilities Act. Franchisee acknowledges that it is an independent contractor and the requirement of this certification by Franchisee does not constitute ownership, control, leasing or operation of the Club. Franchisee acknowledges that Franchisee has relied on the information contained in this certification. Furthermore, Franchisee acknowledge its obligation under this Franchise Agreement to indemnify Franchisee and the officers, directors, and employees of Franchisee in connection with any and all claims, losses, costs, expenses, liabilities, compliance costs, and damages incurred by the indemnified party(ies) as a result of any matters associated with Franchisee's compliance with the Americans with Disabilities Act, as well as the costs, including attorneys' fees, related to the same.

[
Franchisee]

By: _____

Printed Name: _____

Title: _____

LIBERTY FITNESS HOLDINGS, LLC
FRANCHISE AGREEMENT
EXHIBIT I
FORM OF NON-DISCLOSURE AND NON-COMPETITION AGREEMENT

THIS NON-DISCLOSURE AND NON-COMPETITION AGREEMENT ("Agreement") is made this _____ day of _____, 200____, by and between _____ (the "**Franchisee**"), and _____, who is a Principal, manager, supervisor, member, partner, or a person in a managerial position with, Developer (the "**Manager**").

RECITALS:

WHEREAS, Liberty Fitness Holdings, LLC ("**LFH**"), as franchisor, and as the result of the expenditure of its time, skill, effort and money have developed and own a unique system (the "**System**") relating to the establishment and operation of businesses operating in buildings that bear Franchisor's interior and/or exterior trade dress (a "**Club**"), under the Proprietary Marks (as defined below), and specializing in offering thirty-minute fitness services using adjustable hydraulic strength training and aerobic cardiovascular equipment and exercise programs, and fitness programs primarily directed to women ("**Services**"), as well as the sale of associated proprietary and/or private label products and services, if and when developed, prepared for sale in the system (the "**Products**"), and which Clubs utilize LFH's System and Proprietary Marks (defined below), all of which LFH may periodically change, improve, and/or further develop;

WHEREAS, LFH identifies Clubs by the LIBERTY FITNESS CENTER and LIBERTY FITNESS marks and such other proprietary marks as LFH may periodically designate in writing (together, the "**Proprietary Marks**");

WHEREAS, LFH and Franchisee have executed a Franchise Agreement ("**Franchise Agreement**") granting Franchisee the right to develop one or more Clubs and, ultimately, to sign Franchise Agreements to operate Clubs, at which Clubs Franchisee (acting as the "Franchisee" under the Franchise Agreement) to distribute the Products and other ancillary products approved by LFH and use the Proprietary Marks in connection therewith under the terms and conditions of the Franchise Agreement;

WHEREAS, the Manager, by virtue of his or her position with Franchisee, will gain access to certain of LFH's Confidential Information, as defined herein, and must therefore be bound by the same confidentiality and non-competition agreement that Development is bound by.

IN CONSIDERATION of these promises, Manager's employment with Franchisee, the conditions stated herein, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. Confidential Information. Manager shall not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, entity, association, or corporation any confidential information, knowledge, or know-how concerning the methods of operation of the business franchised thereunder which may be communicated to Manager or of which Manager may be apprised by virtue of Franchisee's operation under the terms of the Franchise Agreement. Any and all information, knowledge, know-how, and techniques which LFH designates as

confidential shall be deemed confidential for purposes of this Agreement, except information which Franchisee can demonstrate came to its attention prior to disclosure thereof by LFH; or which, at or after the time of disclosure by LFH to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others.

2. Covenants Not to Compete.

(a) Manager specifically acknowledges that, pursuant to the Franchise Agreement, and by virtue of its position with Franchisee, Manager will receive valuable specialized training and confidential information, including, without limitation, information regarding the operational, sales, promotional, and marketing methods and techniques of LFH and the System.

(b) Manager covenants and agrees that during the term of the Franchise Agreement, except as otherwise approved in writing by LFH, Manager shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity:

(i) Divert or attempt to divert any business or customer of the Club or of any Club using the System to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with LFH's Proprietary Marks and the System.

(ii) Employ or seek to employ any person who is at that time employed by LFH, Franchisee, any other franchisee, master franchisee, developer, or development agent, or otherwise directly or indirectly induce such person to leave his or her employment; or

(iii) Either directly or indirectly for him/herself or on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity, own, maintain, operate, engage in, or have any interest in any business which is the same as or similar to the Club.

(c) Manager covenants and agrees that during the Post-Term Period (defined below), except as otherwise approved in writing by LFH, Manager shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation, or entity,

Manager shall not own, maintain, operate, engage in, or have any interest in any business that is same as or similar to the Club and which business is (or is intended to be) located within a five (5) mile radius of either the Approved Location or any other Club operating at the time that the obligations under this commence.

(d) As used in this Agreement, the term "Post-Term Period" shall mean a continuous uninterrupted period of one (1) year from the date of: (a) a transfer permitted under Section 13 of the Franchise Agreement; (b) expiration or termination of the Franchise Agreement (regardless of the cause for termination); (c) termination of Manager's employment with Franchisee; and/or (d) a final order of a duly authorized arbitrator, panel of arbitrators, or a court of competent jurisdiction (after all appeals have been taken) with respect to any of the foregoing or with respect to the enforcement of this Agreement; either directly or indirectly (through, on behalf of, or in conjunction with any persons, partnership, corporation or entity).

3. Injunctive Relief. Manager acknowledges that any failure to comply with the requirements of this Agreement will cause LFH irreparable injury, and Manager agrees to pay all court

costs and reasonable attorney's fees incurred by LFH in obtaining specific performance of, or an injunction against violation of, the requirements of this Agreement.

4. Severability. All agreements and covenants contained herein are severable. If any of them, or any part or parts of them, shall be held invalid by any court of competent jurisdiction for any reason, then the Manager agrees that the court shall have the authority to reform and modify that provision in order that the restriction shall be the maximum necessary to protect LFH's and/or Franchisee's legitimate business needs as permitted by applicable law and public policy. In so doing, the Manager agrees that the court shall impose the provision with retroactive effect as close as possible to the provision held to be invalid.

5. Delay. No delay or failure by the LFH or Franchisee to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right provided herein, and no waiver of any violation of any terms and provisions of this Agreement shall be construed as a waiver of any succeeding violation of the same or any other provision of this Agreement.

6. Third-Party Beneficiary. Manager hereby acknowledges and agrees that LFH is an intended third-party beneficiary of this Agreement with the right to enforce it, independently or jointly with Franchisee.

IN WITNESS WHEREOF, the Franchisee and the Manager attest that each has read and understands the terms of this Agreement, and voluntarily signed this Agreement on this _____ day of _____, 200____.

FRANCHISEE

MANAGER

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____