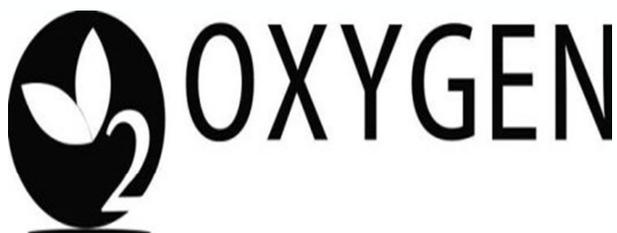


## FRANCHISE DISCLOSURE DOCUMENT



OYF US INC.  
~~838 Walker Road, Suite 21-2,~~  
~~Dover, County of Kent, Delaware 19904~~  
33-24076 112 Avenue  
Maple Ridge, British Columbia  
Canada V2W 0K2  
Tel: 604-619-6901  
www.oxygenyogaandfitness.com  
operations@oxygenyogaandfitness.com

The franchise offered is for the right to operate an “Oxygen Yoga & Fitness” area representative business under which you will develop the geographic area we grant to you by soliciting franchise owners to own and operate “Oxygen Yoga & Fitness” facilities within the Franchised Territory that will offer yoga, related fitness, weight loss, wellness and health programs using our standards and specifications.

The total investment necessary to begin operation of an Oxygen Yoga & Fitness area representative business ranges from \$1486,500 to \$~~20~~197,500. This amount includes between \$127,000 and \$133,000 that must be paid to the franchisor or its affiliate. If you acquire an Oxygen Yoga & Fitness area representative business, you must also acquire and operate an Oxygen Yoga & Fitness unit franchise business that we offer under a separate disclosure document. The total investment for an Oxygen Yoga & Fitness unit franchise business ranges from \$0 (assuming you already operate an Oxygen Yoga & Fitness unit franchise business when you become an area representative) to \$590,500, which is the high end of the initial investment range excluding the initial franchise fee we disclose in our separate disclosure document offering franchises for Oxygen Yoga & Fitness Facilities.

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

You may wish to receive your Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact our Chief Operating Officer, Melissa Hanssens at ~~433-24076 McDougal Street~~112 Avenue, Maple Ridge, British Columbia, Canada V2XW 4K60K2, and 604-619-6901.

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

Buying a franchise is a complex investment. The information in this Disclosure Document can help you make up your mind. More information on franchising, such as “A Consumer’s Guide to Buying a Franchise,” which can help you understand how to use this Disclosure Document, is available from the Federal Trade Commission (the “FTC”). You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC’s home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance date of this Franchise Disclosure Document: April ~~19~~5, 20245.

## How to Use This Franchise Disclosure Document

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

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

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

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

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

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

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This Franchise*

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

1. **Out-of-State Dispute Resolution.** The area representative agreement requires you to resolve disputes with the franchisor by (i) mediation or arbitration in Vancouver, British Columbia (Canada), or in limited circumstances, (ii) litigation only in the city closest to franchisor's principal address in the United States (currently, Dover, Delaware). Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to (i) mediate and/or arbitrate with franchisor in Vancouver, British Columbia (Canada), or (ii) litigate with the franchisor in Dover, Delaware, than in your own state.
2. **Short Operating History.** The franchisor is at an early stage of development and only has a brief operating history for you to review in order to assist you in determining whether or not to make this investment.
3. **Financial Condition.** Franchisor is undercapitalized (see Item 21) and may not be able to meet preopening obligations to all franchisees.

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

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## **LIST OF EXHIBITS**

- Exhibit A List of State Administrators
- Exhibit B List of State Agents for Service of Process
- Exhibit C Area Representative Agreement
- Exhibit D State Addenda to Area Representative Agreement
- Exhibit E Financial Statements
- Exhibit F Manual Table of Contents
- Exhibit G Sample Form of General Release
- Exhibit H List of Current and Former Area Representatives
- Exhibit I Area Representative Disclosure Questionnaire
- Exhibit J State Addenda to Disclosure Document

APPLICABLE STATE LAW MIGHT REQUIRE ADDITIONAL DISCLOSURES RELATED TO THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT. THESE ADDITIONAL DISCLOSURES, IF ANY, APPEAR IN EXHIBIT J.

## Item 1

### THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

The franchisor is OYF US Inc. (“we,” “us,” or “our”). “You” means the individual or entity that buys the franchise. If you are a corporation, partnership, limited liability company, or other entity, your owners must sign our “Guaranty and Assumption of Obligations” in their individual capacities, which means that all of the provisions of the Area Representative Agreement (Exhibit C) also will apply to your owners.

We are a Delaware corporation incorporated on June 6, 2022. Our principal business address is 1133-24076 McDougal Street 112 Avenue, Maple Ridge, British Columbia, Canada V2XW 4K60K2. Our registered address in the United States is 838 Walker Road, Suite 21-2, Dover, Delaware 19904. We do business under our corporate name and the trade name “Oxygen Yoga & Fitness”. If we have an agent in your state for service of process, we disclose that agent in Exhibit B.

We began offering franchises for Oxygen Yoga & Fitness Facilities under a separate disclosure document in August 2023. As of the date of this Disclosure Document, there ~~is one franchised~~ are 10 Oxygen Yoga & Fitness Facility franchisees in the United States. We began offering franchises for Oxygen Yoga & Fitness AR Businesses (defined below) in August 2023. We do not operate any Oxygen Yoga & Fitness Facilities or Oxygen Yoga & Fitness AR Businesses, although we may do so in the future. We have not offered franchises in any other line of business other than as described in this paragraph and have no other business activities.

#### Parents, Affiliates and Predecessors

Our parent is Oxygen Yoga & Fitness Inc. (“OYF Inc.”), a corporation in British Columbia (Canada) incorporated on April 11, 2011 that shares our principal place of business. OYF Inc. began offering master franchises and single-unit direct franchises for Oxygen Yoga & Fitness Facilities in Canada in February 2011. As of the date of this Disclosure Document, there were 123 Oxygen Yoga & Fitness master franchisees and 12630 franchised Oxygen Yoga & Fitness Facilities operating in Canada, of which 5673 operate under a subfranchise agreement with one of the 123 master franchisees. We have no other parents or predecessors required to be disclosed in this item.

Our affiliate, OYF ITL Inc., a corporation in Nova Scotia (Canada), began offering master franchises internationally but outside of Canada in September 2023. As of the date of this Disclosure Document, there ~~was one~~ is 1 Oxygen Yoga & Fitness master franchisee operating in Mexico and there are 2 Oxygen Yoga & Fitness master franchisees operating in New Zealand. OYF ITL Inc.’s principal address is Nova Centre – South Tower, 1500 – 1625 Grafton Street, Halifax Nova Scotia (Canada) B3J 0E8.

We have no parents or affiliates who currently provide products or services to franchise owners of Oxygen Yoga & Fitness AR Businesses. Other than as described above, we have no parents or affiliates who have offered or currently offer franchises in any lines of business.

#### The Franchise

We grant franchises for yoga and fitness facilities operating under the “Oxygen Yoga & Fitness” name and other trademarks, trade names, service marks, and commercial symbols (collectively, the “Marks”). For reference purposes in this Disclosure Document, we collectively refer to all unit franchised businesses using the System (defined below) and the Marks as “Oxygen Yoga & Fitness

Facilities.” Oxygen Yoga & Fitness Facilities are offered under a separate disclosure document.

Oxygen Yoga & Fitness Facilities offer yoga, related fitness, weight loss, wellness and health programs using certain standards and specifications, including Far InfraRed Ray or a specialized Heat Therapy environment, as well as other products, services and equipment we authorize, which now comprise, or in the future may comprise, part of the System (defined below) or our trade secrets which are developed by and are proprietary to us or our affiliates. Oxygen Yoga & Fitness Facilities use our business formats, methods, procedures, signs, designs, layouts, standards, specifications, merchandise, advertising and marketing, sales promotion and Marks (the “System”), all of which we may improve, further develop or otherwise modify.

We allow certain franchise owners to represent us as area representatives (“Area Representatives”) within defined geographic areas. (See Item 12) (For reference purposes in this Disclosure Document, we call the area representative businesses in our system “Oxygen Yoga & Fitness AR Businesses,” and we call the Oxygen Yoga & Fitness AR Business that you will operate the “AR Business.”) As an Area Representative, you will open and solicit franchise owners to open Oxygen Yoga & Fitness Facilities in the Franchised Territory (defined below), help franchise owners develop and open their Oxygen Yoga & Fitness Facilities, train them, and then help them during the terms of their Franchise Agreements (signed directly with us and not you). In return, we pay you a portion of certain fees we receive from these franchise owners. (See Item 11)

You must follow our Area Representative standards and guidelines and sign our Area Representative Agreement. Our guidelines include your obligation to deliver a disclosure document to prospective franchise owners on our behalf when required by law. We prepare at our own cost the disclosure documents you must use. You may not operate as an Area Representative in a franchise registration state until we have effectively registered in that state. You always must operate at least one franchised Oxygen Yoga & Fitness Facility in your area. (We refer to the Oxygen Yoga & Fitness Facility that you will operate as the “Franchisee Facility.”) You must operate your Franchisee Facility according to our business formats, methods, procedures, designs, layouts, standards, and specifications. You must sign our ~~then-current~~then current form of unit franchise agreement (the “Franchise Agreement”) for each Oxygen Yoga you own and operate, which is included in a separate disclosure document for Oxygen Yoga & Fitness Facilities. You may not begin soliciting new franchise owners for Oxygen Yoga & Fitness Facilities to be located in your Franchised Territory (defined below) until your own Oxygen Yoga & Fitness Facility has operated in compliance with its Franchise Agreement for at least 3 months.

### Market and Competition

Your AR Business will operate in a specific geographic territory (the “Franchised Territory”) and will compete with businesses and individuals that sell franchises for businesses that offer group fitness, yoga and other services offered by Oxygen Yoga & Fitness Facilities. Oxygen Yoga & Fitness Facilities compete with locally owned businesses, as well as national and regional chains, that offer the same or similar services offered by Oxygen Yoga & Fitness Facilities. The market for the products and services offered by Oxygen Yoga & Fitness Facilities is well-established and highly competitive.

### Industry-Specific Laws and Regulations

Area Representatives must comply with laws regulating the offer and sale of franchises under U.S. federal and applicable state franchise laws and with laws that apply generally to all businesses. You should investigate these laws.

## Item 2

### BUSINESS EXPERIENCE

#### Jennifer Hamilton: Director/CEO/President

Ms. Hamilton has been our Director, CEO and President since our inception in June 2022. She also serves in the same roles for our parent, OYF Inc., and has done so since its inception in February 2011. Ms. Hamilton is based in Vancouver, British Columbia (Canada).

#### David Patchell-Evans: Director

Mr. Patchell-Evans has been our Director since our inception in June 2022. He has also served as a Director for our parent, OYF Inc., and has done so since December 2018. He is also the founder and CEO of Goodlife Fitness, a company based in London, Ontario (Canada), which he founded in 1979. Mr. Patchell-Evans is based in London, Ontario (Canada).

#### Melissa Hanssens: Chief Operating Officer

Ms. Hanssens has been our Chief Operating Officer since our inception in June 2022. She has also served in the same role for our parent, OYF Inc., since May 2020. From December 2017 to July 2021, Ms. Hanssens owned an Oxygen Yoga & Fitness Facility in British Columbia (Canada). ~~From January 2006 to October 2019, Ms. Hanssens was a Business and HR Manager at Shaw Communications, located in Vancouver, British Columbia (Canada).~~ Ms. Hanssens is currently located in Vancouver, British Columbia (Canada).

## Item 3

### LITIGATION

No litigation is required to be disclosed in this Item.

## Item 4

### BANKRUPTCY

No bankruptcy proceedings are required to be disclosed in this Item.

## Item 5

### INITIAL FEES

#### Area Representative Fee

You must pay us an area representative fee (the “Area Representative Fee”) in a lump sum when you sign the Area Representative Agreement. Our standard Area Representative Fee is currently \$120,000. You may be eligible to receive a refund of the Area Representative Fee (less \$25,000) if your required attendees to our initial training program (the “AR Training Program”) described in Item 11 below cannot complete the AR Training program to our satisfaction, we terminate the Area Representative Agreement (at our option), and you sign and submit to us a release of claims in a form we prescribe (a sample of which is attached as Exhibit G). The Area Representative Fee is fully earned by us when paid, and except as described in this paragraph, the Area Representative Fee is not refundable. As disclosed in Item 1, you always must operate at least one franchised Oxygen Yoga & Fitness Facility in your Franchised Territory. The Area Representative Fee includes the non-recurring initial franchise fee in the amount of \$48,500 that you are required to pay us under the franchise agreement for your first franchised Oxygen Yoga & Fitness Facility in your Franchised Territory.

#### Initial Marketing Fee

You must pay us a non-refundable initial marketing fee in the amount of \$5,000 (the “Initial Marketing Fee”) in a lump sum when you sign the Area Representative Agreement. The Initial Marketing Fee contributes to our costs associated with direct marketing for your AR Business. The Initial Marketing Fee is fully earned by us when paid and is not refundable.

#### Initial Merchandise

You must purchase an initial supply of merchandise from us for resale or marketing in your Franchised Territory, which may include Oxygen Yoga & Fitness branded sweatshirts, t-shirts, tank tops, water bottles, towels, yoga mats and hats. We estimate that these costs will range between \$2,000 and \$3,000, and these costs will not be refundable.

#### Costs of Complying with Franchise Laws

If your ability to sell Oxygen Yoga & Fitness Facility franchises under the Area Representative Agreement requires the preparation, amendment, registration or filing of any information or documents with any regulatory authority, the information and documents will be prepared, amended, registered or filed by us or our designee. The costs and expenses of that preparation, amendment, registration or filing, and any additional costs and expenses incurred by us in connection with the Franchised Territory, will be borne by you and the other Area Representatives within the state of where your Franchised Territory is located, on a proportionate basis determined by us. You must reimburse us for these costs upon demand by us. We estimate that these costs will range between \$0 and \$5,000.

#### Range of Pre-Opening Amounts Received During Prior Fiscal Year

~~We did not reduce or waive the fees described above from any Area Representatives during our prior fiscal year.~~

During our prior fiscal year, we collected Area Representative Fees ranging from \$120,000 to \$425,000. The high end of the range accounts for an Area Representative who purchased a

Franchised Territory substantially larger than the typical Franchised Territory we grant to Area Representatives.

[Remainder of page left blank intentionally]

**Item 6**

**OTHER FEES**

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
Advertising Fund Fee	1.5% of Gross Revenues of all Oxygen Yoga & Fitness Facilities in the Franchised Territory during the previous month ( <u>not currently collecting the Advertising Fund Fee</u> )	Monthly by the 5 <sup>th</sup> day of each month	See Item 11 for a detailed discussion about the Advertising Fund.  “Gross Revenues” means the aggregate of all royalty fees, transfer fees and renewal fees that we charge to franchise owners, but excludes Initial Franchise Fees, training fees, web fees and technology fees. Gross Revenues shall be recognized based on the date that the applicable fees are collected. See Note 2
Technology Fee	May vary, but currently \$ <del>2500</del> <sup>500</sup> per month	Monthly by the 5 <sup>th</sup> day of each month	One or more suppliers charge us or our designee ongoing fees, which we or our designee may pay on your behalf and for which you must reimburse us or our designee. We or our designee may require that you pay the Technology Fee directly to our supplier(s) at any time. We may increase or decrease the amount of the Technology Fee upon written notice to you.

Column 1 Type of Fee	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
AR Training Program <u>Charges, Expenses and</u> Fee	<p><u>Our personnel's then current per diem charges (currently \$80 per trainer, per day) and actual travel and living expenses if we decide to provide any of the AR Training Program at a location we designate instead of online.</u></p> <p><del>Then current training fee per person for the AR Training Program (currently, \$3,750 per person)</del><u>If you request that individuals attend the AR Training Program in addition to those who may attend at no additional cost, then you will pay the then current training fee for each additional person (currently, \$3,750 per person)</u></p>	As incurred	<p>We provide the AR Training Program for you (or your AR Business Manager) and 1 additional member of your personnel at no additional cost. You may request that additional individuals attend the AR Training Program at the same time as the two attendees at no additional cost. If you request that additional individuals attend the AR Training Program at a different time or date than when the two attendees attend the AR Training Program, you will be required to pay <del>this</del><u>the then current training</u> fee.</p>

Column 1 Type of Fee	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
Additional or Renewal Training and Assistance	Then current training fee per person for additional training during the term of the Area Representative Agreement (currently, \$3,750 per person), <u>plus our personnel's then current per diem charges (currently \$80 per trainer, per day) and actual travel and living expenses while providing the additional/renewal training at a location that requires our trainers to travel</u>	As incurred	We may charge you for additional or special assistance or training you need or request or that we may require during the franchise term. These amounts also apply to new AR Business Managers you may hire or appoint during the term.
Franchise Owner Collection Reimbursement	66.6% of all costs and expenses incurred by us in collection of delinquent payments from franchise owners	Within 15 days of receipt of invoice	If we incur costs to collect fees from franchise owners in your Franchised Territory, you must reimburse us for your share of our costs of collection, including reasonable attorneys' fees

<b>Column 1</b> <b>Type of Fee</b>	<b>Column 2</b> <b>Amount</b>	<b>Column 3</b> <b>Due Date</b>	<b>Column 4</b> <b>Remarks</b>
Reimbursement of Losses or Payments	66.6% of our loss, payment, or damages	Within 15 days of receipt of invoice	If we or any of our affiliates suffer a loss or damages, or must make a payment, to or in connection with a franchise owner in your Franchised Territory, you must promptly pay to us 66.6% of the amount of that payment, loss or damages
Late Fee	\$50, plus our expenses	As incurred	Due on all overdue amounts as an administrative fee to compensate us for our increased costs and expenses
Interest	4% above the prime rate of interest on the first day of each month or the maximum rate allowable by applicable law	As agreed	Due on all overdue amounts
Insurance	You must reimburse our costs	As incurred	If you fail to obtain insurance, we may obtain insurance for you and you must reimburse us
Product and Service Purchases	Varies	When billed	We may require you to buy products and services from us; our affiliates; designated and approved vendors whose items meet our standards and specifications; and/or other suppliers to the industry. See Item 8

<b>Column 1</b> <b>Type of Fee</b>	<b>Column 2</b> <b>Amount</b>	<b>Column 3</b> <b>Due Date</b>	<b>Column 4</b> <b>Remarks</b>
Computer Systems, Maintenance, and Support	Costs of Service	As incurred	We or a third party may charge you a fee for any proprietary software or technology that we, our affiliates or a third party license to you and for other maintenance and support services that we or a third party might provide in the future; we do not currently provide these services but may charge you for them if we choose to provide them in the future
Transfer Fee	15% of the sale price for the AR Business; or \$50,000, whichever is less, plus any applicable taxes.	Before transfer completed	No charge if Area Representative Agreement transferred to an entity you control
Renewal	\$50,000, plus any applicable taxes	When you provide us written notice of your election to acquire a successor franchise	You must meet certain conditions to have the option to acquire a successor franchise
Testing	Costs of Testing	When billed	This covers the costs of testing new products or inspecting new suppliers you propose
Indemnification	Will vary under circumstances	As incurred	You must reimburse us if we are held liable for claims from your AR Business' operation
Audit	Cost of inspection or audit	15 days after billing	Due if you do not give us reports, supporting records, or other required information
Service Charge for Insufficient Funds	\$100, plus our expenses	As incurred	Due if you have insufficient funds in your EDTA to cover a payment, or, if you pay by check, a check is returned for insufficient funds

<b>Column 1</b> <b>Type of Fee</b>	<b>Column 2</b> <b>Amount</b>	<b>Column 3</b> <b>Due Date</b>	<b>Column 4</b> <b>Remarks</b>
Management Fee	Direct out-of-pocket costs and expenses (plus a fee equal to two times the salary paid to the individual(s) assigned by us to operate the AR Business.)	As incurred	Due when we (or a third party) manage the AR Business after your or your managing owner's death or disability or after your default or abandonment
Failure to Submit Required Reports	\$500 per week	As incurred	If you fail to send us the reports required by the Area Representative Agreement, we may debit your account \$500 per week for each week that you fail to deliver the report after its due date
Costs and Attorneys' Fees	Will vary under circumstances	As incurred	Due when you do not comply with the AR Agreement
Deficiency Payment	You must pay us a fee equal to \$600 per month per Oxygen Yoga & Fitness Facility from the date such Oxygen Yoga & Fitness Facility should have opened until the date it actually opens	Within 10 days of receipt of invoice	You must make this payment to compensate us for lost revenues resulting from your failure to fulfill your obligations under the Development Schedule

1. Except for product and service purchases described in Item 8, and except as otherwise noted in this Item 6, all fees are imposed and collected by and payable to us. Except as noted above, all fees are uniform and nonrefundable.
2. When you sign the Area Representative Agreement, you must sign and deliver to us the documents we require to authorize us to debit your business checking account automatically for the Advertising Fund Fees, and other amounts due under the Area Representative Agreement and for your purchases from us and/or our affiliates (the "Electronic Depository Transfer Account" or "EDTA"). We will debit the EDTA for these amounts on their due dates. Funds must be available in the EDTA for withdrawal. We may require payment other than by automatic debit,

and you must comply with our payment instructions.

**Item 7**

**ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Column 1 Type of Expenditure*</b>	<b>Column 2 Amount</b>	<b>Column 3 Method of Payment</b>	<b>Column 4 When Due</b>	<b>Column 5 To Whom Payment is to be made</b>
Area Representative Fee	\$120,000	Lump Sum	Upon signing Area Representative Agreement	Us
Initial Marketing Fee	\$5,000	Lump Sum	Upon signing Area Representative Agreement	Us
Training Expenses ( <del>out-of-pocket costs for 2 people</del> <u>Note 1</u> )	<del>\$2,000</del> - <u>\$45,500</u>	As Incurred	As Incurred	Third Parties
Furniture, Equipment & Signs (Note <u>12</u> )	\$0 - \$9,000	As Agreed	As Incurred	Outside Suppliers
Inventory and Supplies (Note <u>23</u> )	\$2,500 - \$6,000	As Agreed	As Incurred	Designated and Approved Suppliers, Us
Computer System and Telephone (Note <u>34</u> )	\$3,500 - \$5,000	As Agreed	As Incurred	Outside Vendors and Suppliers
Costs of complying with franchise laws applicable to Franchised Territory (Note <u>45</u> )	\$0 - \$5,000	As Agreed	As Incurred	State Agencies, Us
Business License and Permits	\$500 - \$2,000	As Agreed	As Incurred	Government Agencies
Insurance (Note <u>56</u> )	\$3,000 - \$7,000	As Agreed	As Incurred	Outside Suppliers

Column 1 Type of Expenditure*	Column 2 Amount	Column 3 Method of Payment	Column 4 When Due	Column 5 To Whom Payment is to be made
Professional Fees	\$3,000 - \$8,000	As Agreed	As Incurred	Lawyers, Accountants and other Advisors
Additional Funds – 3 months (Note <a href="#">67</a> )	\$9,000 - \$30,000	As Agreed	As Incurred	Third Parties
TOTAL ESTIMATED INITIAL INVESTMENT (Note <a href="#">78</a> )	\$1486,500 - <del>\$20197,500</del>			

### Explanatory Notes

\* Except for the Area Representative Fee (See Item 5), all amounts listed in the above table are nonrefundable. We do not finance any part of the initial investment. You must at all times during the Area Representative Agreement's term own and operate at least one Oxygen Yoga & Fitness Facility. The total initial investment to open one Oxygen Yoga & Fitness Facility ranges from \$0 to \$590,500. The low end of the range assumes you already operate an Oxygen Yoga & Fitness Facility when you become an Area Representative. The high end of the range is the high end of the initial investment range for an Oxygen Yoga & Fitness Facility excluding the \$48,500 initial franchise fee we disclose in our separate disclosure document offering franchises for Oxygen Yoga & Fitness Facilities. As disclosed in Item 5, the Area Representative Fee includes the \$48,500 initial franchise fee that you are required to pay us under the franchise agreement for your first franchised Oxygen Yoga & Fitness Facility in your Franchised Territory.

1. Because the AR Training Program is currently conducted online, the low end of the training costs estimate is \$0. The high end of the training costs estimate assumes we decide to provide the AR Training Program at a location we designate instead of online, and includes (i) all travel and living expenses that 2 members of your personnel incur, as well as your personnel's wages and workers' compensation insurance and (ii) 2 members of our personnel's then current per diem charges (currently \$80 per trainer, per day) and actual travel and living expenses, if they are required to travel.

12. The costs for furniture, equipment and signs vary depending on the size, configuration and condition of the Office, and whether the Office is located in your residence or your Oxygen Yoga & Fitness Facility.

23. This includes costs for an initial supply of merchandise (e.g., Oxygen Yoga & Fitness branded sweatshirts, t-shirts, tank tops, water bottles, towels, yoga mats and hats), media, stationery and marketing materials.

**34.** You must purchase a Computer System (defined in Item 11) that meets our specifications. We estimate that your purchase of the Computer System and the costs of setting up your phone lines will be between \$3,500 and \$5,000. See Item 11 for more information.

**45.** If your ability to sell Oxygen Yoga & Fitness Facility franchises under the Area Representative Agreement requires the preparation, amendment, registration or filing of any information or documents with any regulatory authority, the information and documents will be prepared, amended, registered or filed by us or our designee. The costs and expenses of that preparation, amendment, registration or filing, and any additional costs and expenses incurred by us in connection with the Franchised Territory, will be borne by you and the other Area Representatives within the state of where your Franchised Territory is located, on a proportionate basis determined by us. You must reimburse us for these costs upon demand by us.

**56.** You must obtain and maintain certain types and amounts of insurance. (See Item 8) Insurance costs depend on policy limits, types of policies, nature and value of physical assets, gross revenue, number of employees, square footage, location, business contents, and other factors bearing on risk exposure. The estimate contemplates insurance costs for 3 months.

**67.** This item estimates your initial start up expenses (other than the items identified separately in the table). These expenses include payroll costs (but not any draw or salary for you); equipment; installations; security deposits; utility costs; incorporation fees; signage; materials; and any unforeseen incidental expenses related to facilities improvements. These figures are estimates, and we cannot guarantee that you will not have additional expenses starting the business. We relied on our parent's and our executives' experience in operating Oxygen Yoga & Fitness Facilities and other businesses to compile these estimates.

**78.** You should review these figures carefully with a business advisor before deciding to acquire the franchise. We do not offer financing directly or indirectly for any part of the initial investment. The availability and terms of financing depend on many factors, including the availability of financing generally, your creditworthiness and collateral, and lending policies of financial institutions from which you request a loan.

**[\[Remainder of page left blank intentionally\]](#)**

## Item 8

### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

You must operate the AR Business according to our System Standards. System Standards may regulate, among other things, the types, models, and brands of fixtures, furniture, equipment (including a required or recommended computer and facsimile), furnishings, and signs (collectively, “Operating Assets”); products, other equipment and supplies you must use in operating the AR Business; unauthorized and prohibited products, equipment, and services; inventory requirements; and designated and approved suppliers of Operating Assets and other items.

In the case of Operating Assets, suppliers may be limited to us, our affiliates, and/or our designated third-party suppliers, and you must buy those Operating Assets during the franchise term only from us, our affiliates, and/or our designated third-party suppliers at the prices we and they decide to charge. We have the absolute right to limit the suppliers with whom you may deal. We restrict your sources of products and supplies in order to protect our trade secrets, assure quality, assure a reliable supply of products that meet our standards, achieve better terms of purchase and delivery service, control usage of the Marks by third parties, and monitor the manufacture, packaging, processing, and sale of these items.

You must purchase an initial supply of merchandise from us for resale or marketing in your Franchised Territory, which may include Oxygen Yoga & Fitness branded sweatshirts, t-shirts, tank tops, water bottles, towels, yoga mats and hats. Neither we nor any of our affiliates are currently an approved supplier of any other products or services. None of our officers currently owns an interest in any designated third-party supplier to the franchise network.

If you choose to use an advertising and/or telemarketing service to promote your AR Business, you currently must use our designated supplier(s) for telemarketing and advertising services. We will provide you with access to, and you must use, the franchise management software we designate (currently, Franconnect). We currently provide access to the franchise management software free of charge, but we may charge for access in the future. There are no other goods, services, supplies, fixtures, equipment, inventory, computer hardware and software, real estate or comparable items for establishing or operating the AR Business that you currently must buy or lease from us (or an affiliate) or designated suppliers.

To maintain the quality of the services and goods that Oxygen Yoga & Fitness AR Businesses sell and our system's reputation, we may condition your right to buy or lease goods and/or services (besides those described above that you may obtain only from us, our affiliates, and/or other specified exclusive sources) on their meeting our minimum standards and specifications and/or being acquired from suppliers that we approve. We will issue and modify standards and specifications based on our, our parent's, our executives', and our franchise owners' experience in operating Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities. Our standards and specifications may impose minimum requirements for production, performance, reputation, prices, quality, design, and appearance. Our confidential operating manual and other communications we may provide to you (collectively, the “Manual”) will identify our standards and specifications. We will notify you and, where appropriate, the suppliers, of our standards and specifications. There might be situations where you can obtain items from any supplier who can satisfy our requirements and, therefore, would be an approved supplier.

If we institute any type of restrictive sourcing program (which, as noted above, we may do for any items) and you want to use any item or service that we have not yet evaluated or to buy or lease from a supplier that we have not yet approved or designated, you first must send us sufficient information,

specifications, and samples so that we can determine whether the item or service complies with System Standards or the supplier meets approved supplier criteria. We list examples of our criteria for supplier approval in the following paragraph below in this Item, and we will make available our then current criteria to you, as necessary, upon request if we are asked to evaluate and approve a new supplier, item, or service. We may charge you or the supplier a reasonable fee for the evaluation (see Item 6) and will decide within a reasonable time (no more than 30 days). We periodically will establish procedures for your requests and may limit the number of approved items, services, and/or suppliers as we think best.

Supplier approval might depend on product quality, delivery frequency and reliability, service standards, financial capability, customer/member relations, concentration of purchases with limited suppliers to obtain better prices and service, a supplier's willingness to pay us, one of our affiliates, and/or our system for the right to do business with our system, or other criteria. We and our affiliates may receive payments or other material consideration from suppliers on account of their actual or prospective dealings with you and other franchise owners and to use all amounts that we and our affiliates receive without restriction (unless we and our affiliates agree otherwise with the supplier) for any purposes we and our affiliates deem appropriate. Supplier approval might be temporary until we evaluate the supplier in more detail. We may inspect a proposed supplier's facilities during and after the approval process to make sure that the supplier meets our standards. If it does not, we may revoke our approval by notifying the supplier and you in writing. We have no obligation to approve any request for a new supplier, product, or service. We may charge you or the supplier a reasonable fee in connection with our evaluation and approval or disapproval of proposed suppliers.

~~Neither we nor our affiliates received any payments directly from Area Representatives, or from suppliers based on Area Representative purchases, in respect of products or services during the prior fiscal year.~~

Insurance. Besides these purchases or leases, you must obtain and maintain, at your own expense, the insurance coverage that we periodically require and satisfy other insurance-related obligations underwritten by responsible insurance carriers acceptable to us and which are authorized to do business in the state(s) in which the AR Business operates. You currently must have comprehensive general liability coverage (\$2 million per person or occurrence), business interruption insurance, motor vehicle liability insurance (if applicable), worker's compensation, employer's liability insurance, unemployment insurance and state disability insurance, employment practices liability insurance, cyber security insurance, crime insurance, umbrella or excess liability insurance, insurance to cover your indemnification obligation, and other policies containing the minimum liability coverage we specify from time to time, and any other coverage required by law. Premiums depend on the insurance carrier's charges, terms of payment, and your history. All insurance policies must name us and our affiliates, officers, partners, shareholders, members, directors, managers, agents, employees, successors and assignees as additional insured parties. If you fail to obtain or maintain required insurance coverage for the AR Business, we may do so on your behalf and invoice you for reimbursement of our costs to arrange the missing coverage. The types and coverage amounts we require you to obtain and maintain are only minimums, and we have not assessed whether, and do not guarantee that, the types and coverage amounts are sufficient for the AR Business.

Advertising Materials. Before you use them, you must send us for review samples of all advertising, promotional, and marketing materials that we have not prepared or previously approved. If you do not receive written disapproval within 10 days after we receive the materials, they are deemed to be disapproved. You may not use any advertising, promotional, or marketing materials that we have not approved or have disapproved.

**Office Development and Site.** You are responsible for developing the Office. The Office may be located in your residence or the Franchisee Facility. The Office may not be located in a commercial office space without our prior written approval, which we may withhold or condition in our sole discretion.

You must give us information and materials we request regarding each territory within which you propose to operate an Oxygen Yoga & Fitness AR Business so we can assess that territory.

Collectively, the purchases and leases described above are between 10% to 20% of your overall purchases and leases in establishing the AR Business and between 10% and 15% of your overall purchases and leases in operating the AR Business.

Neither we nor our affiliates received any revenue or other material consideration during our last fiscal year from selling items to Area Representatives, but we may do so in the future. During our last fiscal year, we did not receive rebates from any suppliers, but we may do so in the future. We anticipate that we will, but have no obligation to, deposit certain future amounts we receive from suppliers (as a result of purchases made by Area Representatives from those suppliers) to the Advertising Fund for the general benefit of the Marks and the promotion of all Oxygen Yoga & Fitness AR Businesses generally.

There currently are no purchasing or distribution cooperatives. We may negotiate purchase arrangements with suppliers (including price terms). We do not provide material benefits to Area Representatives (for example, renewal or granting additional franchises) based on their purchase of particular products or services or use of particular suppliers.

You must solicit and provide services to Oxygen Yoga & Fitness Facility franchise owners according to our standards and guidelines and all applicable laws.

## Item 9

### FRANCHISEE'S OBLIGATIONS

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

OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
a. Site selection and acquisition/lease	Section 8.14 of Area Representative Agreement	Items 7, 8 and 12
b. Pre-opening purchases/leases	Sections 2.1, 8.3, 8.14 and 20.1 of Area Representative Agreement	Items 5, 7 and 8
c. Site development and other pre-opening requirements	Section 8.14 of Area Representative Agreement	Items 7, 8 and 11
d. Initial and ongoing training	Article 7 and Section 22.2 of Area Representative Agreement	Items 6 and 11

OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
e. Opening	Section 8.14 of Area Representative Agreement	Item 11
f. Fees	Sections 5.1, 5.2, 5.3, 5.4, 5.5, 6.5, 7.1, 7.4, 8.1, 8.10, 8.13, 14.2, 14.4, 15.1, 17.1, 18.2, 21.1 and 21.3 of Area Representative Agreement	Items 5, 6, 7, 8, 11 and 12
g. Compliance with standards and policies/operating manual	Sections 7.3, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8 and 11.2 of Area Representative Agreement	Items 8 and 11
h. Trademarks and proprietary information	Sections 2.2 and 8.2 and Articles 9 and 12 of Area Representative Agreement	Items 13 and 14
i. Restrictions on products/services offered	Sections 2.1, 8.2, 8.3, 8.4 and 8.5 of Area Representative Agreement	Items 8 and 16
j. Warranty and customer service requirements	Not Applicable	Not Applicable
k. Territorial development and sales quotas	Section 8.1 of Area Representative Agreement	Item 12
l. Ongoing product/service purchases	Sections 8.3 and 8.14 of Area Representative Agreement	Items 8 and 11
m. Maintenance, appearance, and remodeling requirements	Not Applicable	Items 11 and 13
n. Insurance	Article 20 of Area Representative Agreement	Items 6, 7 and 8
o. Advertising	Section 8.4 and Article 11 of Area Representative Agreement	Items 6, 7 and 11
p. Indemnification	Section 18.2 of Area Representative Agreement	Item 6
q. Owner's participation/management/staffing	Section 8.12 of Area Representative Agreement	Items 11 and 15
r. Records and reports	Sections 8.11, 22.1, 22.2 and Article 13 of Area Representative Agreement	Not Applicable

OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
s. Inspections and audits	Article 22 of Area Representative Agreement	Items 6 and 11
t. Transfer	Article 14 of Area Representative Agreement	Item 17
u. Renewal	Articles 4 and 15 of Area Representative Agreement	Item 17
v. Post-termination obligations	Article 17 of Area Representative Agreement	Item 17
w. Non-competition covenants	Article 19 of Area Representative Agreement	Item 17
x. Dispute resolution	Article 21 of Area Representative Agreement	Item 17
y. Other (Personal Guaranty)	Exhibit E to Area Representative Agreement	Item 15

### Item 10

### FINANCING

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

### Item 11

### FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

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

Before you open and begin operating the AR Business, we will:

1. Identify the area within which you may recruit and assist Oxygen Yoga & Fitness Facility franchise owners, determine your development obligations under the Development Schedule (see Item 12), and give you standards and specifications you must follow, including how to comply with applicable laws. (Area Representative Agreement – Sections 3.1 and 8.1)
2. You must obtain within 60 days of the effective date of the Area Representative Agreement, and thereafter maintain and operate the AR Business from, the Office in the Franchised Territory. Your Office may be located in your residence or in your Franchisee Facility. The Office may not be located in a commercial office space without our prior written approval, which we may withhold or condition in our sole discretion. (Area Representative Agreement – Sections 8.14 and 16.3)

3. As discussed in Item 8, identify the Operating Assets, equipment and supplies that you must use to develop and operate the AR Business, the minimum standards and specifications that you must satisfy, and the designated and approved suppliers from whom you must or may buy or lease these items (which may be limited to and/or include us, our affiliates, and/or other specified exclusive sources). (Area Representative Agreement – Section 8.2)
4. Provide you access to one copy of the Manual, the current table of contents of which is Exhibit F. As of the date of this Disclosure Document, the Manual contains ~~1073~~8 pages. (Area Representative Agreement – Section 7.3.)
5. Provide the AR Training Program to you or your AR Business Manager we approve and one additional member of your personnel. (Area Representative Agreement – Section 7.1.) We describe this training later in this Item.

During your operation of the AR Business, we will:

1. Review the applicants you propose as prospective franchise owners of Oxygen Yoga & Fitness Facilities, initially consider proposed sites for Oxygen Yoga & Fitness Facilities, and give you required disclosure documents and other legal documents. (Area Representative Agreement – Sections 8.4 and 8.6)
2. Pay you a portion of certain fees that we actually receive from Oxygen Yoga & Fitness Facility franchise owners within your Franchised Territory in which neither you nor any of your affiliates or owners have an ownership interest. We will pay you a portion of the initial franchise fees and a portion of the royalties we actually collect from Oxygen Yoga & Fitness Facility franchise owners operating in the Franchised Territory in which neither you nor any of your affiliates or owners have an ownership interest. We pay you the portion of the initial franchise fee within 30 calendar days after we receive and accept the initial franchise fee from the franchise owner and the portion of the royalties on the 10<sup>th</sup> day of each month (or on the following business day if the 10<sup>th</sup> day of the month is not a business day). We will reduce the portion of the initial franchise fees we pay to you (and we also may reduce the portion of the royalties we pay to you) to cover the costs for third party franchise broker services, discounts, referral fees, internal or external sales representative services, and for any other costs we incur to sell Oxygen Yoga & Fitness Facility franchises within your Franchised Territory. (Area Representative Agreement – Sections 6.1 and 6.2)
3. Give you, at your request (and our option), additional or special guidance, assistance, training and materials. (Area Representative Agreement – Section 7.2) (See Item 6)
4. Continue to provide you access to one copy of the Manual, which could include books, pamphlets, memoranda, audiotapes, videotapes, photographs, compact disks, computer software, other electronic media, and/or written materials. The Manual contains mandatory and suggested specifications, standards, operating procedures, and rules (“System Standards”) that we periodically require. We may modify the Manual periodically to reflect changes in System Standards. (Area Representative Agreement – Sections 7.3, 8.2 and 8.6)
5. Issue and modify System Standards for Oxygen Yoga & Fitness AR Businesses. We periodically may modify System Standards, which may accommodate regional or local variations, and these modifications may require you to invest additional capital in the AR Business and/or incur higher operating costs. (See Item 16) (Area Representative Agreement – Section 8.2)

6. Inspect and observe the AR Business' operation to help you comply with the Area Representative Agreement and all System Standards. We will not interfere unreasonably with the AR Business' operation during an inspection, and if the Office is located in a residence, we will only conduct an inspection if you host customers or actual or prospective franchise owners at the Office. (Area Representative Agreement – Sections 22.2 and 22.3)
7. Let you use our confidential information. (Area Representative Agreement – Article 9)
8. Let you use our Marks. (Area Representative Agreement – Articles 2 and 12)
9. Periodically offer refresher training courses. (Area Representative Agreement – Section 7.4) (See Item 6)

### Advertising Fund

Recognizing the value of advertising and marketing to the goodwill and public image of Oxygen Yoga & Fitness AR Businesses, we may establish an advertising fund (the “Advertising Fund”) for advertising, marketing, and public relations programs and materials we deem appropriate, to which you must contribute 1.5% of the Gross Revenues of all Oxygen Yoga & Fitness Facilities in the Franchised Territory during the previous month. We may designate a separate entity to operate and administer the Advertising Fund. Any such entity will have all of the rights and duties described here. Because we and our affiliates will not operate Oxygen Yoga & Fitness AR Businesses, there will be no Oxygen Yoga & Fitness AR Businesses owned by us or our affiliates that will contribute to the Advertising Fund. We may collect for deposit into the Advertising Fund any advertising, marketing, or similar allowances paid to us by suppliers who deal with Oxygen Yoga & Fitness AR Businesses and with whom we have agreed that we will so deposit these allowances.

We and/or an advertising agency that we designate will direct all programs that the Advertising Fund finances, with sole control over the creative concepts, materials, and endorsements used and their geographic, market, and media placement and allocation. The Advertising Fund may pay for preparing and producing video, audio, and written materials and electronic media; costs associated with inbound marketing channels and providers (for example, Google, Facebook, Instagram, TikTok, Pinterest and Yelp); developing, implementing, and maintaining an electronic commerce website and/or related strategies and efforts; social media strategy and execution; use of social media influencers; administering regional and multi-regional marketing and advertising programs, including purchasing trade journal, direct mail, and other media advertising; using advertising, promotion, and marketing agencies and other advisors to provide assistance; and supporting public relations, market research, and other advertising, promotion, and marketing activities. The Advertising Fund may advertise locally, regionally, and/or nationally in printed materials, on radio or television, and/or on the internet, whatever we think best.

The Advertising Fund may periodically give you samples of advertising, marketing, and promotional formats and materials at no cost. If we make these available, and you would like copies of the samples, the Advertising Fund will sell you multiple copies of these materials at their direct cost of producing them, plus any related shipping, handling, and storage charges.

We will account for the Advertising Fund separately from our other funds and not use the Advertising Fund for its or our general operating expenses. However, we may use the Advertising Fund to pay the reasonable salaries and benefits of personnel who manage and administer the Advertising Fund, the Advertising Fund's other administrative costs, the Advertising Fund's other administrative costs, travel expenses of personnel while they are on Advertising Fund business, meeting costs, exposition and show costs, overhead relating to Advertising Fund business, and other expenses that we

incur in activities reasonably related to administering or directing the Advertising Fund and its programs, including conducting market research; public relations; preparing advertising, promotion, and marketing materials; and collecting and accounting for Advertising Fund contributions. Because we did not implement the Advertising Fund during our 2023~~4~~ fiscal year, it has no operating history and is not currently audited.

The Advertising Fund is not our asset. The Advertising Fund also is not a trust. We have a contractual obligation to hold all Advertising Fund contributions for the benefit of the contributors and to use contributions only for their permitted purposes (described above). We do not have a fiduciary obligation to you for administering the Advertising Fund. The Advertising Fund may spend in any fiscal year more or less than the total Advertising Fund contributions in that year, borrow from us or others (paying reasonable interest) to cover deficits, re-pay any amounts owed to us or others as borrowed by the Advertising Fund in prior periods, or invest any surplus for future use. We do not expect to use any of the Advertising Fund contributions specifically to develop materials and programs that will be used principally to solicit area representatives. However, media, materials, and programs, including our website, prepared using Advertising Fund contributions may describe our area representative program, reference the availability of Oxygen Yoga & Fitness AR Businesses and related information, and process Area Representative leads. We may prepare an annual, unaudited statement of Advertising Fund collections and expenses and give you the statement upon written request. We may have the Advertising Fund audited annually, at the Advertising Fund's expense, by an independent certified public accountant. We may incorporate the Advertising Fund or operate it through a separate entity when we think best. The successor entity will have all of the rights and duties described here.

The Advertising Fund is to maximize recognition of the Marks, Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities. Although we may use the Advertising Fund to develop advertising and marketing materials and programs, and to place advertising and marketing, that will benefit all Oxygen Yoga & Fitness AR Businesses, we need not ensure that Advertising Fund expenditures in or affecting any geographic area are proportionate or equivalent to Advertising Fund contributions by Oxygen Yoga & Fitness AR Businesses operating in that geographic area or that any Oxygen Yoga & Fitness AR Business benefits directly or in proportion to its Advertising Fund contribution from the development of advertising and marketing materials or the placement of advertising. We may use collection agents and institute legal proceedings to collect Advertising Fund contributions at the Advertising Fund's expense. We also may forgive, waive, settle, and compromise all claims by or against the Advertising Fund. We assume no other direct or indirect liability or obligation to you for collecting amounts due to, maintaining, directing, or administering the Advertising Fund.

We may at any time defer or reduce an Area Representative's Advertising Fund contributions and, upon 30 days' prior written notice to you, reduce or suspend Advertising Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Advertising Fund. If we terminate the Advertising Fund, we will either spend the remaining monies in the Advertising Fund or distribute all unspent monies to Area Representatives, and to us and our affiliates, in proportion to their, and our, respective contributions during the preceding 12 month period. We may reinstate Advertising Fund contributions upon the same terms and conditions set forth herein upon 30 days' prior written notice to you. (Area Representative Agreement – Section 11.1)

### **Your Local Advertising**

Within 90 days of the effective date of the Area Representative Agreement and on an annual basis thereafter, you must submit to us for our approval a written plan covering your proposed marketing and promotional programs for Oxygen Yoga & Fitness Facilities in the Franchised Territory (the "AR Marketing Plan"). The AR Marketing Plan must include your sources of funds and operating budget for

your proposed marketing and promotional programs. You must modify the AR Marketing Plan according to our comments and use commercially reasonable efforts to implement the modified AR Marketing Plan in accordance with the Area Representative Agreement. You must not implement the AR Marketing Plan in the Franchised Territory without first having obtained our written approval. Upon implementation of the AR Marketing Plan, you must spend, during each month, a minimum of 2% of Gross Revenues of all Oxygen Yoga & Fitness Facilities operating within the Franchised Territory during the previous month or \$1,800, whichever is greater annually towards approved marketing and promotional programs outlined in the AR Marketing Plan. Any local advertising and promotion must follow our guidelines. All advertising and promotional materials that you develop for your AR Business must contain notices of our website's domain name in the manner we designate. You may not develop, maintain, or authorize any website that mentions or describes you or the AR Business or displays any of the Marks. We alone may establish, maintain, modify or discontinue all internet, worldwide web and electronic commerce activities pertaining to Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities, including through the use of a page or profile on a social media website such as Facebook, Instagram, TikTok, Pinterest, LinkedIn and Twitter.

All advertising, promotion, marketing, and public relations must be completely clear, factual, and not misleading and conform to both the highest standards of ethical advertising and marketing and the policies that we periodically require. Before you use them, you must send us or our designated agency for review samples of all advertising, promotional, marketing, and public relations materials that we have not prepared or previously approved. Promotional material includes materials you provide on a website or similar medium. If you do not receive written approval within 10 days after we or our designated agency receives the materials, they are deemed to be disapproved. You may not use any advertising, promotional, marketing, or public relations materials that we have not approved or have disapproved. There is no obligation for us to maintain any advertising program or to spend any amount on advertising in your geographic area. We have the right to require you to use one or more required suppliers for your local advertising.

We do not require franchise owners of Oxygen Yoga & Fitness AR Businesses to participate in a regional cooperative advertising program.

### Computer System

You must obtain and use in your Franchisee Facility and your AR Business all computer hardware and/or operating software (including point-of-sale equipment and software) we specify (the "Computer System"). (See Items 7 and 8 above) You may obtain the Computer System from any vendor so long as the Computer System meets our specifications. We estimate that your purchase of the Computer System will cost between \$3,500 and \$5,000. The types of data to be generated or stored in the Computer System include sales and customer information. We have independent, unlimited access to the information generated by the Computer System, and there are no contractual limitations on our right to do so. We may connect remotely to your Computer System at any time for any information and you must never block or restrict this access.

You will be solely responsible for the acquisition, operation, maintenance, and upgrading of the Computer System. In addition to the cost for the initial purchase of the Computer System, you must pay us or our designee the monthly Technology Fee (currently \$~~2500~~), which is meant to reimburse us or our designee for monthly amounts we or our designee pay to the supplier(s) of the Computer System on your behalf. We or our designee may require that you pay the Technology Fee directly to the supplier(s) of the Computer System at any time. We currently do not require that you purchase a maintenance contract to service the Computer System, but we reserve the right to do so in the future. The third parties whose Computer System-related products you purchase or lease have no contractual rights or obligations to

provide ongoing maintenance, repairs, upgrades or updates unless you obtain a service contract or a warranty covers the product. You must also have a functioning email address so that we can send you notices and otherwise communicate with you by this method.

We may change the Computer System at any time. There are no contractual limitations on the frequency and cost of this obligation. We need not reimburse you for any of these costs. We or our affiliates may condition any license of proprietary software to you, or your use of technology that we or our affiliates develop or maintain, on your signing a software license agreement or similar document that we or our affiliates prescribe to regulate your use of, and our and your respective rights and responsibilities concerning, the software or technology. We or our affiliates may charge you a monthly, annual, or other license fee for any proprietary software or technology that we or our affiliates license to you and for other maintenance and support services that we or our affiliates provide during the franchise term.

### Opening

We estimate that it will be 30 to 60 days after you sign the Area Representative Agreement before you open and begin operating the AR Business. The specific timetable for opening and operating the AR Business depends on the delivery schedule for equipment and supplies; completing training; and complying with local laws and regulations. You must notify us in writing at least 14 days before the day on which you propose to begin operating the AR Business. You may not open or begin operating the AR Business until: (1) we notify you in writing that the AR Business meets our standards and specifications; (2) you (or your managing owner) or your AR Business Manager complete initial training to our satisfaction; (3) you purchase an opening inventory of authorized and approved products, materials, and supplies to operate the AR Business; (4) you pay the Area Representative Fee and other amounts then due to us; and (5) you give us certificates or other evidence we require for all insurance policies we may require. Subject to these conditions, you must open and operate the AR Business within 60 days after the Area Representative Agreement's effective date. (Area Representative Agreement – Section 8.14.)

### AR Training Program

You or your AR Business Manager and one additional member of your personnel must attend our AR Training Program before you commence operations of your AR Business. We will provide approximately 3 days of training either in-person or online, in our sole discretion (although the specific number of days depends on our opinion of your experience and needs). You must notify us in writing of the names of the individuals that will attend the AR Training Program at least 10 days before the AR Training Program commences. If we determine that you (or any of your required attendees) cannot complete the AR Training Program to our satisfaction, then we may terminate the Area Representative Agreement. In that case, you will be eligible to receive a refund of any area representative fee that you have already paid if you sign our required form of release of claims. (See Item 5) (Area Representative Agreement – Section 7.1) If you do not satisfactorily complete the required AR Training Program during the normal time allotted, we may require you (or your AR Business Manager) and/or other required attendees to attend additional training programs ~~at our designated training facility~~ in order to achieve the sufficient level of training we require. We may charge reasonable fees for such additional training, as well as for additional training courses and programs we may require or offer during the franchise term. **You** **If we decide to provide these additional training courses and/or programs at a location we designate that requires our trainers to travel, you** also must pay for (i) all travel and living expenses that you and your ~~employees~~ personnel incur, and for your ~~employees'~~ personnel's wages and workers' compensation insurance while they attend ~~such~~ this additional training at ~~our training facility or~~ the location we designate. ~~(Area Representative Agreement – Section 7.1)~~ and (ii) our personnel's then current per diem charges (currently \$80 per trainer, per day) and actual travel and living expenses

while they provide this additional training at the location we designate, if they are required to travel.

We will provide the AR Training Program to you or your AR Business Manager and one additional member of your personnel at no cost. Additional people beyond the 2 attendees may attend the AR Training Program at no extra charge if those individuals attend the AR Training Program at the same time as the 2 attendees, subject to our ability and capacity to accommodate these extra persons. If additional individuals attend the AR Training Program at a different time or session than the two attendees, then you must pay our then current training charge for each additional person (currently, \$3,750 per person) to attend our AR Training Program. (See Item 6) If we decide to provide the AR Training Program at a location we designate instead of online, ~~Y~~you must pay for (i) all travel and living expenses that you and your personnel incur, and for your personnel's wages and workers' compensation insurance while they ~~train at our training facility or attend the AR Training Program~~ at the location we designate. ~~(Area Representative Agreement – Section 7.1)~~ and (ii) our personnel's then current per diem charges (currently \$80 per trainer, per day) and actual travel and living expenses while they provide the AR Training Program at the location we designate, if they are required to travel.

We or our designee conduct the AR Training Program as frequently as we deem necessary ~~at a designated training facility and/or at an operating Oxygen Yoga & Fitness Facility.~~ You or your AR Business Manager and the one additional member of your personnel that is required to attend the AR Training Program may not attend the AR Training Program more than 12 weeks before the AR Business is scheduled to begin operations, and the AR Training Program must be completed to our satisfaction at least 2 weeks before the AR Business begins operations. (Area Representative Agreement – Section 7.1)

As of the date of this Disclosure Document, we provide the following training for Oxygen Yoga & Fitness AR Businesses:

#### AR TRAINING PROGRAM

Column 1 Subject	Column 2 Hours of Classroom Training	Column 3 Hours of On-The-Job Training	Column 4 Location
Overview	<del>1</del> <u>2</u>	<del>1</del> <u>0</u>	<del>Vancouver, British Columbia (Canada), o</del> <u>Online</u> or <del>another</del> <u>a</u> location we designate- (See Note 1)
Marketing	<del>1</del> <u>2</u>	<del>1</del> <u>0</u>	<del>Vancouver, British Columbia (Canada), o</del> <u>Online</u> or <del>another</del> <u>a</u> location we designate- (See Note 1)
Support	<del>2</del> <u>6</u>	<del>4</del> <u>0</u>	<del>Vancouver, British Columbia (Canada), o</del> <u>Online</u> or <del>another</del> <u>a</u> location we designate-

Column 1 Subject	Column 2 Hours of Classroom Training	Column 3 Hours of On-The-Job Training	Column 4 Location
			(See Note 1)
Selling Franchises	<u>4-10</u>	<u>6-0</u>	<del>Vancouver, British Columbia (Canada),</del> <u>Online or another</u> location we designate- (See Note 1)
Total	<u>8-20</u>	<u>12-0</u>	

~~\*All classroom training is currently conducted online, including using Zoom or a similar video conferencing program we designate.~~ Samara Madhavan, our Training Director, ~~supervises and~~ and Jen Lockett, our Operations Training Director, supervise and coordinates our training programs. Samara has 26 years of relevant experience in the dance, yoga, and group fitness fields and 13 years' experience with us. Jen Lockett has 17 years of relevant experience in the fitness field and 14 years' experience with us.

The instructional materials for the AR Training Program currently include, or may include in the future, computer-based training courses and software, videos, handouts, the Manual, and tests or other evaluations we may require you or your attendees to complete.

Other staff may assist in conducting the AR Training Program as well. We expect that all other staff that assist in conducting the AR Training Program will have the appropriate years of experience in their relevant subject areas. We use manuals (including the Manual), presentations, training guides and handouts in the AR Training Program.

You (or your managing owner), your AR Business Manager and/or other previously trained and experienced employees must attend and complete to our satisfaction various training courses for Area Representatives that we periodically provide either online or in-person at the times and locations we designate. We may charge reasonable registration or similar fees for these courses, and we will not require in-person attendance at these training courses by you or your personnel for more than 10 total days during a calendar year. Besides attending these courses, we may require you or your AR Business Manager to attend any annual conferences, including international conferences, of all Area Representatives at a location we designate. You are responsible for all related travel and living expenses and wages incurred in connection with attending these courses and/or meetings. Additionally, if we provide any of these training courses and/or meetings at a location that requires our trainers to travel, you must pay our personnel's then current per diem charges (currently \$80 per trainer, per day) and actual travel and living expenses. (Area Representative Agreement – Section 7.4)

If any audit discloses a failure by you to operate the AR Business in accordance with our standards, then we may require you to undertake additional training at a designated training facility and/or at an operating Oxygen Yoga & Fitness Facility, and we will determine the duration of the training and the number of trainers in our sole discretion. If we require you to undertake this additional

training, you will pay our then applicable charges, including our personnel's then current per diem charges ~~and~~ (currently \$80 per trainer, per day) and actual travel and living expenses.

## Item 12

### TERRITORY

You will operate the AR Business within the Franchised Territory we accept. You may operate the AR Business only within the approved Franchised Territory. We will not approve relocation unless the new proposed location meets our criteria for site selection described above in Item 11. We will describe the Franchised Territory in the Area Representative Agreement before you sign it. While you need not operate from a specific location, you always must operate at least one Oxygen Yoga & Fitness Facility within the Franchised Territory. We typically mark the Franchised Territory's boundaries by cities, counties, or state lines. We primarily consider demographics, traffic patterns, competition, your capacity to recruit and provide services in a large area, site availability, economic trends, and the number of Oxygen Yoga & Fitness Facilities we believe the Franchised Territory can sustain. There is no specific minimum or maximum area we must include in the Franchised Territory, but the area will contain a minimum population of 25,000 people as of the effective date of the Area Representative Agreement. (For purposes of this definition, the term "population" shall include all potential persons within the Franchised Territory, whether arising from personal, residential, weekday or daytime business, and/or general commercial business, or any combination thereof.) We always identify the Franchised Territory in a schedule to the Area Representative Agreement before you sign it. You may recruit and provide services only to franchise owners located within the Franchised Territory.

We and our affiliates retain certain rights within and outside the Franchised Territory, as described below in this Item. Therefore, you will not receive an exclusive territory. You may face competition from other Area Representatives, from outlets that we own, or from other channels of distribution or competitive brands that we control.

Except as limited below, we and our affiliates will not, without your prior written consent, establish and appoint another person as an Area Representative to develop, manage, service and supervise franchise owners within the Franchised Territory as long as you are not in default of the Area Representative Agreement or any other agreement with us. The Area Representative Agreement provides you with no marketing exclusivity in the Franchised Territory as to the sale of Oxygen Yoga & Fitness Facilities. We and our affiliates may operate, or grant a franchise for the operation of, other Oxygen Yoga & Fitness Facilities within the Franchised Territory. We need not provide compensation to you for soliciting prospective franchise owners or members (or signing members up) for Oxygen Yoga & Fitness Facilities within the Franchised Territory or outside the Franchised Territory. However, we will compensate you by paying you 66.6% of the total amount of each initial franchise fee and 66.6% of the ongoing royalty that we actually receive pursuant to the terms of a Franchise Agreement for the operation of an Oxygen Yoga & Fitness Facility located within the Franchised Territory. However, we may reduce the compensation we pay to you to cover the costs of third party franchise broker services, discounts, referral fees, internal or external sales representative services, and for any other costs we incur to sell Oxygen Yoga & Fitness Facilities within your Franchised Territory. We will not pay you any percentage of the initial franchise fees we receive from franchise owners who have entered into Franchise Agreements before the effective date of your Area Representative Agreement and will not pay you any percentage of the initial franchise fee for your first franchised Oxygen Yoga & Fitness Facility you agree to develop in your Franchised Territory since that initial franchise fee is included in the Area Representative Fee you pay us.

We and our affiliates retain all rights with respect to the Marks, the sale of identical, similar or dissimilar products and services, and any other activities we deem appropriate whenever and wherever we desire, including, but not limited to:

- 1) the right to develop, market, own, operate or participate in, and to grant to others the right to develop, market, own and operate, any other business under the Marks or any other trademark within and outside of the Franchised Territory;
- 2) the right to market and sell memberships to customers located anywhere (including the Franchised Territory) to use all Oxygen Yoga & Fitness Facilities then-operating (including your Oxygen Yoga & Fitness Facility);
- 3) the right to own, operate and situate Oxygen Yoga & Fitness Facilities anywhere within and outside of the Franchised Territory, as we consider appropriate and regardless of proximity to an existing Oxygen Yoga & Fitness Facility;
- 4) the right to engage one or more third party franchise broker and sales representative services to sell Oxygen Yoga & Fitness Facilities within and outside the Franchised Territory, as we or our affiliates consider appropriate;
- 5) the right to grant franchises, licenses, contracts, and/or enter into joint venture agreements for the operation of Oxygen Yoga & Fitness Facilities within and outside of the Franchised Territory, as we or our affiliates consider appropriate and regardless of proximity to an existing Oxygen Yoga & Fitness Facility;
- 6) the right to acquire the assets or ownership interests of one or more businesses providing classes, programs, products and services the same as or similar to those provided at Oxygen Yoga & Fitness Facilities, and franchising, licensing or creating similar arrangements with respect to these businesses once acquired, wherever these businesses (or the franchise owners or licensees of these businesses) are located or operating (including in the Franchised Territory);
- 7) the right to be acquired (whether through acquisition of assets, ownership interests or otherwise, regardless of the form of transaction), by a business providing classes, programs, products and services the same as or similar to those provided at Oxygen Yoga & Fitness Facilities, or by another business, even if such business operates, franchises and/or licenses competitive businesses in the Franchised Territory;
- 8) the right to provide, offer and sell and to grant others the right to provide, offer and sell classes, programs, products and services that are identical or similar to and/or competitive with those classes, programs, products and services provided at Oxygen Yoga & Fitness Facilities, whether identified by the Marks or other trademarks or service marks, through alternative distribution channels (including the internet or similar electronic media, and any other form of electronic commerce) both inside and outside the Franchised Territory and on any terms and conditions we deem appropriate;
- 9) the right to establish and operate, and to grant to others the right to establish and operate, businesses offering dissimilar classes, programs, products and services, both inside and outside the Franchised Territory under the Marks and on any terms and conditions we deem appropriate; and

10) the right to market and sell classes, programs, products and services to national, regional and institutional accounts, whether located inside or outside the Franchised Territory. “National, regional and institutional accounts” are organizational or institutional customers whose presence is not confined to the Franchised Territory, including (by way of example only): business entities with offices, facilities or branches situated both inside and outside of the Franchised Territory; government agencies, branches or facilities; healthcare networks; the military; and any other customer whose presence is not confined to the Franchised Territory.

You may not begin soliciting new franchise owners for Oxygen Yoga & Fitness Facilities to be located in the Franchised Territory until you have operated your own Oxygen Yoga & Fitness Facility (as disclosed to you in a separate disclosure document for the unit franchise offer) in compliance with the Franchise Agreement for at least 3 months. You may not advertise or solicit any franchise owner for operation of an Oxygen Yoga & Fitness Facility to be located outside the Franchised Territory of your Oxygen Yoga & Fitness AR Business, including through other channels of distribution (such as the internet, catalog sales, telemarketing, or other direct marketing). You have no options, rights of first refusal, or similar rights to acquire additional Oxygen Yoga & Fitness AR Businesses.

### Development Schedule

To maintain your rights within the Franchised Territory, you must comply with the development schedule (the “Development Schedule”) in Exhibit C to the Area Representative Agreement. You must open, and/or solicit franchise owners who open, the cumulative number of Oxygen Yoga & Fitness Facilities in the Franchised Territory as provided for in the Development Schedule. (Each period described in the Development Schedule is referred to as a “Development Period”). We will include an Oxygen Yoga & Fitness Facility in the cumulative number of Oxygen Yoga & Fitness Facilities required to be open and operating only if it actually is operating within the Franchised Territory and complying with the terms of its Franchise Agreement. However, an Oxygen Yoga & Fitness Facility which is, with our approval, permanently closed during the last 3 months of a Development Period after having been in operation will be included in the cumulative number of Oxygen Yoga & Fitness Facilities that must be open and operating during that particular Development Period (but not after, meaning that you must replace the closed Oxygen Yoga & Fitness Facility during the next Development Period in addition to fulfilling your new Oxygen Yoga & Fitness Facility development obligation for that Development Period). We will include any Oxygen Yoga & Fitness Facilities you (or your owners) own and operate within the Franchised Territory (and any Oxygen Yoga & Fitness Facilities we or our affiliates own and operate within the Franchised Territory) in the cumulative number of Oxygen Yoga & Fitness Facilities that must be open and operating.

If you do not comply with the Development Schedule during any Development Period, we may (but need not):

- (a) terminate the Area Representative Agreement;
- (b) eliminate your right to solicit, qualify, and provide services to franchise owners in the Franchised Territory and we may grant area representative rights to any person within the Franchised Territory;
- (c) terminate your right to further development in the Franchised Territory, but require you to continue to service then-existing franchise owners in the Franchised Territory; or

- (d) require you to pay us a Deficiency Payment equal to a fee of \$600 per month per Oxygen Yoga & Fitness Facility from the date such Oxygen Yoga & Fitness Facility should have opened until the date it actually opens.

**Item 13**

**TRADEMARKS**

You may use certain Marks in operating the AR Business and the Franchisee Facility. The following Mark is owned by OYF Inc., who has registered the Mark on the Principal Register of the U.S. Patent and Trademark Office:

MARK	REGISTRATION OR APPLICATION NUMBER	REGISTRATION OR APPLICATION DATE
	7072931 (Reg.)	June 6, 2023 (Reg.)

OYF Inc. has licensed us the right to use the System and Marks and to sublicense them to our Area Representatives in a trademark, copyright, and know-how license agreement dated as of August 8, 2023. The trademark, copyright, and know-how license agreement allows us to use, and sublicense to our Area Representatives the right to use, the Marks, System, and other intellectual property anywhere in the world. The trademark, copyright, and know-how license agreement provides for an indefinite term, unless earlier terminated by OYF Inc. or us upon 120 days’ prior written notice to the other party. Area Representatives must cease using the System and Marks upon termination of the trademark, copyright, and know-how license agreement. No other agreement limits our right to use or license the Marks.

You must follow our rules when you use the Marks, including giving proper notices of trademark and service mark registration and obtaining fictitious or assumed name registrations required by law. You may not use any Mark in your corporate or legal business name; with modifying words, terms, designs, or symbols (except for those we license (or sublicense, as applicable) to you); in selling any unauthorized services or products; or as part of any domain name, homepage, social media site page, group or post, electronic address, or otherwise in connection with a website.

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, and no pending infringement, opposition, or cancellation proceedings or material litigation, involving the principal Marks. We do not actually know of either superior prior rights or infringing uses that could materially affect your use of the Marks in any state.

You must notify us immediately of any apparent infringement or challenge to your use of any Mark, or of any person’s claim of any rights in any Mark, and you may not communicate with any person other than us, our attorneys, and your attorneys, regarding any infringement, challenge, or claim. We and OYF Inc. may take the action we deem appropriate (including no action) and control exclusively any litigation, USPTO proceeding, or other administrative proceeding arising from any infringement, challenge, or claim. You must assist us and OYF Inc., as we direct, in protecting and maintaining our interests in any litigation or USPTO or other proceeding. At our option, we and OYF Inc. may defend and/or control the defense of any proceeding arising from your use of any Mark. We need not participate

in your defense and/or indemnify you for damages or expenses in a proceeding involving the Marks; however, if you timely notify us and comply with our directions in response to a trademark infringement proceeding that disputes your authorized use of the Marks, then we will reimburse you for your damages and reasonable expenses you incur.

If it becomes advisable at any time for us and/or you to modify or discontinue using any Mark and/or to use one or more additional or substitute trade or service marks, you must comply with our directions within a reasonable time after receiving notice. We need not reimburse you for your direct expenses of changing the AR Business' signs, for any loss of revenue due to any modified or discontinued Mark, any loss of goodwill associated with any modified or discontinued Mark, or for your expenses of promoting a modified or substitute trademark or service mark.

#### **Item 14**

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

No patents or pending patent applications are material to the franchise. We and OYF Inc. claim copyrights in the Manual and Franchise Owner Operations Manual (which contain our trade secrets), advertising and marketing materials, and similar items used in operating Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities. We have not registered these copyrights with the United States Registrar of Copyrights, but neither we nor OYF Inc. need do so at this time to protect them. You may use these items only as we specify while operating your AR Business (and must stop using them if we so direct you).

There currently are no effective adverse determinations of the USPTO, the United States Copyright Office, or any court regarding the copyrighted materials. No agreement limits our right to use or allow others to use the copyrighted materials. We do not actually know of any infringing uses of our copyrights that could materially affect your use of the copyrighted materials in any state.

We need not protect or defend copyrights, although we intend to do so if in the best interests of the System or all or some Oxygen Yoga & Fitness AR Businesses and/or Oxygen Yoga & Fitness Facilities, as we solely determine. We may control any action we choose to bring, even if you voluntarily bring the matter to our attention. We need not participate in your defense and/or indemnify you for damages or expenses in a proceeding involving a copyright.

Our Manual and other materials contain our confidential information (some of which constitutes trade secrets under applicable law). This information includes, or may in the future include: site selection criteria and layouts, designs and other plans and specifications; training and operations materials and manuals; methods, formats, specifications, standards, systems, procedures, sales and marketing techniques, knowledge, and experience used in developing and operating Oxygen Yoga & Fitness Facilities; marketing, promotional and advertising research and programs for Oxygen Yoga & Fitness Facilities; knowledge of specifications for and suppliers of Operating Assets, and other products and supplies, including supplier pricing and related terms; any computer software or similar technology that is proprietary to us or the System; knowledge of the operating results and financial performance of Oxygen Yoga & Fitness Facilities located within and outside of the Franchised Territory; graphic designs and related intellectual property; customer solicitation, communication and retention programs; all data and other information generated by, or used in, the operation of Oxygen Yoga & Fitness Facilities, including customer and membership lists; and future business plans relating to Oxygen Yoga & Fitness Facilities and the Oxygen Yoga & Fitness franchise opportunity.

All ideas, concepts, inventions, techniques, or materials concerning an Oxygen Yoga & Fitness

AR Business, whether or not protectable intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the System, and works made-for-hire for us. To the extent any item does not qualify as a “work made-for-hire” for us, you assign ownership of that item, and all related rights to that item, to us and must take whatever action (including signing assignment or other documents) we request to show our ownership or to help us obtain intellectual property rights in the item.

You may not use our confidential information in an unauthorized manner. You must take reasonable steps to prevent its improper disclosure to others. You must have our form of Non-Disclosure and Non-Competition Agreement executed by all of the following persons: (i) the AR Business Manager and any supervisory or other employees of yours who have received or will receive training from us, before their employment; (ii) if you are an entity, all your officers, directors, shareholders, partners, members and owners, and those of any entity directly or indirectly controlling you, at the same time the Area Representative Agreement is signed, or at such time as they assume such status, and (iii) you, your owners, and your and your owners’ spouses. You agree to provide us copies of all executed Non-Disclosure and Non-Competition Agreements no later than 10 days following their execution. We will be a third party beneficiary of each Non-Disclosure and Non-Competition Agreement with independent enforcement rights.

### **Item 15**

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

You must personally and directly supervise the operation of your AR Business, unless we otherwise permit in writing. You must devote the amount of your time, attention and best efforts to the performance of your duties under the Area Representative Agreement that is necessary for the proper and effective operation of your AR Business. You (or your managing owner) or your AR Business Manager who has completed our training programs must devote full time and efforts to the management and supervision of the AR Business. You must at all times faithfully, honestly, and diligently perform your contractual obligations and use best efforts to promote and enhance the AR Business. System Standards may regulate the AR Business' staffing levels, identifying the AR Business' personnel, and employee qualifications, training, dress, and appearance. If you are a legal entity, you must appoint a shareholder, member, or partner (as applicable) to be your "Managing Owner," responsible for overseeing and supervising the AR Business' operation.

You must keep us informed at all times of the identity of any supervisory employees acting as the AR Business Manager or assistant managers of the AR Business. Your AR Business Manager and assistant managers need not have an equity interest in the AR Business or you but must agree in writing to preserve confidential information to which they have access and not to compete with you, us, and other franchise owners. We may regulate the form of agreement that you use and be a third party beneficiary of that agreement with independent enforcement rights.

If you are a corporation, limited liability company, or partnership, your owners must personally guarantee your obligations under the Area Representative Agreement and agree to be bound personally by every contractual provision, whether containing monetary or non-monetary obligations, including the covenant not to compete. This "Guaranty and Assumption of Obligations" is the last page of the Area Representative Agreement.

### **Item 16**

**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must offer and sell all goods and perform all services that we periodically require for Oxygen Yoga & Fitness AR Businesses. You may not offer or sell any products or perform any services that we have not authorized. (See Item 8) Our System Standards may regulate required and/or authorized services, equipment, vehicles, materials and supplies; and unauthorized and prohibited services, products, equipment, vehicles, materials, supplies. We periodically may change required and/or authorized services and products. There are no limits on our right to do so. (See Item 8)

You must use reasonable efforts to ensure that Oxygen Yoga & Fitness Facility franchise owners within your Franchised Territory do not offer, sell or promote any services or products that have not been authorized by us in writing.

You may not operate the AR Business, solicit franchise owners, or provide services outside the Franchised Territory. We may change standards for doing so periodically, and there are no limits on our right to do so. (See Item 12)

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**Item 17**

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

**THE FRANCHISE RELATIONSHIP**

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

<b>PROVISION</b>	<b>SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT</b>	<b>SUMMARY</b>
a. Length of the franchise term	Article 4 of Area Representative Agreement	10 years
b. Renewal or extension of the term	Articles 4 and 15 of Area Representative Agreement	You can renew for 2 additional consecutive terms of 5 years each if you have complied with the conditions and procedures for renewal in the Area Representative Agreement if we are franchising in the state where your Franchised Territory is located
c. Requirements for franchisee to renew or extend	Sections 15.1 and 15.2 of Area Representative Agreement	To "renew," you must be in substantial compliance with the Area Representative Agreement and Manual; give us timely notice; pay us the renewal fee, plus

PROVISION	SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT	SUMMARY
		<p>applicable taxes; and sign our then current area representative agreement, a release (if law allows), and other documents we use to grant franchises.</p> <p>The terms of our then current area representative agreement that you sign for renewal of the franchise may differ materially from any and all of those contained in the Area Representative Agreement attached to this Disclosure Document, including reduced Franchised Territory and increased fees</p>
d. Termination by franchisee	Section 16.1	If we breach the Franchise Agreement and the arbitrators determine that we did not cure default after notice from you
e. Termination by franchisor without cause	Not Applicable	Not Applicable
f. Termination by franchisor with cause	Sections 16.2, 16.3, and 16.4 of Area Representative Agreement	We may terminate your franchise only if you or your owners commit one of several violations. If the nature of the default under any other agreement would have permitted us to terminate the Franchise Agreement if the default had occurred under the Franchise Agreement, then we (or our affiliate) will have the right to terminate all other agreements between you and us (or any of our affiliates) in the same manner provided for in the Franchise Agreement for termination of the Franchise Agreement.
g. "Cause" defined — curable defaults	Section 16.3 of Area Representative Agreement	You have 30 days after you receive notice from any Government Entity to cure any federal, state, or local law violation applicable to the operation of the AR Business; 10 days to cure monetary defaults; 30 days to cure operational defaults and other defaults not listed in (h) below; 10 days to cure failure to submit reports or other data,

PROVISION	SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT	SUMMARY
		information or supporting records; 3 days to cure advertising requirements in Article 11 of the Area Representative Agreement (subject to state law)
h. "Cause" defined — non-curable defaults	Sections 16.2 and 16.3 of Area Representative Agreement	Non-curable defaults include: bankruptcy of you or the AR Business; an assignment for the benefit of creditors; a petition of bankruptcy is filed by or against the AR Business and is not contested or dismissed within 60 days of filing; appointment of a trustee or receiver; proceedings for a composition with creditors are instituted by or against you or the AR Business; dissolution; execution is levied against you or the AR Business; real or personal property of the AR Business is sold after levy by any governmental body or agency; abandonment; failure to begin operating the AR Business within 60 days after the effective date of the Area Representative Agreement; misrepresentation in acquiring the franchise or operating the AR Business; conviction of a felony, fraud, crime or offense involving moral turpitude or other crime related to the AR Business; unapproved transfers; failure to comply with the in-term covenant not to compete; violation of restrictions on use of confidential information; failure to comply with and/or obtain non-competition or confidentiality covenants from persons we require; you conceal revenues; knowingly maintaining false books or records or submitting false reports; certain violations relating to the Marks; repeated defaults (even if cured); willful misrepresentation or failure to make a material disclosure required by any governmental authority; interference with our contractual relations with third parties; interference with our ability to license others to use our Marks and the System; dishonest or unethical conduct;

PROVISION	SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT	SUMMARY
		you, any of your owners, representatives, or employees make any illicit statements, including in an email to our employees, officers, or directors, or in any social media posts, or any other unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, pornographic, gambling-related, drug-related, alcohol-related, profane, racist, sexually explicit or indecent comments that in our opinion negatively affects us, our employees, our operations or otherwise affects the AR Business' reputation or the goodwill associated with the Marks; any other agreement between us is terminated; offer or sale of any unapproved program, service or product; unauthorized use or duplication of the System, services or programs; failure to comply with the Development Schedule; or violation of any anti-terrorism law (subject to state law)
i. Franchisee's obligations on termination/nonrenewal	Article 17 of Area Representative Agreement	Obligations include paying outstanding amounts; complete deidentification; assigning telephone and other numbers; and returning confidential information (also see (o) and (r) below)
j. Assignment of contract by franchisor	Section 14.1 of Area Representative Agreement	No restriction on our right to assign; we may assign without your approval
k. "Transfer" of franchisee defined	Section 14.2 of Area Representative Agreement	Includes transfer of Area Representative Agreement, the AR Business, ownership change in you or your owners
l. Franchisor approval of transfer by franchisee	Sections 14.2 and 14.4 of Area Representative Agreement	No transfer without our written consent
m. Conditions for franchisor approval of transfer	Section 14.4 of Area Representative Agreement	You comply with our right of first refusal; new franchise owner qualifies; training completed; you have cured any

PROVISION	SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT	SUMMARY
		existing defaults under the Area Representative Agreement; you pay us and our affiliates all amounts due; transferee signs our then current area representative agreement and other documents; you sign release (if law allows); transfer fee paid; we approve material terms; and you remain liable for all pre-transfer obligations to us under the Area Representative Agreement (also see (r) below)
n. Franchisor's right of first refusal to acquire franchisee's business	Section 14.6 of Area Representative Agreement	We may match any offer for your AR Business or an ownership interest in you
o. Franchisor's option to purchase franchisee's business	Section 4.2 of the Area Representative Agreement	Beginning on the 3 <sup>rd</sup> anniversary of the effective date of the Area Representative Agreement, and at any time thereafter during the Term or any Renewal Term, we have the first right to purchase: (i) your interest in the Area Representative Agreement and the business you conduct thereunder, including any assets used in operating your AR Business, or (ii) if you are an entity, 100% of the ownership interests in you (subject to state law).
p. Death or disability of franchisee	Section 14.5 of Area Representative Agreement	Assignment of franchise or an ownership interest in your within 6 months; we may manage AR Business if there is no qualified AR Business Manager
q. Non-competition covenants during the term of the franchise	Section 8.19 of Area Representative Agreement	No ownership interest in, or performing services for, competitive business anywhere; no diverting business to a competitive business; no loaning money to a competitive business; no engaging in any other activity which might injure the goodwill of the Marks or the System; no marketing or granting sublicenses for Oxygen Yoga & Fitness Facilities within the franchised territory of any existing

PROVISION	SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT	SUMMARY
		Oxygen Yoga & Fitness AR Business (“competitive business” means any fitness, health and wellness business that derives more than 5% of its revenue from providing yoga, related fitness, weight loss, wellness and health classes and programs or related programs or services or any business granting franchises or licenses to others to operate such a business) (subject to state law)
r. Non-competition covenants after the franchise is terminated or expires	Sections 19.1 and 19.2 of Area Representative Agreement	No direct or indirect ownership interest in, or performing services for, competing business for 2 years within the Franchised Territory; within a 10 mile radius of the Franchised Territory; or within the franchised territory of any, and within a 10 mile radius of the franchised territory of any other, Oxygen Yoga & Fitness AR Business in operation or in the process of opening as of the date Area Representative Agreement expires or is terminated; no solicitation for 2 years of any of our or our affiliates' customers or any customers of any other franchise owner or area representative (same restrictions apply after transfer) (subject to state law)
s. Modification of the agreement	Sections 7.3 and 23.1 of Area Representative Agreement	No modifications generally, but we may change Manual and System Standards
t. Integration/merger clause	Section 23.2 of Area Representative Agreement	Only the terms of the Area Representative Agreement are binding (subject to state law). However, nothing in the Area Representative Agreement or any related agreement is intended to disclaim our representations made in this Disclosure Document
u. Dispute resolution by arbitration or mediation	Sections 21.1 and 21.2 of Area Representative Agreement	Subject to the requirement to mediate certain disputes, we and you must arbitrate all disputes in Vancouver, British Columbia (Canada)

PROVISION	SECTION IN AREA REPRESENTATIVE OR OTHER AGREEMENT	SUMMARY
v. Choice of forum	Section 21.5 of Area Representative Agreement	Subject to mediation and arbitration requirements, litigation generally must be in the state or federal court of competent jurisdiction located closest to our then current <del>principal—business</del> <u>registered</u> address in the United States (currently, Dover, Delaware) (subject to state law)
w. Choice of law	Section 21.4 of Area Representative Agreement	Except for Federal Arbitration Act and other federal law, Delaware law governs (subject to state law)

**Item 18**

**PUBLIC FIGURES**

We currently do not use any public figures to promote franchises for Oxygen Yoga & Fitness AR Businesses.

**Item 19**

**FINANCIAL PERFORMANCE REPRESENTATIONS**

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

We do not make any representations about a franchise owner’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor’s management by contacting our Chief Operating Officer, Melissa Hanssens at ~~133-24076 McDougal Street~~112 Avenue, Maple Ridge, British Columbia, Canada V2XW 4K60K2, and 604-619-6901; the Federal Trade Commission; and the appropriate state regulatory agencies.

Item 20

OUTLETS AND FRANCHISEE INFORMATION

~~All year-end numbers appearing in the tables below are as of December 31 in each year. These tables are for Area Representatives operating under Area Representative Agreements with us.~~

~~TABLE 1~~  
**SYSTEMWIDE OUTLET SUMMARY**  
~~FOR YEARS 2021 TO 2023~~  
FOR YEARS 2021 TO 2024

Column 1	Column 2	Column 3	Column 4	Column 5
Outlet Type	Year	Outlets at the Start of Year	Outlets at the End of Year	Net Change
<del>Franchised</del>	<del>2021</del>	<del>0</del>	<del>0</del>	<del>0</del>
<u>Franchised</u>	2022	0	0	0
	2023	0	0	0
<del>Company-Owned</del>	<del>2021</del>	<del>0</del>	<del>0</del>	<del>0</del>
<u>Company Owned</u>	2022	0	0	0
	2023	0	0	0
<del>Total Outlets</del>	<del>2021</del>	<del>0</del>	<del>0</del>	<del>0</del>
<u>Total Outlets</u>	2022	0	0	0
	2023	0	0	0
	<u>2024</u>	<u>0</u>	<u>0</u>	<u>0</u>

~~TABLE 2~~  
~~TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS (OTHER THAN THE FRANCHISOR)~~  
TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS (OTHER THAN THE FRANCHISOR)  
FOR YEARS 2021 TO 2024

Column 1	Column 2	Column 3
State	Year	Number of Transfers
<del>All States</del>	<del>2021</del>	<del>0</del>
<u>All States</u>	2022	0
	2023	0
<del>Totals</del>	<del>2021</del>	<del>0</del>
<u>Totals</u>	2022	0
	2023	0
	<u>2024</u>	<u>0</u>

**TABLE 3**  
**STATUS OF FRANCHISED OUTLETS**  
**FOR YEARS 2021 TO 2023**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Terminat ions	Col. 6 Non- Renewals	Col. 7 Reacquired By Franchisor	Col. 8 Ceased Operations - Other Reasons	Col. 9 Outlets at End of the Year
All States	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
TOTALS	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0

**TABLE 4**  
**STATUS OF COMPANY-OWNED OUTLETS**  
**FOR YEARS 2021 TO 2023**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Terminat ions	Col. 6 Outlets- Reacquire d-From- Franchise eNon- Renewals	Col. 7 Reacquired Outlets- ClosedBy Franchisor	Col. 8 Outlets Sold to- Franchisee C eased Operations = Other Reasons	Col. 9 Outlets at End of the Year
All States	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Totals TOTAL S	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0

~~TABLE~~ **TABLE 5**  
~~PROJECTED OPENINGS AS OF DECEMBER~~ **PROJECTED OPENINGS AS OF**  
**DECEMBER 31, 2023** ~~34~~

Column 1  State	Column 2  Franchise Agreements Signed <del>b</del> But Outlets Not Opened	Column 3  Projected New Franchised Outlets In The <del>New</del> Next Fiscal Year	Column 4  Projected New Company-Owned Outlets In <del>The New</del> the Next Fiscal Year
Arizona	<del>0</del> <u>1</u>	1	0
California	<del>1</del> <u>2</u>	2	0
<u>Colorado</u>	<u>0</u>	<u>1</u>	<u>0</u>
<u>Florida</u>	<u>2</u>	<u>4</u>	<u>0</u>
<del>Florida</del> <u>Georgia</u>	0	2	0
<del>Nevada</del> <u>Iowa</u>	<del>0</del> <u>1</u>	1	0
<del>New York</del> <u>Michigan</u>	<del>1</del> <u>0</u>	1	0
<u>New York</u>	<u>2</u>	<u>2</u>	<u>0</u>
<del>Washington</del> <u>Texas</u>	0	1	0
<b>Totals</b>	<del>2</del> <u>8</u>	<del>15</del> <u>8</u>	0

Exhibit H reflects the current list of Area Representatives as of the end of our last fiscal year. As reflected in Exhibit H, we do not have any former Area Representatives that departed our franchise network during our prior fiscal year. Therefore, no Area Representatives had AR Businesses terminated, canceled, transferred, or not renewed, or otherwise voluntarily or involuntarily ceased to do business under our Area Representative Agreement, during our last fiscal year or who have not communicated with us within 10 weeks of this Disclosure Document’s issuance date. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last 3 fiscal years, no current or former Area Representatives have signed confidentiality clauses that restrict them from discussing with you their experiences as an Area Representative in our franchise system.

There are currently no trademark-specific franchise owner organizations associated with the franchise system.

**Item 21**

**FINANCIAL STATEMENTS**

Exhibit E contains our audited consolidated financial statements, which comprise our consolidated balance sheets ~~as of~~ for fiscal years ending December 31, 2023, and December 31, 2024, and the related consolidated statements of operations, changes in stockholder’s deficit and cash flows for our fiscal years ending December 31, 2023, and December 31, 2024. We have not been selling

franchises for three years or more and cannot include all the financial statements required by the FTC Rule for our last three fiscal years. Our fiscal year end is December 31.

## **Item 22**

### **CONTRACTS**

The following agreements are exhibits:

- (a) Exhibit C Area Representative Agreement
- (b) Exhibit D State Addenda to Area Representative Agreement
- (c) Exhibit G Sample Form of General Release
- (d) Exhibit I Area Representative Disclosure Questionnaire

## **Item 23**

### **RECEIPTS**

Our and your copies of the receipt to this Disclosure Document are located at the last 2 pages of this Disclosure Document.

**EXHIBIT A**

**LIST OF STATE ADMINISTRATORS**

**LIST OF STATE ADMINISTRATORS**

<p><b><u>CALIFORNIA</u></b></p> <p>Office of the Commissioner California Department of Financial Protection and Innovation 320 West 4th Street, Suite 750 Los Angeles, California 90013-2344 (213) 576-7500</p>	<p><b><u>HAWAII</u></b></p> <p>Commissioner of Securities Department of Commerce and Consumer Affairs 335 Merchant Street, Room 205 Honolulu, Hawaii 96813 (808) 586-2722</p>
<p><b><u>ILLINOIS</u></b></p> <p>Illinois Attorney General 500 South Second Street Springfield, Illinois 62706 (217) 782-4465</p>	<p><b><u>INDIANA</u></b></p> <p>Indiana Secretary of State Securities Division, Room E 111 302 West Washington Street Indianapolis, Indiana 46204 (317) 232-6681</p>
<p><b><u>MARYLAND</u></b></p> <p>Office of Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202 (410) 576-6360</p>	<p><b><u>MICHIGAN</u></b></p> <p>Franchise Administrator Consumer Protection Division Michigan Department of Attorney General 670 Law Building Lansing, Michigan 48913 (517) 335-7567</p>
<p><b><u>MINNESOTA</u></b></p> <p>Commissioner Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101-2198 (651)539-1600</p>	<p><b><u>NEW YORK</u></b></p> <p>New York State Department of Law 28 Liberty Street, 215<sup>th</sup> Floor New York, New York 10005 (212) 416-8222</p>
<p><b><u>NORTH DAKOTA</u></b></p> <p>Securities Department 600 East Boulevard, 14<sup>th</sup> Floor Bismarck, North Dakota 58505 (701) 328-4712</p>	<p><b><u>OREGON</u></b></p> <p>Department of Consumer and Business Services Division of Finance and Corporate Securities Labor and Industries Building Salem, Oregon 97310 (503) 378-4140</p>

<p><b><u>RHODE ISLAND</u></b></p> <p>Superintendent of Securities  Division of Securities  John O. Pastore Complex – Bldg.69-1  1511 Pontiac Avenue  Cranston, Rhode Island 02920  (401) 462-9527</p>	<p><b><u>SOUTH DAKOTA</u></b></p> <p>Division of Insurance  Securities Regulation  124 S. Euclid Avenue, Second Floor  Pierre, South Dakota 57501  (605) 773-3563</p>
<p><b><u>VIRGINIA</u></b></p> <p>State Corporation Commission  Division of Securities and Retail Franchising  1300 E. Main Street, Ninth Floor  Richmond, Virginia 23219  (804) 371-9051</p>	<p><b><u>WASHINGTON</u></b></p> <p>Department of Financial Institutions  P.O. Box 41200  Olympia, Washington 98504-1200  (360) 902-8715</p>
<p><b><u>WISCONSIN</u></b></p> <p>Department of Financial Institutions  Division of Securities  4822 Madison Yards Way, North Tower  Madison, Wisconsin 53705  (608) 266-0448</p>	

**EXHIBIT B**

**LIST OF AGENTS FOR SERVICE OF PROCESS**

**LIST OF AGENTS FOR SERVICE OF PROCESS**

<p><b>CALIFORNIA</b>          Commissioner of the Department of Financial Protection and Innovation:</p> <p align="center"><i>Los Angeles</i>          Suite 750          320 West 4th Street          Los Angeles, California 90013-2344</p> <p align="center"><i>Sacramento</i>  <del>2101 Arena Boulevard</del>  <a href="#">651 Bannon Street, Suite 300</a>          Sacramento, California 9583411</p> <p align="center"><i>San Diego</i>          1455 Frazee Road, Suite 315          San Diego, California 92108</p> <p align="center"><i>San Francisco</i>          One Sansome Street, Suite 600          San Francisco, California 94105-2980</p>	<p><b>INDIANA</b>          Indiana Secretary of State          201 State House          200 West Washington Street          Indianapolis, Indiana 46204</p>
<p><b>HAWAII</b>          Commissioner of Securities          Business Registration Division          Department of Commerce          and Consumer Affairs          335 Merchant Street, Room 205          Honolulu, Hawaii 96813</p>	<p><b>MARYLAND</b>          Maryland Securities Commissioner          at the Office of Attorney General-          Securities Division          200 St. Paul Place          Baltimore, Maryland 21202-2021</p>
<p><b>ILLINOIS</b>          Attorney General of the State of Illinois          500 South Second Street          Springfield, Illinois 62706</p>	<p><b>MICHIGAN</b>          Department of Attorney General          Consumer Protection Division          Franchise Section          G. Mennen Williams Building, 1<sup>st</sup> Floor          525 West Ottawa Street          Lansing, Michigan 48913</p>
<p><b>MINNESOTA</b>          Commissioner of Commerce          Department of Commerce          85 7th Place East, Suite 280          St. Paul, Minnesota 55101-2198</p>	<p><b>SOUTH DAKOTA</b>          Division of Insurance          Securities Regulation          124 S. Euclid Ave., 2<sup>nd</sup> Floor          Pierre, SD 57501</p>

<p><b>NEW YORK</b>  Attention: New York Secretary of State  New York Department of State  One Commerce Plaza  99 Washington Ave., 6th Floor  Albany, New York 12231  (518) 473-2492</p>	<p><b>VIRGINIA</b>  Clerk, Virginia State Corporation Commission  1300 East Main Street  Richmond, Virginia 23219</p>
<p><b>NORTH DAKOTA</b>  Securities Commissioner,  State of North Dakota  600 East Boulevard Avenue, 14<sup>th</sup> Floor  Bismarck, North Dakota 58505-0510</p>	<p><b>WASHINGTON</b>  Director, Department of Financial Institutions  150 Israel Road Southwest  Tumwater, Washington 98501</p>
<p><b>OREGON</b>  Oregon Division of Finance and Corporate  Securities  350 Winter Street NE, Room 410  Salem, Oregon 97301-3881</p>	<p><b>WISCONSIN</b>  Administrator, Division of Securities  Department of Financial Institutions  4822 Madison Yards Way, North Tower  Madison, Wisconsin 53705</p>
<p><b>RHODE ISLAND</b>  Director of Department of Business Regulation  1511 Pontiac Avenue  John O. Pastore Complex – Building 69-1  Cranston, Rhode Island 02920</p>	

**EXHIBIT C**

**AREA REPRESENTATIVE AGREEMENT**

**OYF US INC.**  
**AREA REPRESENTATIVE AGREEMENT**  
**FOR**

<b>Name of Area Representative:</b>	
<b>Franchised Territory:</b>	

**OYF US INC.**  
**AREA REPRESENTATIVE AGREEMENT**  
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23.3	Severability and Substitution of Valid Provisions.....	<del>67</del> <u>2</u>
23.4	Notices and Payments.....	<del>73</del> <u>68</u>
23.5	Relationship With the Public.....	<del>74</del> <u>69</u>
23.6	Waiver of Obligations.....	<del>74</del> <u>69</u>
23.7	Excuse of Performance.....	<del>75</del> <u>0</u>
23.8	Compliance with Anti-Terrorism and Other Laws.....	<del>75</del> <u>0</u>
23.9	Electronic Mail.....	<del>76</del> <u>0</u>
23.10	Electronic Signatures.....	<del>76</del> <u>1</u>

**EXHIBITS**

<b>Exhibit A</b>	Franchised Territory
<b>Exhibit B</b>	Listing of Ownership Interests
<b>Exhibit C</b>	Development Schedule
<b>Exhibit D</b>	Nondisclosure and Non-Competition Agreement
<b>Exhibit E</b>	Guaranty and Assumption of Obligations
<b>Exhibit F</b>	Support Obligations of Area Representative

**OYF US INC.**  
**AREA REPRESENTATIVE AGREEMENT**

THIS AGREEMENT is made and entered into between OYF US INC., a corporation incorporated under the laws of Delaware located at ~~838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904~~33-24076 112 Avenue, Maple Ridge, British Columbia, Canada V2W 0K2 ("Franchisor") and \_\_\_\_\_, whose principal address is \_\_\_\_\_ ("Area Representative"), as of the date signed by Franchisor and set forth opposite Franchisor's signature on this Agreement (the "Effective Date").

**RECITALS**

**WHEREAS** Franchisor owns and/or licenses a system and franchise opportunity for the operation of yoga and fitness studios that offer yoga, related fitness, weight loss, wellness and health programs using certain standards and specifications, including standards of quality and character of goods and services set by Franchisor;

**WHEREAS** subject to the terms and conditions of this Agreement, Franchisor and Area Representative desire to provide for the appointment of Area Representative as Franchisor's area representative within the Franchised Territory for the development, management, servicing and supervision of Oxygen Yoga & Fitness Facilities within the Franchised Territory; and

**WHEREAS** Area Representative desires to be so appointed.

**NOW THEREFORE**, in consideration of the payment of the fees specified herein and the mutual covenants and agreements herein contained and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

**ARTICLE 1**  
**CERTAIN DEFINITIONS**

In this Agreement, the following terms shall have the meanings set forth below, unless the context requires otherwise:

- (a) "**Advertising Fund**" shall have the meaning ascribed to the term in Section 11.1.
- (b) "**Advertising Fund Fee**" shall have the meaning ascribed to the term in Section 5.3.
- (c) "**Advertising Material**" shall have the meaning ascribed to the term in Subsection 11.2(a).
- (d) "**Agreement**" means this Area Representative Agreement, including all exhibits hereto, as amended and supplemented from time to time.
- (e) "**Applicant**" shall have the meaning ascribed to the term in Subsection 8.4(b).
- (f) "**AR Business**" means the Oxygen Yoga & Fitness AR Business for the Franchised Territory that Franchisor grants Area Representative the right to operate under this Agreement, including all of its assets and revenue.
- (g) "**AR Business Assets**" shall have the meaning ascribed to the term in Section 4.2.

- (h) "**AR Business Manager**" shall have the meaning ascribed to the term in Subsection 8.12(b).
- (i) "**Area Representative Fee**" shall have the meaning ascribed to the term in Section 5.1.
- (j) "**AR Training Fee**" shall have the meaning ascribed to the term in Subsection 7.1(c).
- (k) "**AR Training Program**" shall have the meaning ascribed to the term in Subsection 7.1(a).
- (l) "**Assignment**" for purposes of this Agreement, whether voluntary or involuntary, direct or indirect, includes: an assignment, sale, gift or pledge; the grant of a mortgage, charge, lien, encumbrance or security interest (including the grant of a collateral assignment); a merger or consolidation, or issuance of additional Ownership Interest or redemption of Ownership Interest; a sale of voting interests or of securities convertible to voting interests, or an agreement granting the right to exercise, or control the exercise of, voting rights of any holder of an Ownership Interest; and a transfer that occurs as a result of divorce, insolvency, or Entity dissolution or, upon death, by will, intestate succession or by declaration of, or transfer to, a trust.
- (m) "**Business Day**" includes all calendar days except Saturdays, Sundays and national holidays provided for under any federal law of the United States.
- (n) "**Competitive Business**" means (i) any fitness, health and wellness business which derives more than five percent (5%) of its revenue from providing yoga, related fitness, weight loss, wellness and health classes and programs or related programs or services; or (ii) any business granting franchises or licenses to others to operate the type of business specified in the preceding subparagraph (i) (other than an Oxygen Yoga & Fitness Facility operated under a franchise agreement with Franchisor or an Oxygen Yoga & Fitness AR Business operated under an area representative agreement with Franchisor).
- (o) "**Computer System**" shall have the meaning ascribed to the term in Subsection 8.14(d).
- (p) "**Confidential Information**" shall have the meaning ascribed to the term in Article 9.
- (q) "**Continuing Fees**" shall have the meaning ascribed to the term in Section 6.2.
- (r) "**Contract Year**" means the period commencing on the Effective Date of this Agreement and ending on the date that is the last day of the calendar month in which occurs the first anniversary of the Effective Date of this Agreement, and each consecutive period of twelve (12) months thereafter.
- (s) "**Deficiency Payment**" shall have the meaning ascribed to the term in Subsection 8.1(d).
- (t) "**Development Schedule**" shall have the meaning ascribed to the term in Section 8.1.
- (u) "**EDTA**" shall have the meaning ascribed to the term in Section 6.7.
- (v) "**Entity**" shall have the meaning ascribed to the term in Section 10.3.

- (w) "**Franchise Agreement**" means the agreement pursuant to which Franchisor grants a Franchise Owner the right to establish and operate an Oxygen Yoga & Fitness Facility.
- (x) "**Franchised Methods**" means the distinctive methods and plans for the establishment, operation and promotion of Oxygen Yoga & Fitness Facilities.
- (y) "**Franchised Territory**" means the geographic area set forth in the attached **Exhibit A** and incorporated herein by reference, which area will contain a minimum population of twenty-five thousand (25,000) people of the Effective Date. (For purposes of this definition, the term "population" shall include all potential persons within the Franchised Territory, whether arising from personal, residential, weekday or daytime business, and/or general commercial business, or any combination thereof.)
- (z) "**Franchise Owner**" means any person who has entered into a Franchise Agreement to establish and operate an Oxygen Yoga & Fitness Facility that is, or will be, located within the Franchised Territory.
- (aa) "**Franchise Owner Operations Manual**" shall have the meaning ascribed to the term in Subsection 8.8(d).
- (bb) "**Franchise Owner Territory**" means the geographic area within which Franchisor will grant a Franchise Owner the right to establish and operate an Oxygen Yoga & Fitness Facility under a Franchise Agreement.
- (cc) "**Franchisor's Notice**" shall have the meaning ascribed to the term in Section 15.2.
- (dd) "**Government Entity**" means (i) any federal, provincial, state, municipal, local or other governmental department, court, commission, board, bureau, agency or instrumentality, domestic or foreign; (ii) any agent, commission, board or authority of any of the foregoing; or (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing.
- (ee) "**Gross Revenues**" means the aggregate of all royalty fees, transfer fees and renewal fees that Franchisor charges to Franchise Owners, but excludes Initial Franchise Fees, training fees, web fees and technology fees. Gross Revenues shall be recognized based on the date that the applicable fees are collected.
- (ff) "**Guarantor**" shall have the meaning ascribed to the term in Section 8.15.
- (gg) "**Guidelines**" shall have the meaning ascribed to the term in Subsection 11.2(a).
- (hh) "**Immediate Family**" shall mean the parents, spouses, natural and adopted children and siblings of a person.
- (ii) "**Indemnified Parties**" shall have the meaning ascribed to the term in Subsection 18.2(a).
- (jj) "**Initial Franchise Fee**" means the initial franchise fee paid to Franchisor by a Franchise Owner pursuant to a Franchise Agreement.

- (kk) **"Initial Marketing Fee"** shall have the meaning ascribed to the term in Section 5.4.
- (ll) **"Intellectual Property"** means all technical information, procedures, processes, databases, Confidential Information, trade secrets, copyrights, methods, practices, techniques, processes, methods, know-how and other intellectual property which is developed by Area Representative for use by or in respect of the AR Business or which is provided to any Franchise Owner or by any Franchise Owner, and includes without limitation, all improvements or enhancements to any Intellectual Property and all computer software.
- (mm) **"License Fee"** shall have the meaning ascribed to the term in Section 6.1.
- (nn) **"Manual"** means collectively, all books, pamphlets, memoranda, audiotapes, videotapes, photographs, compact disks, computer software, other electronic media, and/or written materials prepared by or on behalf of Franchisor for use by area representatives generally or for Area Representative in particular, setting forth information, advice, instructions or policies relating to the System and the operation of the AR Business, all as such may be amended from time to time.
- (oo) **"Marks"** means the trademarks, service marks and other commercial symbols used in the operation of Oxygen Yoga & Fitness Facilities, including the service marks "OXYGEN YOGA & FITNESS", and such other trade names, service marks, trademarks, logos, emblems, domain names, and indicia of origin which have gained and continue to gain public acceptance and goodwill, and may create, use and license other trademarks, service marks and commercial symbols for Oxygen Yoga & Fitness Facilities.
- (pp) **"Meeting"** shall have the meaning ascribed to the term in Section 7.4.
- (qq) **"National Approved Expenses"** means all expenses mutually approved by Area Representative and Franchisor.
- (rr) **"Office"** shall have the meaning ascribed to the term in Subsection 8.14(a).
- (ss) **"Official Senders"** shall have the meaning ascribed to the term in Section 23.9.
- (tt) **"Operating Assets"** shall have the meaning ascribed to the term in Article 9.
- (uu) **"Owners"** means all persons or business entities holding a direct or indirect, disclosed or undisclosed, legal or beneficial Ownership Interest or voting right in an Entity, including ownership or control through one or more agents, subsidiaries or other intermediaries. The Owners of Area Representative as of the Agreement Date are listed on Exhibit B.
- (vv) **"Ownership Interest"** means with respect to an Entity, (a) any share of stock in relation to a corporation, any membership interest in relation to a limited liability company, any general or limited partnership interest in relation to a partnership, or any beneficial interest in a trust or other Entity; (b) any other legal or equitable interest in the revenue, profits, losses, rights and/or assets of an Entity; or (c) any security or other right or interest that is convertible into any right or interest reflected in (a) or (b) above.

- (ww) "**Oxygen Yoga & Fitness AR Business**" means the development, management, servicing and supervision of Franchise Owners in a territory Franchisor designates using the Marks and System.
- (xx) "**Oxygen Yoga & Fitness Facility**" means a yoga and fitness studio operated by a Franchise Owner that uses the System and the Marks.
- (yy) "**Performance Reports**" shall have the meaning ascribed to the term in Section 13.1.
- (zz) "**Purchase Option**" shall have the meaning ascribed to the term in Section 4.2.
- (aaa) "**Renewal Term**" shall have the meaning ascribed to the term in Article 4.
- (bbb) "**Representatives**" means any shareholders, directors, officers, employees, partners, members, agents, counsel, or other authorized persons of Area Representative or retained by Area Representative who have a need to know the contents of the Manual or who need to know any Confidential Information of Franchisor provided to Area Representative for the purpose of enabling Area Representative to operate the AR Business and/or an Oxygen Yoga & Fitness Facility.
- (ccc) "**Restricted Persons**" means (a) Area Representative's Owners as of the date of this Agreement; (b) individuals or entities who become Area Representative's Owners during the Term; (c) affiliates of Area Representative; (d) individuals having a Controlling Ownership Interest in any affiliates of Area Representative; (e) the parents, spouses, and natural and adopted children of any person in (a), (b) or (d) above; and (f) the officers, directors and management personnel of Area Representative and its affiliates.
- (ddd) "**Successor Agreement**" shall have the meaning ascribed to the term in Section 15.1.
- (eee) "**Successor Franchise Fee**" shall have the meaning ascribed to the term in Section 15.1.
- (fff) "**System**" means the system and franchise opportunity that Franchisor and its affiliates have developed (and continue to develop and modify) for the operation of Oxygen Yoga & Fitness Facilities, which includes distinctive business formats, methods, procedures, signage designs, layouts, standards, specifications, merchandise, advertising and marketing, sales promotion and Marks.
- (ggg) "**System Standards**" shall have the meaning ascribed to the term in Subsection 7.3(a).
- (hhh) "**Taxes**" means all sales, goods and services, value added, use or other like taxes, levies and charges, chargeable by or payable to any federal, provincial, state, local or municipal taxation authority.
- (iii) "**Technology Fee**" shall have the meaning ascribed to the term in Section 5.2.
- (jjj) "**Term**" shall have the meaning ascribed to the term in Section 4.1.
- (kkk) "**Website**" shall have the meaning ascribed to the term in Subsection 7.3(c).

**ARTICLE 2**  
**GRANT OF RIGHTS**

**2.1 Grant of Rights**

Franchisor hereby grants to Area Representative, and Area Representative accepts, the right (the "Franchise") to operate an Oxygen Yoga & Fitness AR Business upon the terms and subject to the provisions of this Agreement. This Agreement does not permit Area Representative either directly or through an affiliate to own or operate an Oxygen Yoga & Fitness Facility without separate approval in writing by Franchisor. Area Representative must at all times during the Term or any Renewal Term of this Agreement, own and operate at least one (1) Oxygen Yoga & Fitness Facility under a separate Franchise Agreement. Area Representative must sign Franchisor's ~~then-current~~then current form of Franchise Agreement for each Oxygen Yoga & Fitness Facility it owns and operates. The Initial Franchise Fee for the first Oxygen Yoga & Fitness Facility is included in the Area Representative Fee. Area Representative may not begin soliciting new Franchise Owners for Oxygen Yoga & Fitness Facilities to be located in the Franchised Territory until its own Oxygen Yoga & Fitness Facility has been in operation and in compliance with the Franchise Agreement for at least three (3) months.

**2.2 License to Use and Display the Marks**

Franchisor hereby grants to Area Representative, upon the terms and subject to the provisions of this Agreement, a non-exclusive license to use and display the Marks in connection with operating the AR Business in the Franchised Territory and in connection with the activities authorized by this Agreement.

**2.3 Conducting Business Outside the Franchised Territory**

Except as may otherwise be permitted by Franchisor, Area Representative shall not advertise and solicit any franchise owner for the operation of any Oxygen Yoga & Fitness Facility to be located outside of the Franchised Territory.

**ARTICLE 3**  
**FRANCHISED TERRITORY AND RESERVATION OF RIGHTS**

**3.1 Franchisor's Restrictions**

Except as limited in Section 3.2 below, Franchisor and its affiliates will not, without the prior written consent of Area Representative, grant a franchise for another Oxygen Yoga & Fitness AR Business within the Franchised Territory for so long as Area Representative is not in default under this Agreement or any other agreements between Franchisor and Area Representative. These restrictions will terminate immediately upon the expiration or termination of this Agreement for any reason. Area Representative acknowledges that this Agreement confers no marketing exclusivity in the Franchised Territory on Area Representative.

**3.2 Reservation of Rights**

- (a) Area Representative expressly understands and agrees that it will only have those rights to operate an Oxygen Yoga & Fitness AR Business that are set forth expressly in this Agreement. Franchisor specifically reserves all other rights to itself and its affiliates. For example, and without limitation, now and in the future:

- (i) Franchisor and its affiliates have the right to develop, market, own, operate or participate in, and to grant to others the right to develop, market, own and operate, any other business under the Marks or any other trademark within and outside of the Franchised Territory.
- (ii) Franchisor and its affiliates have the right to market and sell memberships to customers located anywhere (including the Franchised Territory) to use all Oxygen Yoga & Fitness Facilities then-operating (including Area Representative's Oxygen Yoga & Fitness Facility);
- (iii) Franchisor and its affiliates have the right to own, operate and situate Oxygen Yoga & Fitness Facilities anywhere within and outside of the Franchised Territory, as Franchisor or its affiliates consider appropriate and regardless of proximity to an existing Oxygen Yoga & Fitness Facility.
- (iv) Franchisor has the right to engage one or more third party franchise broker and sales representative services to sell Oxygen Yoga & Fitness Facilities within and outside the Franchised Territory, as Franchisor or its affiliates consider appropriate.
- (v) Franchisor and its affiliates have the right to grant franchises, licenses, contracts, and/or enter into joint venture agreements for the operation of Oxygen Yoga & Fitness Facilities within and outside of the Franchised Territory, as Franchisor or its affiliates consider appropriate and regardless of proximity to an existing Oxygen Yoga & Fitness Facility.
- (vi) Franchisor and its affiliates have the right to acquire the assets or ownership interests of one or more businesses providing classes, programs, products and services the same as or similar to those provided at Oxygen Yoga & Fitness Facilities, and franchising, licensing or creating similar arrangements with respect to these businesses once acquired, wherever these businesses (or the franchise owners or licensees of these businesses) are located or operating (including in the Franchised Territory).
- (vii) Franchisor and its affiliates have the right to be acquired (whether through acquisition of assets, ownership interests or otherwise, regardless of the form of transaction), by a business providing classes, programs, products and services the same as or similar to those provided at Oxygen Yoga & Fitness Facilities, or by another business, even if such business operates, franchises and/or licenses competitive businesses in the Franchised Territory.
- (viii) Franchisor and its affiliates have the right to provide, offer and sell and to grant others the right to provide, offer and sell classes, programs, products and services that are identical or similar to and/or competitive with those classes, programs, products and services provided at Oxygen Yoga & Fitness Facilities, whether identified by the Marks or other trademarks or service marks, through alternative distribution channels (including, without limitation, the internet or similar electronic media, and any other form of electronic commerce) both inside and outside the Franchised Territory and on any terms and conditions Franchisor deems appropriate.

- (ix) Franchisor and its affiliates have the right to establish and operate, and to grant to others the right to establish and operate, businesses offering dissimilar classes, programs, products and services, both inside and outside the Franchised Territory under the Marks and on any terms and conditions we deem appropriate.
- (x) Franchisor and its affiliates have the right to market and sell classes, programs, products and services to national, regional and institutional accounts, whether located inside or outside the Franchised Territory. “National, regional and institutional accounts” are organizational or institutional customers whose presence is not confined to the Franchised Territory, including (by way of example only): business entities with offices, facilities or branches situated both inside and outside of the Franchised Territory; government agencies, branches or facilities; healthcare networks; the military; and any other customer whose presence is not confined to the Franchised Territory.

## **ARTICLE 4**

### **TERM AND RENEWAL TERMS**

#### **4.1 Term**

This Agreement shall commence and be effective as of the Effective Date and shall continue for a period of ten (10) years, unless sooner terminated in accordance with the provisions of this Agreement (the "**Term**"). Area Representative will have the right (but not the obligation) to enter into up to two (2) additional consecutive terms of five (5) years each (each a "**Renewal Term**"), subject to Area Representative's compliance with each and every one of the conditions specified in Article 15 of this Agreement.

#### **4.2 Franchisor’s Purchase Option**

Commencing on the third (3rd) anniversary of the Effective Date, and at any time thereafter during the Term or any Renewal Term, Franchisor, in its sole discretion, shall have the first right to purchase: (i) Area Representative’s interest in this Agreement and the AR Business, including any assets used in connection with the AR Business (collectively the “**AR Business Assets**”); or (ii) if Area Representative is an entity, one hundred percent (100%) of the ownership interests in Area Representative (such election by Franchisor shall be referred to herein as the “**Purchase Option**”). Franchisor will notify Area Representative in writing of its decision to exercise the Purchase Option and Area Representative must comply with any provisions contained in that notice. The purchase price for such AR Business Assets or ownership interests, as the case may be, shall be based on the amount of the fees paid to Area Representative pursuant to Article 6 during the twelve (12) month period immediately prior to Franchisor’s exercise of the Purchase Option, provided that the purchase price shall not contain any factor or increment for (a) any trademark, service mark, or other commercial symbol, operating systems and procedures of Franchisor used by Area Representative in connection with operating the AR Business or any goodwill value for business conducted under this Agreement; (b) any extraordinary, non-recurring items; nor (c) any value attributable to non-market driven efficiencies, including without limitation, expenses not directly and solely related to the operation of the AR Business. The purchase shall take place no later than ninety (90) days after Franchisor’s delivery of its notice to exercise the Purchase Option, at which time Area Representative shall deliver instruments transferring to Franchisor or its assignee good merchantable title to the AR Business Assets free and clear of all liens and encumbrances (other than liens and security interest acceptable in the sole discretion of Franchisor or its assignee). Franchisor will have the right to conduct due diligence of a type and amount customary for

such asset purchase transactions and to refuse to purchase the AR Business Assets if the results of the due diligence are not satisfactory to Franchisor in its reasonable discretion. Franchisor shall have the right to set off against and reduce the purchase price by any and all amounts owed by Area Representative to Franchisor and the amount of any liens or encumbrances against such AR Business Assets or any other obligations assumed by Franchisor. Area Representative and Franchisor shall enter into an asset purchase agreement and related documentation in a form acceptable to both parties. Franchisor will prepare the initial draft of the asset purchase agreement.

## **ARTICLE 5**

### **CONSIDERATION TO FRANCHISOR**

#### **5.1 Area Representative Fee**

Area Representative agrees to pay to Franchisor an initial fee of One Hundred Twenty Thousand Dollars (\$120,000) (the "**Area Representative Fee**") upon execution of this Agreement. The Area Representative Fee is due, and fully earned by Franchisor, when Area Representative signs this Agreement, and except as described in Subsection 7.1(d), the Area Representative Fee is not refundable.

#### **5.2 Technology Fee**

Area Representative agrees to pay Franchisor a monthly technology fee of Two Hundred ~~Fifty~~ Dollars (\$~~2500~~), plus any applicable taxes (the "**Technology Fee**"). Franchisor reserves the right to increase or decrease the amount of the Technology Fee at any time upon written notice to Area Representative. Area Representative agrees that Franchisor will have the right to withdraw funds from Area Representative's designated bank account each month by EDTA in the amount of the Technology Fee. Such withdrawals shall be drawn on the fifth (5th) day of each month for the amount of the Technology Fee for the preceding month. The Technology Fee is not refundable.

#### **5.3 Advertising Fund Fee**

On or before the fifth (5th) day of each month during the Term, Area Representative must pay Franchisor an advertising fund fee in the amount of one and one-half percent (1.5%) of the Gross Revenues of all Oxygen Yoga & Fitness Facilities in the Franchised Territory during the previous month (the "**Advertising Fund Fee**"). Franchisor's use of the Advertising Fund Fee is described in Article 11. The Advertising Fund Fee is not refundable.

#### **5.4 Initial Marketing Fee**

Upon execution of this Agreement, Area Representative shall pay Franchisor a marketing fee of Five Thousand Dollars (\$5,000) (the "**Initial Marketing Fee**"). The Initial Marketing Fee contributes to Franchisor's costs associated with direct marketing for Area Representative's AR Business. The Initial Marketing Fee is due, and fully earned by Franchisor, when Area Representative signs this Agreement.

#### **5.5 Late Fees and Interest on Delinquent Payments**

All amounts which Area Representative owes Franchisor or Franchisor's affiliate for any reason, will bear interest accruing as of their original due date at the maximum interest rate permitted by law. If there is no applicable legal maximum rate, interest will be calculated at the rate of four percent (4%) above the prime rate of interest on the first day of each month for the past due amount, as published in The Wall Street Journal. In addition to interest on amounts Area Representative owes to Franchisor and Franchisor's affiliate, Area Representative must pay Franchisor, on demand, a late fee of Fifty Dollars

(\$50) for each late payment, plus reimbursement of Franchisor's additional administrative expenses and charges Franchisor incurs. Franchisor may debit Area Representative's bank account automatically for late fees and interest. Area Representative acknowledges that this Section 5.5 is not Franchisor's agreement to accept any payments after they are due or Franchisor's commitment to extend credit to, or otherwise finance Area Representative's operation of, the AR Business.

## **5.6 Application of Funds**

Despite any designation Area Representative makes, Franchisor may apply any of Area Representative's payments to any of Area Representative's past due indebtedness to Franchisor. Franchisor may set off any amounts Area Representative or its Owners owe Franchisor or Franchisor's affiliates against any amounts Franchisor or its affiliates owe Area Representative or Area Representative's Owners. Area Representative may not withhold payment of any amounts Area Representative owes Franchisor due to Franchisor's alleged nonperformance of any of Franchisor's obligations under this Agreement.

## **5.7 Area Representative May Not Withhold**

Area Representative agrees not to withhold payment of any amounts due to Franchisor or its affiliates on the grounds of any alleged failure of Franchisor to provide Area Representative with any particular service, either initial or continuing, or the non-performance or breach of any of Franchisor's (or its affiliates') obligations under this Agreement or any related agreement.

# **ARTICLE 6**

## **COMPENSATION TO AREA REPRESENTATIVE**

### **6.1 License Fees**

Franchisor shall pay Area Representative a license fee (the "**License Fee**") equal to sixty-six point six percent (66.6%) of the total amount of each Initial Franchise Fee that is actually paid to Franchisor pursuant to the terms of a Franchise Agreement for the operation of an Oxygen Yoga & Fitness Facility located within the Franchised Territory. Franchisor shall pay such License Fee within thirty (30) calendar days after the date Franchisor receives and accepts the Initial Franchise Fee from the Franchise Owner. However, (i) Area Representative shall not receive any License Fees with respect to Initial Franchise Fees paid by Franchise Owners who have entered into Franchise Agreements for Oxygen Yoga & Fitness Facilities located within the Franchised Territory prior to the Effective Date, or with respect to the Initial Franchise Fee Area Representative pays for its first franchised Oxygen Yoga & Fitness Facility in the Franchised Territory, the amount of which is included in the Area Representative Fee Area Representative pays Franchisor and (ii) Franchisor will reduce the License Fees paid to Area Representative to cover the costs for third party franchise broker services, discounts, referral fees, internal or external sales representative services, and for any other costs Franchisor incurs to sell Oxygen Yoga & Fitness Facilities within the Franchised Territory.

### **6.2 Continuing Fees**

Franchisor shall pay Area Representative, on a monthly basis during the Term, on the tenth (10<sup>th</sup>) day of each month (or on the following Business Day if the tenth (10<sup>th</sup>) day of the month is not a Business Day), sixty-six point six percent (66.6%) of the franchise royalty fees (but not any other fees) actually received by Franchisor during the preceding calendar month from Franchise Owners operating an Oxygen Yoga & Fitness Facility within the Franchised Territory ("**Continuing Fees**").

Area Representative shall not receive any Continuing Fees with respect to franchise royalty fees paid by Franchise Owners (i) that have entered into Franchise Agreements for Oxygen Yoga & Fitness Facilities located within the Franchised Territory prior to the Effective Date unless Franchisor requires Area Representative to provide services to Franchise Owners pursuant to Section 8.5 below, or (ii) operating an Oxygen Yoga & Fitness Facility within the Franchised Territory in which Area Representative or any of its affiliates or Owners have an Ownership Interest. In addition, Franchisor reserves the right to reduce the Continuing Fees paid to Area Representative to cover the costs for third party franchise broker services, discounts, referral fees, internal or external sales representative services, and for any other costs Franchisor incurs to sell Oxygen Yoga & Fitness Facilities within the Franchised Territory.

### **6.3 Payment Conditions**

Notwithstanding anything contained in this Agreement to the contrary, Franchisor shall have no obligation to pay Area Representative any amounts pursuant to this Article 6 (and none of such amounts shall accrue):

- (a) With respect to any period during which Area Representative or its affiliate is in breach of, or default under, its obligations under this Agreement or any Franchise Agreement;
- (b) With respect to any month where, with respect to any one or more Oxygen Yoga & Fitness Facilities, Area Representative failed to conduct monthly evaluations, or deliver to Franchisor any monthly reports, that Area Representative is required to conduct or provide as set forth in this Agreement or in the Manual; or
- (c) Unless and until Area Representative is licensed or registered, or maintains a permit, as necessary, in connection with Area Representative's activities under this Agreement.

### **6.4 License Fees and Continuing Fees After Termination**

All payments under this Article 6 shall immediately and permanently cease after expiration or termination of this Agreement, although Area Representative shall receive all amounts that have accrued to Area Representative as of the effective date of expiration or termination.

### **6.5 Refunds or Other Payments**

If Franchisor is required (whether by contract or by a court or arbitrator decision or order), or agrees to in its sole judgment, refund all or a part of a Franchise Owner's Initial Franchise Fees or franchise royalty fees, Area Representative must promptly pay Franchisor the License Fee or Continuing Fees previously paid to Area Representative. If Franchisor or any of its affiliates, in its sole judgment, agrees to pay a Franchise Owner in the Franchised Territory any amount, or if a court or arbitrator determines that Franchisor or any of its affiliates must pay such Franchise Owner any amount, or if Franchisor or any of its affiliates otherwise suffers a loss or damages in connection with a Franchise Owner in the Franchised Territory, Area Representative shall promptly pay to Franchisor sixty-six point six percent (66.6%) of the amount of that payment, loss or damages. Area Representative shall make such payment within fifteen (15) days after Franchisor's written request therefor or invoice thereof. The provisions of Section 18.2 (relating to indemnification) shall supersede the terms of this Section 6.5.

## 6.6 Application of Payments

Franchisor's payments to Area Representative shall be based on amounts actually collected from Franchise Owners, not on payments accrued, due or owing. Franchisor may apply in its sole judgment any payments received from a Franchise Owner for any past due indebtedness of that Franchise Owner for franchise royalty fees, advertising and development fund contributions, purchases from Franchisor or its affiliates, interest, or any other indebtedness of that Franchise Owner to Franchisor or its affiliates. To the extent that such payments are applied to a Franchise Owner's overdue Initial Franchise Fees or franchise royalty fees, Area Representative shall be entitled to Area Representative's pro rata share of any such payments, less its pro rata share of collection.

## 6.7 Method of Payment

Upon execution of this Agreement, Area Representative agrees to sign and deliver to Franchisor the documents Franchisor requires to authorize Franchisor to debit Area Representative's business checking account automatically for the amounts due under this Agreement and for Area Representative's purchases from Franchisor and/or Franchisor's affiliates (the "EDTA"). Franchisor will debit the EDTA for these amounts on their due dates. Area Representative agrees to ensure that funds are available in the EDTA to cover Franchisor's withdrawals. If there are insufficient funds in the EDTA to cover any such amount owed (or, if Area Representative is paying by check and a check is returned for insufficient funds), Area Representative must pay Franchisor, on demand, a processing fee of One Hundred Dollars (\$100), plus reimbursement of Franchisor's additional administrative expenses and charges (together with the late fee noted in Section 5.5 above). If there are insufficient funds in the EDTA, or if Area Representative's check is returned for insufficient funds, then Franchisor may require Area Representative to make all subsequent payments to Franchisor by certified check.

Franchisor may require Area Representative to pay any amounts due under this Agreement or otherwise by means other than automatic debit (e.g., by check) whenever Franchisor deems appropriate, and Area Representative agrees to comply with Franchisor's payment instructions.

## 6.8 Offset

Notwithstanding anything contained in this Agreement to the contrary, Franchisor may offset any funds owed by Area Representative or its affiliates to Franchisor or its affiliates pursuant to this Agreement, or any other agreement between Franchisor or its affiliates and Area Representative or its affiliates, against any funds owed to Area Representative by Franchisor pursuant to this Article 6 or otherwise under this Agreement.

## 6.9 Withholding

Notwithstanding anything contained in this Agreement to the contrary, if Franchisor's receipt (or the payer's payment to Franchisor) of any Initial Franchise Fees, franchise royalty fees or other amounts are subject to withholding or other taxes or payments, the amount to which Area Representative is entitled pursuant to this Article 6 shall be reduced by an amount proportionate to the amount that withholding or other tax bears to the payment to which Franchisor is entitled. In addition, all amounts payable to Area Representative under this Agreement shall be subject to all withholding or other taxes or payments applicable to the payment of those amounts. All amounts payable to Franchisor under this Agreement are net of taxes or similar payments (other than income taxes) payable by, or on behalf of, Franchisor in connection with such payments. All amounts payable to Area Representative under this Agreement shall be calculated after taking into account amounts, if any, payable as taxes or similar

payments (other than income taxes) payable by, or on behalf of, Franchisor in connection with such payments.

## ARTICLE 7 FRANCHISOR'S OBLIGATIONS

### 7.1 Initial Training

- (a) Before Area Representative commences operations of the AR Business, Franchisor, either directly or through its designee, will provide Area Representative with an initial training program (the "**AR Training Program**") which Area Representative (if an individual) or its AR Business Manager (if an Entity) and one (1) additional member of Area Representative's personnel will be required to attend and complete, ~~either in-person or online, in Franchisor's sole discretion.~~ The AR Training Program will be provided to Area Representative at a time to be determined by Franchisor. Franchisor will determine and notify Area Representative of the dates, location and duration of the AR Training Program. Area Representative must notify Franchisor, in writing, at least ten (10) days prior to the commencement of the AR Training Program of the names of the individuals who will attend the AR Training Program. The required attendees must begin the AR Training Program no more than twelve (12) weeks before the AR Business is scheduled to commence operations, and must complete the AR Training Program to Franchisor's satisfaction at least two (2) weeks before the AR Business is scheduled to commence operations.
- (b) Franchisor will provide the AR Training Program at a designated ~~training facility~~location of Franchisor's choice, or virtually online, ~~and/or at an operating Oxygen Yoga & Fitness Facility.~~
- (c) Franchisor will provide the AR Training Program to the two (2) individuals designated in (a) above at no cost. Additional people beyond the two (2) attendees may attend the AR Training Program at no extra charge so long as those individuals attend the AR Training Program at the same time as the two (2) attendees, subject to Franchisor's ability and capacity to accommodate these extra persons. If additional individuals attend the AR Training Program at a different time or session than the two (2) attendees, then Area Representative must pay Franchisor's ~~then current~~then-current training charge for each additional person (currently, Three Thousand Seven Hundred Fifty Dollars (\$3,750) per person) (the "**AR Training Fee**") to attend the AR Training Program. If Franchisor decides to provide the AR Training Program at a location Franchisor designates instead of online, Area Representative must pay for (i) all travel and living expenses that Area Representative and its personnel incur, and for Area Representative's personnel's wages and workers' compensation insurance while they ~~train~~attend the AR Training Program at the location Franchisor designates ~~training facility of Franchisor's choice and/or at an operating Oxygen Yoga & Fitness Facility.~~ and (ii) Franchisor's personnel's then current per diem charges and actual travel and living expenses while they provide the AR Training Program at the location Franchisor designates, if they are required to travel.
- (d) If Franchisor determines that Area Representative (or its AR Business Manager) and/or one (1) additional member of Area Representative's personnel cannot complete the AR

Training Program to Franchisor's satisfaction, Area Representative (or its AR Business Manager) and, if applicable, the other member of Area Representative's personnel, must retake the next AR Training Program Franchisor offers and complete the AR Training Program to Franchisor's satisfaction or Franchisor may terminate this Agreement. In that case, Area Representative will be eligible to receive a refund of any Area Representative Fee specified under Section 5.1 above that Area Representative has already paid if Area Representative signs Franchisor's required form of release of claims.

- (e) Area Representative (or its AR Business Manager) may request additional training at the end of the AR Training Program, to be provided at Franchisor's then current per diem charges and actual travel and living expenses, if Area Representative (or its AR Business Manager) feel that Area Representative or any of its attendees are not sufficiently trained to operate the AR Business. Franchisor and Area Representative (or its AR Business Manager) will jointly determine the time and duration of this additional training. However, if Area Representative (or its AR Business Manager) and the other attendees satisfactorily complete the AR Training Program and Area Representative does not expressly inform Franchisor at the end of the program that Area Representative (or its AR Business Manager) or other attendees do not feel sufficiently trained in the operation of the AR Business, then Area Representative (or its AR Business Manager) and all other attendees to the AR Training Program will be deemed to have been trained sufficiently to operate the AR Business.
- (f) Franchisor may require that any AR Business Managers Area Representative hires or appoints after the AR Business commences operations satisfactorily complete Franchisor's initial and ongoing training programs within thirty (30) days of the date on which Area Representative hires or appoints such AR Business Managers. Franchisor may charge reasonable fees for training AR Business Managers, not to exceed Franchisor's ~~then-current~~then current training fee. Area Representative agrees to pay all travel and living expenses which Area Representative and its employees incur during all training courses and programs. Additionally, if Franchisor provides any of these training courses and/or programs at a location that requires Franchisor's trainers to travel, Area Representative agrees to pay Franchisor's personnel's then current per diem charges and actual travel and living expenses.

## 7.2 Consultation Services

- (a) If Area Representative so requests, and subject to the availability of Franchisor's personnel, Franchisor will provide input regarding the AR Business from time to time, as Franchisor deems necessary in its sole judgment, in the form of advice, studies, data or written materials and answer the questions of Area Representative at no charge in order to assist Area Representative with the development and operation of the AR Business.
- (b) During the first ninety (90) days after the date the AR Training Program ends, Area Representative shall telephone Franchisor weekly at a time mutually agreed upon by the parties to discuss the AR Business and any reports required by Article 13 of this Agreement.

### 7.3 Provision of Manual; Area Representative's Compliance with Manual

- (a) Franchisor will provide Area Representative with access to one (1) copy of the Manual. The Manual contains mandatory and suggested specifications, standards, operating procedures, and rules ("**System Standards**") that Franchisor periodically prescribes for operating an Oxygen Yoga & Fitness AR Business and information on Area Representative's other obligations under this Agreement. Franchisor may modify the Manual periodically to reflect changes in System Standards.
- (b) If there is a dispute over the contents of the Manual, Franchisor's master copy of the Manual controls. Area Representative agrees that the Manual's contents are confidential and that Area Representative will not disclose the Manual to any person other than AR Business employees who need to know its contents. Area Representative may not at any time copy, duplicate, record, or otherwise reproduce any part of the Manual.
- (c) At Franchisor's option, Franchisor may post some or all of the Manual on a restricted Website or extranet to which Area Representative will have access. (For purposes of this Agreement, "**Website**" means an interactive electronic document contained in a network of computers linked by communications software, including, without limitation, the Internet and World Wide Web home pages). If Franchisor does so, Area Representative agrees to monitor and access the Website or extranet for any updates to the Manual or System Standards. Any passwords or other digit identifications necessary to access the Manual on a Website or extranet will be deemed to be part of the Confidential Information.

### 7.4 Ongoing Training; Franchisor Conferences and Meetings

Franchisor may require Area Representative, its AR Business Manager and/or other previously trained and experienced employees to attend and complete to Franchisor's satisfaction various training courses that Franchisor periodically chooses to provide either online or in-person at the times and locations that Franchisor designates. Franchisor may charge reasonable registration or similar fees for these courses. Franchisor will not require in-person attendance for more than a total of ten (10) days during a calendar year. Area Representative understands and agrees that any specific ongoing training or advice Franchisor provides does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which Franchisor may discontinue and modify from time to time.

Franchisor may conduct annual conferences, including international conferences, at a location chosen by Franchisor, and may, from time to time, conduct other conferences, seminars or training sessions (each, a "**Meeting**"). Franchisor will determine the duration, curriculum and location of its Meetings. Area Representative or its AR Business Manager must attend any Meeting for which Franchisor requires attendance. Area Representative will be responsible for all expenses incurred by it and its attendees in connection with any Meetings, including, but not limited to, costs of transportation, lodging, meals, wages, and worker's compensation insurance.

**ARTICLE 8**  
**AREA REPRESENTATIVE'S OBLIGATIONS AND COVENANTS**

**8.1 Development Obligations**

As an essential condition to maintaining the Franchise and the rights granted hereunder, during the Term of this Agreement, Area Representative must comply with the Development Schedule (the "**Development Schedule**") set forth in **Exhibit C** to this Agreement. Area Representative agrees to open, and/or to solicit franchise owners who open, the cumulative number of Oxygen Yoga & Fitness Facilities in the Franchised Territory as set forth in the Development Schedule. (Each period described in the Development Schedule is referred to as a "**Development Period**"). Franchisor will include an Oxygen Yoga & Fitness Facility in the cumulative number of Oxygen Yoga & Fitness Facilities required to be open and operating only if it actually is operating within the Franchised Territory and complying with the terms of its Franchise Agreement. However, an Oxygen Yoga & Fitness Facility which is, with Franchisor's approval, permanently closed during the last three (3) months of a Development Period after having been in operation will be included in the cumulative number of Oxygen Yoga & Fitness Facilities that must be open and operating during that particular Development Period (but not after, meaning that Area Representative must replace the closed Oxygen Yoga & Fitness Facility during the next Development Period in addition to fulfilling Area Representative's new Oxygen Yoga & Fitness Facility development obligation for that Development Period). Franchisor will include any Oxygen Yoga & Fitness Facilities Area Representative (or Area Representative's owners) own and operate within the Franchised Territory (and any Oxygen Yoga & Fitness Facilities Franchisor or Franchisor's affiliates own and operate within the Franchised Territory) in the cumulative number of Oxygen Yoga & Fitness Facilities that must be open and operating.

If, for any reason, Area Representative fails to comply with the Development Schedule during any Development Period, Franchisor may, in its sole judgment:

- (a) Terminate this Agreement;
- (b) Terminate the territorial rights provided in Article 3, and Franchisor may grant area representative rights to any person within the Franchised Territory;
- (c) Terminate Area Representative's rights under this Agreement with regard to further development, but require Area Representative to continue to service then-existing Franchise Owners; or
- (d) Require Area Representative to pay to Franchisor a fee equal to six hundred dollars (\$600) per month per Oxygen Yoga & Fitness Facility from the date such Oxygen Yoga & Fitness Facility should have opened until the date it actually opens ("**Deficiency Payment**"). The purpose of the Deficiency Payment is to compensate Franchisor for lost revenues resulting from Area Representative's failure to fulfill its obligations under the Development Schedule, but is not an estimate of Franchisor's expected damages in the event that Franchisor elects to terminate this Agreement as set forth in this Section 8.1.

The decision to exercise any of the rights specified in this Section 8.1 will be in Franchisor's sole judgment.

## 8.2 Compliance with System Standards; Modifications to the System, System Standards and Franchised Methods

- (a) Area Representative acknowledges and agrees that operating and maintaining the AR Business according to System Standards is essential to preserve the goodwill of the Marks and all Oxygen Yoga & Fitness AR Businesses. Therefore, Area Representative agrees at all times to operate and maintain the AR Business according to all of Franchisor's System Standards, as Franchisor periodically modifies and supplements them, even if Area Representative believes that a System Standard, as originally issued or subsequently modified, is not in the System's or the AR Business' best interests. Although Franchisor retains the right to establish and periodically modify System Standards that Area Representative has agreed to maintain, Area Representative retains the responsibility for the day-to-day management and operation of the AR Business and implementing and maintaining System Standards at the AR Business.

As examples, and without limitation, System Standards may regulate any one or more of the following:

- (1) procedures, methods, and techniques for services performed by Area Representative under this Agreement;
- (2) terms and conditions of the sale and delivery of, and terms and methods of payment for products, and services that Area Representative obtains from Franchisor and affiliated and unaffiliated suppliers; and Franchisor's and Franchisor's affiliates' right not to sell Area Representative any products or to provide Area Representative with services, or to do so only on a "cash on delivery" or other basis, if Area Representative is in default under any agreement with Franchisor;
- (3) sales, marketing, advertising, and promotional programs and materials and media, including social media Websites, used in these programs ("**social media**" includes personal blogs, common social networks like Facebook, Instagram, TikTok, and Pinterest, professional networks like LinkedIn, live-blogging tools like Twitter, virtual worlds, file, audio and video-sharing sites, and other similar social networking or media sites or tools);
- (4) use and display of the Marks on vehicles, bags, labels, forms, paper and plastic products, and other supplies;
- (5) staffing levels for the AR Business; identifying the AR Business' personnel; and employee qualifications, training, dress, and appearance (although Area Representative has sole responsibility and authority concerning employee selection and promotion, hours worked, rates of pay and other benefits, work assigned, and working conditions);
- (6) days and hours of operation;
- (7) participation in market research and testing and product and service development programs as well as participation in, and dues assessed for, advisory councils;
- (8) bookkeeping, accounting, data processing, and recordkeeping systems and forms; formats, content, and frequency of reports to Franchisor of sales, revenue, financial performance, and condition; and giving Franchisor copies of tax returns and other operating and financial information concerning the AR Business;

(9) vehicles used in connection with the AR Business, including the make and model, condition, paint color, vehicle graphics and décor;

(10) use of social media in connection with the AR Business' operation or otherwise referencing the System; and

(11) any other aspects of operating and maintaining the AR Business that Franchisor determines to be useful to preserve or enhance the efficient operation, image, or goodwill of the Marks and Oxygen Yoga & Fitness AR Businesses.

Area Representative agrees that the System Standards Franchisor prescribes in the Manual, or otherwise communicates to Area Representative in writing or another tangible form (for example, via System extranet or Website), are part of this Agreement as if fully set forth within its text. All references to this Agreement include all System Standards as periodically modified.

- (b) Area Representative understands and agrees that the System, System Standards and Franchised Methods must not remain static if they are to meet unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, societal trends and other marketplace variables and if they are to best serve the interests of the System. Accordingly, Area Representative expressly understands and agrees that Franchisor may from time to time change the components of the System, System Standards and/or Franchised Methods and the requirements applicable thereto, including, but not limited to, altering the products, programs, services, methods, standards, forms, policies and procedures of the System, System Standards and/or Franchised Methods; abandoning the System, System Standards and/or Franchised Methods altogether in favor of another system in connection with a merger, acquisition, other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which the AR Business is authorized and required to offer; modifying or substituting entirely the building, premises, equipment, signage, trade dress, decor, color schemes and uniform specifications which Area Representative is required to observe under this Agreement; and, changing, improving, modifying or substituting the Marks.
- (c) Area Representative expressly agrees to comply (and/or, if applicable, to cause the Franchise Owners to comply) with any such modifications, additions, deletions, substitutions and alterations to the System, System Standards and/or Franchised Methods.
- (d) Area Representative agrees to accept, use and effectuate, and to use best efforts to cause the Franchise Owners to accept, use and effectuate, any such modifications to, or substitutions of, the System and/or Franchised Methods as if they were part of the System and/or Franchised Methods at the time of execution of this Agreement.
- (e) Except as provided herein, Franchisor will not be liable to Area Representative for any expenses, losses or damages sustained by Area Representative as a result of any of the modifications contemplated by this Section 8.2. Area Representative covenants not to commence or join in any litigation or other proceeding against Franchisor or any third party complaining of any such modifications or seeking expenses, losses or damages caused by such modifications.

### 8.3 Authorized Products and Services

- (a) In connection with the operation of the AR Business, Area Representative shall offer and sell only the services and products and such materials, forms, items and supplies from time to time authorized or approved by Franchisor as meeting the specifications and standards of the System. Area Representative is prohibited from offering, promoting or selling any services or products not expressly authorized by Franchisor in writing. If Area Representative wishes to offer, conduct or utilize any services, products, materials, forms, items or supplies in connection with or through the AR Business which are not previously approved by Franchisor as meeting its specifications, Area Representative shall first notify Franchisor in writing requesting approval, which approval shall be at Franchisor's sole judgment.
- (b) Area Representative shall purchase or obtain all products and supplies and services used in the operation of the AR Business only from suppliers designated or approved from time to time by Franchisor, which may include Franchisor or its affiliates. Franchisor may at any time, in its sole judgment, revoke its approval of any approved supplier by notifying Area Representative in writing of its revocation of approval. Area Representative will discontinue using items from any disapproved supplier upon receiving notice from Franchisor.

### 8.4 Promotional Obligations of Area Representative

- (a) Recruitment of Franchise Owners. Area Representative must advertise for, recruit and screen prospective Franchise Owners within the Franchised Territory.
- (b) Applicants. Area Representative must review and screen all prospective Franchise Owners and their applications to confirm that they are persons of good character, who have adequate financial resources and who meet Franchisor's ~~then-current~~then current criteria for Franchise Owners. Area Representative shall promptly submit the application of each prospective Franchise Owner who it has approved (an "**Applicant**") to Franchisor, together with all information with respect to Applicant then customarily required by Franchisor concerning Applicants, and such other material information that Area Representative possesses regarding Applicant.
- (c) Approval of Applicants. Franchisor will use its best efforts to approve or disapprove Applicants within thirty (30) days after the later of (i) Franchisor's receipt of Applicant's complete application and other requested information materials and (ii) Franchisor's personal interview of Applicant, if Franchisor so requests. If Franchisor, in its sole judgment, determines that Applicant possesses sufficient financial and managerial capability and satisfies Franchisor's other criteria for Applicants at that time, Franchisor will offer Applicant a franchise for the operation of an Oxygen Yoga & Fitness Facility. The grant of the franchise will be evidenced by the signing by Franchisor and Applicant of Franchisor's ~~then-current~~then current form of Franchise Agreement and will be subject to all of its terms. Notwithstanding anything contained in this Agreement to the contrary, Franchisor is not obligated to consider any Applicant during any period during which Area Representative is not in compliance with this Agreement or any other agreement between Area Representative and Franchisor or its affiliates.

- (d) Standards. Area Representative shall at all times give prompt, courteous and efficient service to prospective Franchise Owners and Franchise Owners. Area Representative shall, in all dealings with prospective Franchise Owners and Franchise Owners, adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. Area Representative shall refrain from any business or advertising practice that may be injurious to Franchisor, the goodwill associated with the Marks or the System. In addition, Area Representative must not in any manner disparage Franchisor, its employees and representatives, its products, the Marks or the System.
- (e) Nondiscrimination. Area Representative must not, in bad faith or for any other reason other than an objective, reasonable, and good-faith basis, prefer any Franchise Owner or prospective Franchise Owner over any other.
- (f) Marketing Plan. Within ninety (90) days of the Effective Date and on an annual basis thereafter, Area Representative will submit to Franchisor for its approval a written plan covering Area Representative's proposed marketing and promotional programs for Oxygen Yoga & Fitness Facilities in Area Representative's Territory (the "**AR Marketing Plan**"). The AR Marketing Plan shall include Area Representative's sources of funds and operating budget for its proposed marketing and promotional programs. Area Representative shall modify the AR Marketing Plan according to Franchisor's comments and use commercially reasonable efforts to implement the modified AR Marketing Plan in accordance with this Agreement. Area Representative shall not implement the AR Marketing Plan developed by it in the Franchised Territory without first having obtained the written approval of Franchisor, as set forth in this Section 8.4. Upon implementation of the AR Marketing Plan, Area Representative must spend, during each month, a minimum of two percent (2%) of Gross Revenues of all Oxygen Yoga & Fitness Facilities operating within the Franchised Territory during the previous month or One Thousand Eight Hundred Dollars (\$1,800), whichever is greater, towards approved marketing and promotional programs outlined in the AR Marketing Plan. Failure to spend the required minimum amount set forth herein will be considered a default of this Agreement, following which Franchisor will have any and all rights and remedies available to it under this Agreement.

## 8.5 Services Provided to Franchise Owners

Franchisor may require Area Representative to provide services to Franchise Owners operating an Oxygen Yoga & Fitness Facility within the Franchised Territory on Franchisor's behalf. Such services may include, at Franchisor's option, any or all of the services that Franchisor is obligated to provide Franchise Owners under Franchise Agreements. The services that Franchisor requires Area Representative to provide to Franchise Owners operating Oxygen Yoga & Fitness Facilities within the Franchised Territory as of the Effective Date are set forth in Exhibit F attached to this Agreement. Franchisor has the right to modify, add and/or remove services from those listed in Exhibit F at any time upon notice to Area Representative. Area Representative agrees to provide all such services to Franchise Owners in compliance with the terms of the Franchise Agreements and this Agreement.

## 8.6 Compliance with Laws and with Franchisor's Standards for the Sale of Franchises

- (a) Area Representative acknowledges that Franchisor has advised it that many jurisdictions have enacted laws concerning the sale, renewal and termination of franchises and the continuing relationship between parties to a franchise. Area Representative agrees to

comply with all federal, state, and other laws pertaining to the operation of the AR Business and to franchising in general, including, but not limited to, laws regarding the offer or sale of a franchise, disclosure, reporting and registration.

Neither Area Representative nor any of its employees or representatives shall solicit prospective Franchise Owners until Franchisor has prepared and, if applicable, registered its current franchise disclosure document in applicable jurisdictions and has provided Area Representative with the requisite documents or at any time when Franchisor notifies Area Representative that its registration is not then in effect or its documents are not then in compliance with applicable law. If Area Representative's activities pursuant to this Agreement require the preparation, amendment, registration, or filing of information or any disclosure or other documents, all requisite disclosure documents, ancillary documents, and registration applications shall be prepared and filed by Franchisor or its designee, and registration secured, before Area Representative may solicit prospective Franchise Owners. In particular, Area Representative shall:

- (i) Prepare and forward to Franchisor verified financial statements of Area Representative in such form and for such periods as shall be designated by Franchisor, including audited financial statements, if necessary and appropriate to comply with applicable legal disclosure, filing, or other legal requirements;
- (ii) Promptly provide all information reasonably required by Franchisor to prepare all requisite documents and ancillary documents for the offering of franchises throughout the Franchised Territory; and
- (iii) Execute all documents required by Franchisor for the purposes of registering Area Representative and Franchisor to offer franchises throughout the Franchised Territory.

Area Representative agrees to review all information pertaining to Area Representative prepared to comply with legal requirements for selling franchises in the Franchised Territory and verify its accuracy. Area Representative acknowledges that Franchisor and its affiliates and designees shall not be liable to Area Representative for any errors, omissions, or delays which occur in the preparation of such materials.

- (b) Registrations. If Franchisor determines that Area Representative's operations under this Agreement require the preparation, amendment, registration or filing of any information or documents with any regulatory authority, the information and documents will be prepared, amended, registered or filed by Franchisor or its designee. The costs and expenses of that preparation, amendment, registration or filing (including legal costs), and any additional costs and expenses incurred by Franchisor in connection with the Franchised Territory, shall be borne by Area Representative and the other area representatives within the state where the Franchised Territory is located, on a proportionate basis determined by Franchisor. At Franchisor's request, Area Representative shall promptly pay Franchisor (or its designee) the proportionate amount of those costs and expenses.
- (c) Privacy. Area Representative expressly permits Franchisor to include in any franchise disclosure documents (whether required by law or made available on a voluntary basis) and other documents required by law personal information related to Area

Representative, including Area Representative's name, any address, telephone number and facsimile number, all for the purpose of soliciting prospective franchise owners or any other reasonable business purposes.

- (d) Solicitation Requirements and Restrictions. In connection with the offering and sale of licenses under this Agreement, Area Representative shall:
- (i) If requested in writing by Franchisor, provide prospective Franchise Owners Franchisor's ~~then-current~~then current franchise disclosure document(s) in accordance with applicable laws and regulations (and, if Franchisor so elects, all voluntary codes of conduct);
  - (ii) Print or duplicate Franchisor's ~~then-current~~then current franchise disclosure document(s) only in compliance with the standards and requirements of Franchisor as set forth in the Manual;
  - (iii) Provide only information that is contained in or consistent with Franchisor's ~~then-current~~then current franchise disclosure document(s);
  - (iv) Not provide any oral or written representations, warranties, claims or other information with respect to the historical or anticipated revenues, expenses or profits of Oxygen Yoga & Fitness Facilities, unless Franchisor so requires or permits in writing; and
  - (v) Not make any oral or written representations, warranties, amendments or agreements to or with any prospective Franchise Owner other than those contained in Franchisor's ~~then-current~~then current franchise disclosure document(s), unless Franchisor so requires or permits in writing.
- (e) Area Representative agrees to operate the AR Business in strict compliance with all applicable laws, rules, and regulations of all Government Entities; comply with all applicable wage, hour and other laws and regulations of federal, state and local governments; prepare and file all necessary tax returns; pay all taxes imposed on Area Representative related to the AR Business; obtain and keep in good standing all necessary licenses, permits and other required forms of governmental approval required of Area Representative to fulfill its obligations under this Agreement and any related agreement; pay or cause to be paid prior to delinquency all taxes, fines, fees and/or assessments arising out of or in connection with the operation of the AR Business.

## 8.7 Franchise Owner Compliance with Laws

Area Representative will use its best efforts to ensure that the Franchise Owners within the Franchised Territory are operating their Oxygen Yoga & Fitness Facilities and licensed businesses in compliance with all applicable laws, rules and regulations of any Government Entity and comply with all applicable wage, hour and other laws and regulations of any Government Entity. Area Representative will report to Franchisor any legal non-compliance by a Franchise Owner.

## 8.8 Compliance with Manual

- (a) Area Representative shall comply with the Manual (which includes supplements to the Manual) and all System Standards as an essential aspect of its obligations under this Agreement and failure to comply with a reasonable requirement of the Manual or System Standards shall be considered a breach of this Agreement. A master copy of the Manual maintained by Franchisor at its principal office shall be controlling in the event of a dispute relative to the content of any Manual.
- (b) The Manual is the sole property of Franchisor and will be used by Area Representative only during the Term and any Renewal Term of this Agreement. Area Representative shall immediately return physical copies to Franchisor, and/or delete digital copies of the Manual on the expiration, termination or assignment of this Agreement. Area Representative shall not duplicate the Manual or disclose its contents to persons other than the Franchise Owners in the Franchised Territory, or representatives who have signed a confidentiality agreement, in a form acceptable to Franchisor, and only to the extent that disclosure of said information is required under this Agreement or the Manual for the operation of the AR Business.
- (c) Area Representative, upon receiving any updated information regarding the Manual from Franchisor, shall immediately update its copy of the Manual as instructed by Franchisor and, within the time period designated by Franchisor in its instructions (or if no such time period is designated, within thirty (30) days) shall conform its operations with the updated provisions. Area Representative shall also be responsible for instructing each of the Franchise Owners in the Franchised Territory to follow the same updating and operational procedures for the Franchise Owner Operations Manual as described in this Section 8.8.
- (d) Franchisor shall ensure each Franchise Owner in the Franchised Territory receives a copy of Franchisor's Operations Manual for Franchise Owners (the "**Franchise Owner Operations Manual**"). Area Representative shall retrieve the Franchise Owner Operations Manual upon termination, assignment or expiration of any Franchise Agreement and must promptly return the Franchise Owner Operations Manual to Franchisor.

## 8.9 Compliance with Agreements; Communications and Evaluations

Area Representative shall promptly notify each Franchise Owner, in writing, of any failure by that Franchise Owner to comply with the System Standards and specifications in the Franchise Owner Operations Manual, and shall send a copy of that notice to Franchisor. Area Representative acknowledges, however, that Area Representative's evaluations, notices and reports are advisory only, and that Franchisor shall have:

- (a) The right to evaluate and ascertain Franchise Owner compliance;
- (b) The sole right to send default notices to Franchise Owners;
- (c) The sole right to terminate a Franchise Agreement; and

- (d) The sole right to take any legal action with respect to any breach of, or default under, a Franchise Agreement.

If Area Representative believes that any Franchise Owner has breached, or is in default under its Franchise Agreement, Area Representative shall promptly provide written notice to Franchisor of all facts relating to that breach or default. Franchisor may, in its sole judgment, take such action as it deems appropriate after receiving such notice from Area Representative.

#### **8.10 Franchise Owner Payments**

Area Representative shall, if requested by Franchisor, assist in the enforcement of Franchisor's rights under Franchise Owners' Franchise Agreements, including the collection of delinquent payments from Franchise Owners. Area Representative shall pay to Franchisor, or at Franchisor's election, reimburse Franchisor for, sixty-six point six percent (66.6%) of all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the collection of delinquent payments (including franchise royalty fees) from Franchise Owners to Franchisor. Area Representative shall make such payment within fifteen (15) days after Franchisor's written request therefor or invoice thereof.

#### **8.11 Monthly Reports**

Area Representative shall submit a monthly report to Franchisor on Area Representative's activities (including Area Representative's objectives, progress against objectives, sales, activity in the market and competition) in the form and containing the information required by Franchisor, as specified from time to time in writing, within fifteen (15) days after the end of each month. If Area Representative fails to submit any reports as required by this Section 8.11, Franchisor may charge Area Representative a fee of Five Hundred Dollars (\$500) per week for each week that Area Representative fails to deliver such report after its due date, to compensate Franchisor for Franchisor's additional administrative expenses. Franchisor may increase this fee at any time with prior written notice to Area Representative.

#### **8.12 Participation in Operation of Business; AR Business Manager**

- (a) Area Representative agrees to personally and directly supervise the operation of the AR Business licensed hereunder, unless otherwise permitted in writing by Franchisor. Area Representative agrees to devote the amount of its time, attention and best efforts to the performance of its duties under this Agreement that is necessary for the proper and effective operation of the AR Business.
- (b) If Area Representative is an individual, Area Representative shall either serve as or designate a business manager (the "**AR Business Manager**"). If Area Representative is an Entity, then Area Representative shall designate an AR Business Manager. Area Representative shall inform Franchisor in writing as to the identity of its AR Business Manager and any successor AR Business Managers. Each AR Business Manager must receive Franchisor's prior written approval. Area Representative's AR Business Manager will have day-to-day management responsibility for the AR Business, exercise on-premises supervision and personally participate in the direct operation of the AR Business. The AR Business Manager must devote all of his or her business time to the management of the AR Business. The definition, duties, required hours and responsibilities of each AR Business Manager may be set forth in the Manual. Each AR

Business Manager must complete, at Area Representative's expense, the AR Training Program in accordance with Section 7.1 above.

- (c) Upon the death, disability or termination of employment of Area Representative's designated AR Business Manager, Area Representative agrees immediately to notify Franchisor and designate a successor or acting AR Business Manager within fifteen (15) days following the death, disability or termination of the predecessor AR Business Manager. The new AR Business Manager must complete the AR Training Program at Area Representative's expense within ninety (90) days after the date of death or disability.

### **8.13 Payment of Taxes and Other Obligations**

Area Representative shall promptly pay when due all Taxes and other obligations incurred during the operation of the AR Business. Area Representative agrees to pay to Franchisor (or its affiliates) immediately upon demand by Franchisor, the amount of any other tax or levy whatsoever – however denominated (but not including any income taxes imposed on Franchisor or its affiliates) – imposed on, required to be collected, or paid by Franchisor on account of services or goods Franchisor has furnished to Area Representative through sale, lease or otherwise, or on account of collection by Franchisor of the Area Representative Fee, Technology Fees, Training Fees, Advertising Fund Fees, or any other fees called for by this Agreement.

### **8.14 Office; AR Business Opening; Computer System**

- (a) Area Representative shall obtain within sixty (60) days of the Effective Date, and thereafter maintain and operate the AR Business from, office facilities in the Franchised Territory (the "**Office**"). The Office may be located in Area Representative's residence or the Oxygen Yoga & Fitness Facility operated by Area Representative. The Office may not be located in a commercial office space without Franchisor's prior written approval, which Franchisor may withhold or condition in its sole discretion.
- (b) Area Representative must notify Franchisor in writing at least fourteen (14) days prior to the day on which Franchise Owner proposes to begin operating the AR Business. Area Representative agrees not to begin operating the AR Business until:
  - (i) Franchisor notifies Area Representative in writing that the AR Business meets Franchisor's standards and specifications (although Franchisor's acceptance is not a representation or warranty, express or implied, that the AR Business complies with any engineering, licensing, environmental, labor, health, building, fire, sanitation, occupational, landlord's, insurance, safety, tax, governmental, or other statutes, rules, regulations, requirements, or recommendations nor a waiver of Franchisor's right to require continuing compliance with Franchisor's requirements, standards, or policies);
  - (ii) Area Representative (if an individual) or the AR Business Manager (if an Entity) satisfactorily completes training;
  - (iii) Area Representative purchases an opening inventory of authorized and approved products, materials, and supplies to operate the AR Business;

- (iv) Area Representative pays the Area Representative Fee and other amounts then due to Franchisor; and
  - (v) Area Representative gives Franchisor certificates or other evidence Franchisor requires for all required insurance policies.
- (c) Subject to Area Representative's compliance with these conditions, Franchise Owner agrees to commence operations of the AR Business within sixty (60) days after the Effective Date.
- (d) Area Representative shall obtain, maintain, upgrade and update all computer hardware and/or operating software (including point-of-sale equipment and software) we specify at any time and from time to time (collectively, the "**Computer System**"), at its own expense, in accordance with the written instructions of Franchisor from time to time. Franchisor shall have independent, unlimited access to the information generated by the Computer System, and there are no contractual limitations on Franchisor's right to do so. Franchisor may connect remotely to the Computer System at any time for any information and Area Representative must never block or restrict this access. Franchisor reserves the right to require Area Representative to execute software licensing contracts in order to be permitted to use the software that Franchisor requires Area Representative to use. Franchisor or its affiliates may charge Area Representative a monthly, annual, or other license fee for any proprietary software or technology that Franchisor or its affiliates license to Area Representative and for other maintenance and support services that Franchisor or its affiliates provide during the Term.
- (e) Area Representative agrees to provide all assistance that Franchisor requires to bring the Computer System on-line with Franchisor's headquarters computer at the earliest possible time and to maintain this connection as Franchisor requires. Area Representative agrees that Franchisor may retrieve from the Computer System all information that Franchisor deems necessary, desirable or appropriate.
- (f) The Office shall have a dedicated telephone line which shall be answered in the name of "OXYGEN YOGA & FITNESS."

### **8.15 Guaranty**

If (a) Area Representative is an Entity, then all of its Owners listed on **Exhibit B** will execute a Guaranty and Assumption of Obligations, substantially in the form attached as **Exhibit E** to this Agreement, or, (b) this Agreement is assigned to another Entity, then such assignment will be effective and contingent upon the execution of Franchisor's then current form of Guaranty and Assumption of Obligations by all of the Owners of Area Representative. Each person who executes the Guaranty and Assumption of Obligations is referred to as a "**Guarantor**".

### **8.16 Corporate and Partnership Requirements; Records**

If Area Representative is a corporation, limited partnership, partnership or proprietorship Area Representative shall furnish Franchisor with its articles of incorporation; bylaws; other governing documents; list of officers, directors and shareholders (including number and percentage of shares held); and any other documents Franchisor may reasonably request, and any amendments to them.

### **8.17 Testimonials and Endorsements**

Area Representative agrees to cooperate with Franchisor in procuring testimonials or endorsements from Franchise Owners within the Franchised Territory. Area Representative agrees that Franchisor will be free to make whatever use of testimonials and endorsements that Franchisor determines, and that Franchisor will owe Area Representative absolutely no direct or indirect compensation or other duty as a consequence.

### **8.18 No Conflicting Agreements**

Throughout the Term and any Renewal Term of this Agreement, Area Representative may not be party to any contract, agreement, mortgage, by-law provision, lease or restriction of any type or nature which may conflict with, or be breached by, the execution, delivery, and/or performance of this Agreement.

### **8.19 Exclusive Relationship**

Area Representative acknowledges that Franchisor has granted Area Representative the Franchise in consideration of and reliance upon Area Representative's agreement to deal exclusively with Franchisor. Area Representative and the Restricted Persons therefore agree that, during the Term and any Renewal Term of this Agreement, and unless Franchisor provides prior written consent in its sole discretion, neither Area Representative, any Restricted Person, any Guarantor, nor any officer, director, or employee of Area Representative, or any of the Restricted Persons will:

- 1) have any direct or indirect controlling or non-controlling interest as an owner – whether of record, beneficially, or otherwise – in a Competitive Business, wherever located or operating (except that equity ownership of less than two percent (2%) of a Competitive Business whose stock or other forms of Ownership Interest are publicly traded on a recognized United States stock exchange will not be deemed to violate this subparagraph); or
- 2) perform services as a director, officer, manager, employee, consultant, representative, or agent for a Competitive Business, wherever located or operating; or
- 3) divert or attempt to divert any actual or potential Franchise Owner or customer of any Oxygen Yoga & Fitness Facility to a Competitive Business; or
- 4) directly or indirectly loan any money or other thing of value to, or guarantee any other person's loan to, any Competitive Business or any owner, director, officer, manager, employee or agent of any Competitive Business, wherever located or operating; or
- 5) engage in any other activity which might injure the goodwill of the Marks or the System; or
- 6) market or grant sublicenses for Oxygen Yoga & Fitness Facilities to third parties within the franchised territory of any existing Oxygen Yoga & Fitness AR Business as of the Effective Date.

Area Representative agrees to have all of the following persons sign, and Area Representative will submit to Franchisor an executed copy of, Franchisor's then current form of Nondisclosure and

Non-Competition Agreement (a current form of which is set forth in **Exhibit D**) from all of the following persons: (i) the AR Business Manager and any supervisory or other employees who have received or will receive training from Franchisor, prior to their employment; (ii) if Area Representative is an Entity, all Area Representative's Owners, officers, directors, shareholders, partners, and members, and those of any Entity directly or indirectly controlling Area Representative, concurrent with the execution of this Agreement, or at such time as they assume such status; and (iii) all of the persons enumerated in this Section 8.19 and Section 19.1 below. Area Representative agrees to provide Franchisor copies of all executed Nondisclosure and Non-Competition Agreements no later than ten (10) days following their execution. Franchisor will be a third party beneficiary of the Nondisclosure and Non-Competition Agreement with independent enforcement rights.

## **ARTICLE 9**

### **CONFIDENTIAL INFORMATION**

Franchisor possesses (and will continue to develop and acquire) certain confidential information, some of which constitutes trade secrets under applicable law (the "**Confidential Information**"), relating to developing and operating Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities, including (without limitation):

- (1) site selection criteria and layouts, designs and other plans and specifications;
- (2) training and operations materials and manuals;
- (3) methods, formats, specifications, standards, systems, procedures, sales and marketing techniques, knowledge, and experience used in developing and operating Oxygen Yoga & Fitness Facilities;
- (4) marketing, promotional and advertising research and programs for Oxygen Yoga & Fitness Facilities;
- (5) knowledge of specifications for and suppliers of required fixtures, furniture, equipment (including a required or recommended computer and facsimile), furnishings, and signs ("**Operating Assets**"), and other products and supplies, including supplier pricing and related terms;
- (6) any computer software or similar technology which is proprietary to Franchisor or the System, including, without limitation, digital passwords and identifications and any source code of, and data, reports, and other printed materials generated by, the software or similar technology;
- (7) knowledge of the operating results and financial performance of Oxygen Yoga & Fitness Facilities located both within and outside of the Franchised Territory (other than Oxygen Yoga & Fitness Facilities that Area Representative operates);
- (8) graphic designs and related intellectual property;
- (9) customer solicitation, communication and retention programs, along with data and information used or generated in connection with those programs;
- (10) all data and other information generated by, or used in, the operation of Oxygen Yoga & Fitness Facilities, including customer and member names, addresses, phone numbers and

other information supplied by any customer (such as credit card information or personal information), and any other information contained at any time and from time to time in the Computer System or that visitors to the Oxygen Yoga & Fitness Facilities (including Area Representative and Area Representative's personnel) provide to the Website for the network of Oxygen Yoga & Fitness Facilities;

(11) future business plans relating to Oxygen Yoga & Fitness Facilities and the Oxygen Yoga & Fitness franchise opportunity, including expansion and development plans; and

(12) any other information that Franchisor reasonably designates as confidential or proprietary.

Area Representative acknowledges and agrees that Area Representative will not acquire any interest in Confidential Information, other than the right to use it as Franchisor specifies in operating the AR Business during the Term of this Agreement, and that Confidential Information is proprietary, includes Franchisor's trade secrets, and is disclosed to Area Representative only on the condition that Area Representative agrees, and Area Representative in fact does agree, that Area Representative:

- a) will not use Confidential Information in any other business or capacity;
- b) will keep each item deemed to be part of Confidential Information absolutely confidential, both during the Term of this Agreement and then thereafter for as long as the item is not generally known in the fitness, health, and wellness industry;
- c) will not make unauthorized copies of any Confidential Information disclosed via electronic medium or in written or other tangible form; and
- d) will adopt and implement reasonable procedures to prevent unauthorized use or disclosure of Confidential Information, including, without limitation, restricting its disclosure to AR Business personnel and other need-to-know personnel. Franchisor has the right to regulate the form of agreements that Area Representative uses and to be a third party beneficiary of those agreements with independent enforcement rights.

Confidential Information does not include information, knowledge, or know-how which Area Representative can demonstrate lawfully came to Area Representative's attention before Franchisor provided it to Area Representative directly or indirectly; which, at the time Franchisor disclosed it to Area Representative, already had lawfully become generally known in the fitness, health, and wellness industry through publication or communication by others (without violating an obligation to Franchisor); or which, after Franchisor discloses it to Area Representative, lawfully becomes generally known in the fitness, health, and wellness industry through publication or communication by others (without violating an obligation to Franchisor). However, if Franchisor includes any matter in Confidential Information, anyone who claims that it is not Confidential Information must prove that one of the exclusions provided in this paragraph is fulfilled.

All ideas, concepts, techniques, or materials relating to the AR Business, whether or not protectable intellectual property and whether created by or for Area Representative or Area Representative's Owners or employees, must be promptly disclosed to Franchisor and will be deemed to be Franchisor's sole and exclusive property, part of the System, and works made-for-hire for Franchisor. To the extent that any item does not qualify as a "work made-for-hire" for Franchisor, by this paragraph Area Representative assigns ownership of that item, and all related rights to that item, to Franchisor and agrees to take whatever action (including signing assignment or other documents) Franchisor requests to

evidence Franchisor's ownership or to help Franchisor obtain intellectual property rights in the item (including signing assignment or other documents, and causing Area Representative's Owners, employees and contractors to do the same). Area Representative may not use any such idea, concept, technique or material in connection with the AR Business without Franchisor's prior approval.

## **ARTICLE 10** **REPRESENTATIONS AND ACKNOWLEDGMENTS**

### **10.1 Area Representative's Representations and Acknowledgments**

Area Representative represents and warrants that the following are true and correct as of the date hereof and will remain true and correct throughout the Term of this Agreement:

- (a) Area Representative understands and acknowledges that Franchisor has made no promise or guarantee, express or implied, that Area Representative will be able to comply with any applicable laws and regulations concerning the sale of licenses in the Franchised Territory throughout the Term, but Area Representative agrees to use its best efforts to comply with the same.
- (b) Franchisor (and no employee, agent or salesperson of Franchisor) has made no representations or statements of actual, average, projected or forecasted sales, profits or earnings to Area Representative with respect to the AR Business, or any other Oxygen Yoga & Fitness AR Business, on which Area Representative has in any way relied upon as a reason for entering into this Agreement.
- (c) No representation or statement has been made by Franchisor (or any employee, agent or salesperson of Franchisor) and relied on by Area Representative regarding the anticipated income, earnings and growth of Franchisor or the System, or the viability of the business opportunity being offered under this Agreement.
- (d) Before executing this Agreement, Area Representative has had the opportunity to contact any and all existing Oxygen Yoga & Fitness AR Business franchise owners.
- (e) Area Representative has received from Franchisor a copy of Franchisor's franchise disclosure document, together with a copy of all proposed agreements relating to the sale of the Franchise, at least fourteen (14) calendar days before the execution of this Agreement or at least fourteen (14) calendar days before the payment by Area Representative to Franchisor of any consideration in connection with the sale or proposed sale of the Franchise granted by this Agreement.
- (f) No representation or statement has been made by Franchisor (or any employee, agent or salesperson of Franchisor) and relied on by Area Representative regarding Area Representative's ability to procure any required license or permit that may be necessary to the operation of the AR Business.
- (g) Area Representative acknowledges that it has read this Agreement and understands and accepts the terms contained in this Agreement as being reasonably necessary to maintain Franchisor's high standards of quality and service and the uniformity of those standards and thereby to protect and preserve the goodwill of the Marks and the integrity of the Franchised Methods and the System. Area Representative has had the opportunity to independently investigate, analyze and construe both the business opportunity being

offered under this Agreement, and the terms and provisions of this Agreement, using the services of legal counsel, accountants or other advisers (if Area Representative so elects) of its own choosing. Area Representative has been advised to consult with its own advisers with respect to the legal, financial and other aspects of this Agreement, the AR Business, and the prospects for that business. Area Representative has either consulted with these advisors or has deliberately declined to do so.

- (h) Area Representative acknowledges that, like any other business, the nature of the business venture contemplated by this Agreement may evolve and change over time, that the investment involves business risks and that the success of the venture is largely dependent on Area Representative's business abilities and efforts.
- (i) The covenants not to compete set forth in this Agreement are fair and reasonable, and will not impose any undue hardship on Area Representative, since Area Representative has other skills, experience and education which afford Area Representative the opportunity to derive income from other endeavors.
- (j) Area Representative affirms that all information set forth in all applications, financial statements and submissions to Franchisor is true, complete and accurate in all respects, and Area Representative expressly acknowledges that Franchisor is relying on the truthfulness, completeness and accuracy of this information.
- (k) Area Representative represents that it is familiar with and has the necessary managerial and financial ability to operate, develop and maintain the AR Business and that it has sufficient staff and offices to comply with the Development Schedule and to attempt to sell, train and support prospective and future Franchise Owners in accordance with the Manual and System Standards.

## **10.2 Variance of System Standards**

Area Representative acknowledges that because complete and detailed uniformity under many varying conditions may not be possible or practical, Franchisor reserves the right to vary System Standards for any area representative based on the peculiarities of the particular Territory or circumstance, density of population, business potential, population of trade area, existing business practices or any other condition which Franchisor considers important to the successful operation of the particular area representative business. Area Representative will have no right to require Franchisor to disclose any variation to Area Representative or to grant it the same or a similar variation under this Agreement.

## **10.3 Corporation, Limited Liability Company, or Partnership**

If Area Representative is at any time a corporation, limited liability company, general or limited partnership or other form of business entity (each, an "**Entity**"), Area Representative agrees and represents that:

- (a) Area Representative will have the authority to execute, deliver, and perform Area Representative's obligations under this Agreement and all related agreements and are duly organized or formed and validly existing in good standing under the laws of the state of Area Representative's incorporation or formation;

- (b) Area Representative's organizational documents, operating agreement, or partnership agreement, as applicable, will recite that this Agreement restricts the issuance and transfer of any ownership interests in Area Representative, and all certificates and other documents representing ownership interests in Area Representative will bear a legend referring to this Agreement's restrictions;
- (c) **Exhibit B** to this Agreement completely and accurately describes all of Area Representative's Owners and their interests in Area Representative as of the Agreement Date. Subject to Franchisor's rights and Area Representative's obligations under Article 14, Area Representative and Area Representative's Owners agree to sign and deliver to Franchisor revised **Exhibits B** to reflect any permitted changes in the information that **Exhibit B** now contains; and
- (d) The AR Business and other Oxygen Yoga & Fitness Facilities, if applicable, will be the only businesses Area Representative operates (although for the avoidance of doubt Area Representative's Owners may have other, non-competitive business interests, but it must be done either in his/her individual capacity or through another Entity other than Area Representative).

## **ARTICLE 11** **ADVERTISING**

### **11.1 Advertising Fund**

Recognizing the value of advertising and marketing to the goodwill and public image of Oxygen Yoga & Fitness AR Businesses, Franchisor may establish an advertising fund (the “**Advertising Fund**”) for the advertising, marketing, and public relations programs and materials Franchisor deems appropriate. Area Representative agrees to contribute to the Advertising Fund the amounts Franchisor requires as set forth in Section 5.3 above.

Franchisor has the right to collect for deposit into the Advertising Fund any advertising, marketing, or similar allowances paid to Franchisor by suppliers who deal with Oxygen Yoga & Fitness AR Businesses, and with whom Franchisor has agreed that Franchisor will so deposit these allowances. (These payments are different from those which are not designated by suppliers to be used exclusively for advertising or similar purposes, and which Franchisor and its affiliates therefore may use for any purposes they deem appropriate)

Franchisor and/or an advertising agency that Franchisor designates will direct all programs that the Advertising Fund finances, with sole control over the creative concepts, materials, and endorsements used and their geographic, market, and media placement and allocation. The Advertising Fund may pay for preparing and producing video, audio, and written materials and electronic media; costs associated with inbound marketing channels and providers (for example, Google, Facebook, Instagram, TikTok, Pinterest and Yelp); developing, implementing, and maintaining an electronic commerce Website and/or related strategies and efforts; social media strategy and execution; use of social media influencers; administering regional and multi-regional marketing and advertising programs, including, without limitation, purchasing trade journal, direct mail, and other media advertising; using advertising, promotion, and marketing agencies and other advisors to provide assistance; and supporting public relations, market research, and other advertising, promotion, and marketing activities. The Advertising Fund may advertise locally, regionally, and/or nationally in printed materials, on radio or television, and/or on the Internet, whatever Franchisor thinks best.

The Advertising Fund may periodically give Area Representative samples of advertising, marketing, and promotional formats and materials at no cost. If Franchisor makes these available, and Area Representative would like copies of the samples, the Advertising Fund will sell Area Representative multiple copies of these materials at its direct cost of producing them, plus any related shipping, handling, and storage charges.

Franchisor will account for the Advertising Fund separately from Franchisor's other funds and not use the Advertising Fund for any of Franchisor's general operating expenses. However, Franchisor may use the Advertising Fund to pay the **reasonable actual** salaries and benefits of personnel who manage and administer the Advertising Fund, the Advertising Fund's other administrative costs, travel expenses of personnel while they are on Advertising Fund business, meeting costs, overhead relating to Advertising Fund business, and other expenses that Franchisor incurs in activities reasonably related to administering or directing the Advertising Fund and its programs, including, without limitation, conducting market research, public relations, preparing advertising, promotion, and marketing materials, and collecting and accounting for Advertising Fund contributions.

The Advertising Fund will not be Franchisor's asset. Although the Advertising Fund is not a trust, Franchisor will hold all Advertising Fund contributions for the benefit of the contributors and use contributions only for the purposes described in this Section 11.1. Franchisor does not owe any fiduciary obligation to Area Representative for administering the Advertising Fund or any other reason. The Advertising Fund may spend in any fiscal year more or less than the total Advertising Fund contributions in that year, borrow from Franchisor or others (paying reasonable interest) to cover deficits, pay back outstanding principal amounts borrowed in prior years from Franchisor or third parties, or invest any surplus for future use. Franchisor will use all interest earned on Advertising Fund contributions to pay costs before using the Advertising Fund's other assets.

Franchisor may prepare an annual, unaudited statement of Advertising Fund collections and expenses and give Area Representative the statement upon written request. Franchisor reserves the right, in its sole determination, to have the Advertising Fund audited annually at the Advertising Fund's expense by an independent certified public accountant. Franchisor may incorporate the Advertising Fund or operate it through a separate entity whenever Franchisor deems appropriate. The successor entity will have all of the rights and duties specified in this Section 11.1.

Franchisor intends the Advertising Fund to maximize recognition of the Marks, Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities. Although Franchisor may use the Advertising Fund to develop advertising and marketing materials and programs, and to place advertising and marketing, that will benefit all Oxygen Yoga & Fitness AR Businesses, Franchisor need not ensure that Advertising Fund expenditures in or affecting any geographic area are proportionate or equivalent to Advertising Fund contributions by Oxygen Yoga & Fitness AR Businesses operating in that geographic area or that any Oxygen Yoga & Fitness AR Business benefits directly or in proportion to its Advertising Fund contribution from the development of advertising and marketing materials or the placement of advertising and marketing.

Franchisor has the right, but no obligation, to use collection agents and institute legal proceedings to collect Advertising Fund contributions at the Advertising Fund's expense. Franchisor also may forgive, waive, settle, and compromise all claims by or against the Advertising Fund. Except as expressly provided in this Section 11.1, Franchisor assumes no direct or indirect liability or obligation to Area Representative for collecting amounts due to, maintaining, directing, or administering the Advertising Fund.

Franchisor may at any time defer or reduce contributions of an Oxygen Yoga & Fitness Area Representative and, upon thirty (30) days' prior written notice to Area Representative, reduce or suspend Advertising Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Advertising Fund. If Franchisor terminates the Advertising Fund, Franchisor will either spend the remaining monies in the Advertising Fund or distribute all unspent monies to Oxygen Yoga & Fitness AR Business franchise owners, and to Franchisor and Franchisor's affiliates, in proportion to their respective Advertising Fund contributions during the preceding twelve (12) month period. Franchisor may reinstate Area Representative's requirement to contribute to the Advertising Fund upon the same terms and conditions set forth herein upon thirty (30) days' prior written notice to Area Representative.

## 11.2 Area Representative Marketing Activities

- (a) Area Representative shall only conduct advertising in accordance with the written guidelines (the "**Guidelines**") as set forth in the Manual. Area Representative agrees that prior to displaying any promotional or marketing material (the "**Advertising Material**") that is not provided by Franchisor, Area Representative will submit such Advertising Material to Franchisor for Franchisor's review and written approval at least ten (10) calendar days before the first time such material is broadcast or published. Following receipt of the Advertising Material, Franchisor may, in its sole judgment, notify Area Representative that it rejects or requires modification to all or any portion of the Advertising Material. If Franchisor does not notify Area Representative of its approval of the Advertising Material within ten (10) calendar days of its receipt by Franchisor, the Advertising Material will be deemed disapproved. There is no obligation for Franchisor to maintain any advertising program or to spend any amount on advertising in Area Representative's geographic area. Franchisor has the right to require Area Representative to use one or more required suppliers for Area Representative's local advertising.
- (b) Area Representative shall not promote the AR Business on any Websites without Franchisor's prior written consent. Franchisor alone may establish, maintain, modify or discontinue all Internet, worldwide web and electronic commerce activities pertaining to Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities, including through the use of a page or profile on a social media website such as Facebook, Instagram, TikTok, Pinterest, LinkedIn and Twitter. Notwithstanding any provision of this Agreement to the contrary, immediately upon receipt by Area Representative of a written notice from Franchisor requiring Area Representative to cease promoting the AR Business, the Marks and the System on any Website or social media page, Area Representative must comply with Franchisor's directions in the notice.
- (c) All advertising and promotion by Area Representative must be completely factual and must conform to the highest standards of ethical advertising. The AR Business must in all dealings with actual and potential Franchise Owners, customers of Oxygen Yoga & Fitness Facilities, suppliers, Franchisor and the public adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. Area Representative agrees to refrain from any business or advertising practice which may be injurious to Franchisor's business and the goodwill associated with the Marks, other Oxygen Yoga & Fitness AR Businesses, and Oxygen Yoga & Fitness Facilities. Area Representative must 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 Area

Representative's operation or financial condition or that of the AR Business and of any notice of violation of any law, ordinance, or regulation relating to the AR Business.

## **ARTICLE 12**

### **MARKS AND INTELLECTUAL PROPERTY**

#### **12.1 Ownership and Goodwill of Marks**

Franchisor's affiliate, Oxygen Yoga & Fitness Inc., a corporation incorporated in British Columbia, Canada ("**Oxygen Yoga & Fitness Inc.**"), has licensed the Marks to Franchisor to use in connection with the AR Business' development and operation. Area Representative's right to use the Marks is derived only from this Agreement and limited to Area Representative's operation of the AR Business according to this Agreement and all System Standards Franchisor prescribes during the Term. Area Representative's unauthorized use of the Marks is a breach of this Agreement and infringes Franchisor's and Oxygen Yoga & Fitness Inc.'s rights in the Marks. Area Representative acknowledges and agrees that Area Representative's use of the Marks and any goodwill established by that use are exclusively for Franchisor's and Oxygen Yoga & Fitness Inc.'s benefit and that this Agreement does not confer any goodwill or other interests in the Marks upon Area Representative (other than the right to operate the AR Business under this Agreement). All provisions of this Agreement relating to the Marks apply to any additional proprietary trade and service marks Franchisor authorizes Area Representative to use. Area Representative may not at any time during or after the Term or any Renewal Term contest or assist any other person in contesting the validity, or Franchisor's and Oxygen Yoga & Fitness Inc.'s ownership, of the Marks.

#### **12.2 Limitations on Area Representative's Use of Marks**

Area Representative agrees to use the Marks within the Franchised Territory as the AR Business' sole identification, except that Area Representative agrees to identify itself as its independent owner in the manner Franchisor prescribes. Area Representative may not use any Mark (1) as part of any corporate or legal business name, (2) with any prefix, suffix, or other modifying words, terms, designs, or symbols (other than logos Franchisor has licensed to Area Representative), (3) in selling any unauthorized services or products, (4) as part of any domain name, homepage, electronic address, or otherwise in connection with a Website, or (5) in any other manner that Franchisor has not expressly authorized in writing.

Area Representative may not use any Mark in advertising the Assignment, sale, or other disposition of the AR Business or an Ownership Interest in Area Representative without Franchisor's prior written consent, which Franchisor will not unreasonably withhold. Area Representative agrees to display the Marks prominently as Franchisor prescribes at the Office and on vehicles, forms, advertising, supplies, and other materials Franchisor designates.

#### **12.3 Notification Of Infringements And Claims.**

Area Representative agrees to notify Franchisor immediately of any apparent infringement or challenge to Area Representative's use of any Mark, or of any person's claim of any rights in any Mark, and not to communicate with any person other than Franchisor, Franchisor's attorneys, and Area Representative's attorneys, regarding any infringement, challenge, or claim. Franchisor may take the action Franchisor deems appropriate (including no action) and control exclusively any litigation, U.S. Patent and Trademark Office proceeding, or other administrative proceeding arising from any infringement, challenge, or claim or otherwise concerning any Mark. Area Representative agrees to sign any documents and take any other reasonable action that, in the opinion of Franchisor's attorneys, are

necessary or advisable to protect and maintain Franchisor's interests in any litigation or Patent and Trademark Office or other proceeding or otherwise to protect and maintain Franchisor's interests in the Marks.

#### **12.4 Discontinuance Of Use Of Marks.**

If it becomes advisable at any time for Franchisor and/or Area Representative to modify or discontinue using any Mark and/or to use one or more additional or substitute trade or service marks, Area Representative agrees to comply with Franchisor's directions within a **reasonable** time **we require** after receiving notice. Franchisor need not reimburse Area Representative for Area Representative's direct expenses of changing the AR Business' signs, for any loss of revenue due to any modified or discontinued Mark, any loss of goodwill associated with any modified or discontinued Mark, or for Area Representative's expenses of promoting a modified or substitute trademark or service mark.

Franchisor's rights in this Section 12.4 apply to any and all of the Marks (and any portion of any Mark) that Franchisor authorizes Area Representative to use in this Agreement. Franchisor may exercise these rights at any time and for any reason, business or otherwise, that Franchisor thinks best. Area Representative acknowledges both Franchisor's right to take this action and Area Representative's obligation to comply with Franchisor's directions.

#### **12.5 Area Representative's Name**

Area Representative acknowledges that Franchisor has a prior and superior claim to the Marks. Area Representative's rights granted pursuant to this Agreement shall not include the right to use any of the Marks as a part of its legal name. Area Representative may use the Marks in its trade name by using the words "doing business as" or "d/b/a" immediately before the use of the Marks. If Franchisor permits Area Representative to promote the AR Business on social media sites like Facebook, Instagram, TikTok, Pinterest, Twitter, and LinkedIn, then Area Representative may also use the Marks on such sites, but only in accordance with Franchisor's social media policy and as otherwise directed by Franchisor in writing. When this Agreement expires or is terminated, Area Representative shall execute any assignment or other document Franchisor requires to discontinue or to transfer to Franchisor any rights Area Representative may possess in a trade name or social media identity utilizing any of the Marks. Notwithstanding the foregoing, Area Representative may not use the Marks for a domain name or URL without the express written consent of Franchisor.

### **ARTICLE 13 REPORTS AND RECORDS**

#### **13.1 Reports**

Area Representative shall complete and submit a monthly marketing report and sales revenue report (collectively, the "**Performance Reports**") to Franchisor in a form required by Franchisor. The Performance Reports must be delivered to Franchisor by email on or before the seventh (7<sup>th</sup>) day of the succeeding month, or by such other method or at such other frequency as Franchisor in its sole judgment requires. Area Representative also agrees to complete and submit to Franchisor any weekly, monthly, semi-annual or other periodic reports (whether electronic or otherwise) regarding the activity of the AR Business in the form and with the frequency required by Franchisor.

### **13.2 Annual Reports**

Area Representative shall, within ninety (90) days after the end of its fiscal year, provide to Franchisor annual financial statements certified to be true and correct by Area Representative in the manner prescribed by Franchisor upon Franchisor's request. Franchisor reserves the right to require the annual financial statements to be audited by an independent certified public accountant. Area Representative authorizes Franchisor to incorporate in its franchise disclosure document(s) and/or promotional literature information derived from the financial statements.

### **13.3 Maintenance of Records**

Area Representative shall maintain all books and records for the AR Business in accordance with United States generally accepted accounting principles, consistently applied, and preserve these records for at least three (3) years after the fiscal year to which they relate or for such longer period as may be required by a Government Entity.

### **13.4 Failure to Submit Reports**

If Area Representative fails to submit any reports as required under this Agreement, Franchisor may charge Area Representative a fee of Five Hundred Dollars (\$500) per week for each week that Area Representative fails to deliver such report after its due date to compensate Franchisor for Franchisor's additional administrative expenses. Franchisor may increase this fee at any time with prior written notice to Area Representative.

## **ARTICLE 14** **ASSIGNMENT OF RIGHTS**

### **14.1 Assignment By Franchisor**

Area Representative acknowledges that Franchisor maintains a staff to manage and operate the System and that staff members can change as employees come and go. Area Representative represents that Area Representative has not signed this Agreement in reliance on any particular shareholder, director, officer, or employee remaining with Franchisor in that capacity. Franchisor may change Franchisor's ownership or form and/or assign this Agreement and any other agreement to a third party without restriction. After Franchisor's assignment of this Agreement to a third party who expressly assumes the obligations under this Agreement, Franchisor no longer will have any performance or other obligations under this Agreement.

### **14.2 Assignment by Area Representative – General**

- (a) With respect to Area Representative's obligations under this Agreement, this Agreement is personal, since Franchisor has entered into this Agreement in reliance on and in consideration of Area Representative's singular personal skill and qualifications (or, if Area Representative is an Entity the personal skill and qualifications of Area Representative's owners), and the trust and confidentiality that Franchisor places in Area Representative (or the owners of Area Representative, if Area Representative is an Entity). Therefore, except as provided below, neither Area Representative's interest in this Agreement, its rights or privileges under this Agreement, the AR Business, nor any interest in the AR Business or in Area Representative (if Area Representative is an Entity), may be assigned, sold, transferred, shared, redeemed, sublicensed or divided, voluntarily or involuntarily, directly or indirectly, by operation of law or otherwise, in

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any manner, without first obtaining Franchisor's written consent in accordance with this Article 14 or without first complying with Franchisor's right of first refusal pursuant to Section 14.6 below.

- (b) Any actual or attempted assignment, transfer or sale of this Agreement, the AR Business, Area Representative (if Area Representative is an Entity) or of any interest in any of these, in violation of the terms of this Article 14 will be null and void.

#### **14.3 Assignment by Area Representative - To a Corporation Formed by Area Representative or to an Existing Corporate Affiliate of Area Representative**

Despite Section 14.4 below, if Area Representative is fully complying with this Agreement, Area Representative may transfer this Agreement to a corporation or limited liability company (subject to state law requirements) which conducts no business other than the AR Business and, if applicable, other Oxygen Yoga & Fitness Facilities in which Area Representative maintains management control, and of which Area Representative owns and controls one hundred percent (100%) of the equity and voting power of all issued and outstanding ownership interests, provided that all of the AR Business's assets are owned, and the AR Business's business is conducted, only by that single corporation or limited liability company. The corporation or limited liability company must expressly assume all of Area Representative's obligations under this Agreement. Transfers of ownership interests in the corporation or limited liability company are subject to the conditions of Section 14.4 below. Area Representative agrees to remain personally liable under this Agreement as if the transfer to the corporation or limited liability company did not occur.

#### **14.4 Assignment by Area Representative - Sale to Third Party**

- (a) Area Representative may not directly or indirectly sell or assign Area Representative's interest in this Agreement, its rights or privileges under this Agreement, the AR Business, nor any interest in the AR Business or in Area Representative (if Area Representative is an Entity) without Franchisor's prior written consent. If Franchisor does not elect to exercise its right of first refusal (as provided in Section 14.6 below), then Franchisor will not unreasonably withhold consent to the assignment and sale. Area Representative agrees that it will not be unreasonable for Franchisor to impose, among other requirements, the following conditions to consenting to the assignment and sale:
  - (i) That Area Representative has complied with the right of first refusal provisions of Section 14.6 of this Agreement.
  - (ii) That the proposed assignee applies to Franchisor for acceptance as an Oxygen Yoga & Fitness AR Business franchise owner, and furnishes to Franchisor the information and references that Franchisor requests to determine the proposed assignee's skills, qualifications, financial condition, background and history, reputation, economic resources and ability to assume Area Representative's duties and obligations under this Agreement and any related agreement.
  - (iii) That the proposed assignee meets Franchisor's ~~then-current~~ then current requirements for a new Oxygen Yoga & Fitness AR Business, as determined in Franchisor's reasonable business judgment. Area Representative shall bear the cost of any such investigations conducted by Franchisor (including, without limitation, Franchisor's travel, lodging, meal and personnel expenses related to

Franchisor's investigatory trips to the Franchised Territory or any travel necessary for Franchisor to meet and screen the proposed assignee).

- (iv) That the proposed assignee (if the proposed assignee is an individual) or its proposed AR Business Manager (if the proposed assignee is an Entity) and one (1) other member of the proposed assignee's personnel has attended and successfully completed the AR Training Program before the assignment, and any other training that Franchisor reasonably requires, at the assignee's expense. The proposed assignee will be responsible for all expenses incurred in connection with training, including, but not limited to, (i) transportation costs, meals, lodging and other expenses incurred by the proposed assignee or its attendee(s) in traveling to or from [the AR Training Program and \(ii\) Franchisor's personnel's then current per diem charges and actual travel and living expenses if they are required to travel in connection with providing](#) the AR Training Program. Franchisor will pay all supplied food and reasonable lodging expenses of the proposed assignee or its AR Business Manager while he or she is participating in the AR Training Program.
- (v) That as of the date of the assignment, Area Representative has cured any existing defaults under any provisions of this Agreement and any other agreement or arrangement with Franchisor or its affiliates, and has fully satisfied all of its accrued monetary and other obligations to Franchisor and its affiliates under this Agreement and any other agreement or arrangement with Franchisor or its affiliates.
- (vi) That if the Agreement is being assigned, or the AR Business is being sold, the assignee executes a separate area representative agreement in the form and on the terms and conditions Franchisor then offers to prospective area representatives (except that the Franchised Territory will remain the same, the assignee will not be obligated to pay another Area Representative Fee and the Continuing Fees will be those specified in this Agreement through the scheduled date of expiration of the Term of this Agreement). The term of the new area representative agreement will expire on the date of expiration of this Agreement. The execution of the new area representative agreement will terminate this Agreement, except for the guarantees of Area Representative and the provisions of this Agreement that, by their nature, survive termination or expiration of this Agreement.
- (vii) That if the assignee is a corporation, partnership, limited partnership or proprietorship, the proposed assignee's Owners must execute Franchisor's then current form of Guaranty and Assumption of Obligations.
- (viii) That the assignor (and all shareholders of a corporate assignor, and all partners of a partnership assignor, all proprietors of a proprietorship assignor and all shareholders of the general partner of a limited partnership assignor) executes Franchisor's ~~then-current~~[then current](#) form of general release of any and all claims, demands and causes of action which Area Representative and its partners, proprietors, directors, officers, shareholders, executors, administrators and assigns (as the case may be) may or might have against Franchisor and its

affiliates, and their respective officers, directors, shareholders, agents, attorneys, contractors and employees in their corporate and individual capacities.

- (ix) That the assignor pays Franchisor a transfer fee equal to fifteen percent (15%) of the total amount payable to Area Representative by the assignee to purchase the AR Business, or Fifty Thousand Dollars (\$50,000), whichever amount is less.
  - (x) That the assignor furnishes to Franchisor a copy of the proposed contract of assignment (and any related agreements) and, promptly following execution, a copy of the executed contract of assignment (and any related agreements).
  - (xi) That Area Representative remains liable for all the obligations to Franchisor arising out of or related to this Agreement before the effective date of the transfer or assignment, and executes all instruments reasonably requested by Franchisor to evidence this liability.
  - (xii) That the assignor complies with the terms of the post-term covenant not to compete in Section 19.1, beginning on the effective date of the assignment.
- (b) Area Representative agrees to defend at its own cost and to indemnify and hold harmless Franchisor, its parent (if any), and the corporate subsidiaries, affiliates, successors, assigns and designees of either entity, and the respective directors, officers, employees, agents, attorneys, shareholders, designees and representatives of each, from and against any and all losses, costs, expenses (including attorneys' and experts' fees and disbursements), court costs, travel and lodging costs, personnel costs, claims, demands, damages, liabilities, however caused (whether or not the losses, costs, expenses, court costs, travel and lodging costs, personnel costs, claims, demands, damages or liabilities are reduced to judgment), resulting directly or indirectly from or pertaining to any statements, representations or warranties that may be given by Area Representative to any proposed assignee of the Franchise, or any claim that Area Representative or the assignor engaged in fraud, deceit, violation of franchise laws or other illegality in connection with the negotiations leading to the consummation of the assignment. The indemnification obligations set forth in this Subsection (b) will survive the expiration or sooner termination of this Agreement.

#### **14.5 Assignment By Area Representative – Transfer Upon Death or Disability**

- (a) Upon the death or disability (meaning a mental or physical disability, impairment or condition which prevents or will prevent a person from performing the obligations set forth in this Agreement for at least ninety (90) consecutive days) of Area Representative (if an individual) or of the last surviving principal, partner or shareholder of Area Representative (if an Entity), Area Representative's rights will pass to Area Representative's estate, heirs, legatees, guardians or representatives, as appropriate (collectively, the "**Estate**"). The Estate may continue the operation of the AR Business if: (i) the Estate provides a competent and qualified individual acceptable to Franchisor to serve as the AR Business Manager and operate the AR Business on a full-time basis; (ii) this individual attends and successfully completes Franchisor's next offered AR Training Program at the Estate's expense; and, (iii) this individual assumes full-time operation of the AR Business as AR Business Manager within six (6) months of the date Area Representative dies or becomes disabled. In the alternative, the Estate may (i)

transfer Area Representative's interest in this Agreement to a third party, or (ii) terminate this Agreement by providing written notice to Franchisor. If the Estate elects to transfer Area Representative's interest in this Agreement, then that transfer must be completed within a reasonable time, not to exceed six (6) months of the date Area Representative dies or becomes disabled, and is subject to all of the terms and conditions in this Article 14.

- (b) If the Estate does not comply with the requirements of Subsection 14.5(a) or the Estate does not sell the AR Business within six (6) months in accordance with the provisions of Section 14.5, this will be in material breach of this Agreement which, unless cured by the Estate as provided in Section 16.3, will result in this Agreement being terminated immediately.
- (c) From the date of death or disability until a fully trained and qualified AR Business Manager assumes full-time operational control of the AR Business, Franchisor may (but will not be obligated to) assume full control of and operate the AR Business, but will have no obligation to do so. If Franchisor does so, then during this period, Franchisor will deduct its expenses for travel, lodging, meals, and all other expenses and fees from the Gross Revenues and pay itself a management fee equal to two times the salary paid to the individual(s) assigned by Franchisor to operate the AR Business. This management fee will be in addition to the other fees due to Franchisor as provided in this Agreement. Any remaining funds will then be remitted to the Estate. The Estate must pay any deficiency in sums due to Franchisor under this Agreement to Franchisor within ten (10) days of Franchisor's notifying the Estate of the deficiency. Franchisor will not be responsible for any operational losses of the AR Business, nor will it be obligated to continue operation of the AR Business.

#### **14.6 Right of First Refusal**

The right of Area Representative to assign, transfer, redeem or sell any interest in this Agreement or the AR Business, voluntarily or by operation of law (as provided above), will be subject to Franchisor's right of first refusal. Franchisor shall exercise its right of first refusal in the following manner:

- (a) At least sixty (60) days prior to the proposed effective date of the transfer, Area Representative shall deliver to Franchisor a true and complete copy of the proposed assignee's offer (the "**Notice**") and furnish to Franchisor any additional information concerning the proposed transaction and the proposed assignee that Franchisor reasonably requests.
- (b) Within sixty (60) days after Franchisor's receipt of the Notice (or, if Franchisor requests additional information, within sixty (60) days after receipt of the additional information), Franchisor may either consent or withhold its consent to the assignment or redemption, in accordance with this Article 14, or at its option, accept the assignment to itself or to its nominee, on the terms and conditions relating only to the amount of the sales price and the time and manner of payment specified in the Notice. If Franchisor exercises its right of first refusal as provided in this Article 14, Franchisor will not be bound by any provisions in the offer except those that relate to the amount of the sales price and the time and manner of payment. However, Franchisor will be entitled to all of the customary representations and warranties given by the seller of assets of a business,

including (without limitation) representations and warranties as to ownership, condition of and title to assets, liens and encumbrances on the assets, validity of contracts and agreements, and Area Representative's contingent and other liabilities affecting the assets.

- (c) If a partial transfer is proposed through the assignment or redemption of more than twenty-five percent (25%) of the Ownership Interest in Area Representative to other than the original Owners of Area Representative (measured against the ownership of the Area Representative Entity as originally constituted on the date of execution of this Agreement), then Franchisor will have the option to purchase not only the Ownership Interest being transferred but also the remaining Ownership Interest, so that Franchisor's resulting ownership will be one hundred percent (100%) of Area Representative. The price of these remaining Ownership Interest will be proportionate to the price of the Ownership Interest initially being offered.
- (d) Franchisor's credit will be deemed equal to the credit of any proposed purchaser. Franchisor may substitute cash for any other form of payment proposed in the offer.
- (e) If Franchisor exercises its right of first refusal, Franchisor will be given at least sixty (60) days after notifying Area Representative of its election to exercise its right of first refusal to prepare for closing.
- (f) If Franchisor elects not to exercise its right of first refusal and consents to the proposed assignment or redemption, then Area Representative will, subject to Area Representative's satisfying the requirements of this Article 14, be free to assign this Agreement or the AR Business to its proposed assignee on the terms and conditions specified in the Notice. If, however, the terms are changed, the changed terms will be deemed a new offer, and Franchisor will have a right of first refusal with respect to this new offer.
- (g) Franchisor's election not to exercise its right of first refusal with regard to any offer will not affect its right of first refusal with regard to any later or modified offer. If Franchisor does not exercise its right of first refusal, this will not constitute approval of the proposed transferee, assignee, redemption or the transaction itself. Area Representative and any proposed assignee must comply with all the criteria and procedures for assignment of this Agreement and/or the AR Business specified in this Article 14.

#### **14.7 No Encumbrance**

Area Representative will have no right to pledge, encumber, hypothecate or otherwise give any third party a security interest in this Agreement or the AR Business in any manner without Franchisor's prior written permission, which Franchisor may withhold for any reason.

### **ARTICLE 15** **OBTAINING A SUCCESSOR AGREEMENT**

#### **15.1 Right To Renewal Terms**

If Area Representative meets certain conditions, then Area Representative will have the option to acquire two (2) additional consecutive successor Renewal Terms. Each of the Renewal Terms will be five (5) years in duration. The qualifications and conditions for the first Renewal Term are described

below. The qualifications and conditions for the second Renewal Term will be described in the form of area representative agreement signed upon the expiration of this Agreement.

When this Agreement expires:

- (a) if Franchisor is still offering and granting franchises for Oxygen Yoga & Fitness AR Businesses in the jurisdiction in which the AR Business is operating;
- (b) if Area Representative (and each of its Owners) have substantially complied with this Agreement during the Term, including the development obligations set forth in the Development Schedule;
- (c) if Area Representative (and each of its Owners) are, both on the date Area Representative gives Franchisor written notice of Area Representative's election to acquire a Renewal Term (as provided in Section 15.2 below) and on the date on which the Renewal Term would commence, in full compliance with this Agreement, including the development obligations set forth in the Development Schedule;
- (d) provided that Area Representative and Franchisor agree upon a new development schedule for the Renewal Term to supplement the Development Schedule listed on **Exhibit C**; and
- (e) provided that Area Representative agrees (regardless of cost) to modify the AR Business as Franchisor requires to comply with System Standards then applicable for new Oxygen Yoga & Fitness AR Businesses,

then Area Representative has the option to acquire a Renewal Term of five (5) years commencing immediately upon the expiration of this Agreement, plus a possible second Renewal Term of an additional five (5) years thereafter if Area Representative complies with Franchisor's terms and conditions of renewal under the Successor Agreement. For each Renewal Term, Area Representative agrees to sign the form of area representative agreement Franchisor then uses to grant franchises for Oxygen Yoga & Fitness AR Businesses (modified as necessary to reflect the fact that it is for a Renewal Term), which may contain provisions that differ materially from any and all of those contained in this Agreement (each, a "**Successor Agreement**"). Area Representative must pay Franchisor a renewal fee of Fifty Thousand Dollars (\$50,000) (the "**Successor Franchise Fee**") upon signing each Successor Agreement for each Renewal Term.

If Area Representative (and each of its Owners) are not, both on the date Area Representative gives Franchisor written notice of Area Representative's election to acquire a Renewal Term and on the date on which the Renewal Term commences, in full compliance with this Agreement and all System Standards, including Area Representative's development obligations set forth in the Development Schedule, then Area Representative acknowledges that Franchisor need not grant Area Representative a Renewal Term, whether or not Franchisor had, or chose to exercise, the right to terminate this Agreement during the Term.

## **15.2 Grant of a Successor Agreement**

Area Representative agrees to give Franchisor written notice of Area Representative's election to acquire a Renewal Term no more than one hundred eighty (180) days and no less than ninety (90) days

before this Agreement expires. Franchisor agrees to give Area Representative written notice of Franchisor's decision ("**Franchisor's Notice**"):

- (a) to grant Area Representative a Renewal Term;
- (b) to grant Area Representative a Renewal Term on the condition that Area Representative corrects existing deficiencies in Area Representative's operation of the AR Business; or
- (c) not to grant Area Representative a Renewal Term based on Franchisor's determination that Area Representative and its Owners have not substantially complied with this Agreement during the Term or were not in full compliance with this Agreement and all System Standards, including Area Representative's development obligations set forth in the Development Schedule, on the date Area Representative gave Franchisor written notice of Area Representative's election to acquire a Renewal Term.

If applicable, Franchisor's Notice will:

- (i) describe the modifications required to bring the AR Business into compliance with then applicable System Standards for new Oxygen Yoga & Fitness AR Businesses; and
- (ii) state the actions Area Representative must take to correct operating deficiencies and the time period in which Area Representative must correct these deficiencies.

If Franchisor elects not to grant Area Representative a Renewal Term, Franchisor's Notice will describe the reasons for Franchisor's decision. If Franchisor elects to grant Area Representative a Renewal Term, Area Representative's right to acquire a Renewal Term is subject to Area Representative's full compliance with all of the terms and conditions of this Agreement through the date of its expiration, in addition to Area Representative's compliance with the obligations described in Franchisor's Notice.

If Franchisor's Notice states that Area Representative must cure certain deficiencies of the AR Business' operation as a condition to Franchisor granting Area Representative a Renewal Term, Franchisor will give Area Representative written notice of Franchisor's decision not to grant a Renewal Term, based upon Area Representative's failure to cure those deficiencies. If Area Representative fails to notify Franchisor of Area Representative's election to acquire a Renewal Term within the prescribed time period, Franchisor need not grant Area Representative a Renewal Term.

### **15.3 Agreements/Releases**

If Area Representative satisfies all of the other conditions for a Renewal Term, Area Representative and its Owners agree to execute a Successor Agreement and any ancillary agreements Franchisor then customarily uses in granting franchises for Oxygen Yoga & Fitness AR Businesses (modified as necessary to reflect the fact that it is for a Renewal Term), which may contain provisions that differ materially from any and all of those contained in this Agreement. Area Representative and its Owners further agree to sign Franchisor's current form of general release of any and all claims against Franchisor and its affiliates, shareholders, officers, directors, members, partners, managers, employees, agents, successors, and assigns. Franchisor will consider Area Representative's or Area Representative's Owners' failure to sign these agreements and releases and to deliver them to Franchisor for acceptance and execution within thirty (30) days after their delivery to Area Representative to be an election by Area Representative not to acquire a Renewal Term for the first Renewal Term of five (5) years.

## 15.4 Notice of Expiration

If applicable law requires Franchisor to give notice of expiration to Area Representative at a specified time before the expiration of the Term or any Renewal Term of this Agreement, and Franchisor has not done so, then the Term of this Agreement will be extended on a month-to-month basis until Franchisor has given Area Representative the required notice of expiration.

## **ARTICLE 16** **DEFAULT AND TERMINATION**

### 16.1 Termination by Area Representative

If Area Representative and Area Representative owners are fully complying with this Agreement and Franchisor materially fails to comply with this Agreement and does not correct the failure within thirty (30) days after Area Representative delivers to Franchisor written notice of the material failure or, if Franchisor cannot correct the failure within thirty (30) days, does not give Area Representative within thirty (30) days after Area Representative's notice reasonable evidence of Franchisor's effort to correct the failure within a reasonable time (which may extend beyond that thirty (30) days), Area Representative may terminate this Agreement effective an additional thirty (30) days after Area Representative delivers to Franchisor written notice of termination. (The time period during which Franchisor may cure any alleged material failure to comply with this Agreement after Area Representative's delivery of notice is called the "**Cure Period.**") However, if Franchisor sends Area Representative written notice during the Cure Period indicating that either (1) Franchisor does not agree that Franchisor has materially failed to comply with this Agreement or (2) Franchisor has fully corrected the failure, then Area Representative may not terminate this Agreement. If Area Representative disagrees with Franchisor's position and still wishes to terminate this Agreement, Area Representative must commence an arbitration proceeding seeking a declaration of Area Representative's right to terminate this Agreement.

This Agreement will remain in full force and effect during the arbitration proceeding (unless Franchisor terminates it under this Article 16). If the arbitrators determine that Franchisor is materially failing to comply with this Agreement, or that Franchisor did not fully correct a material failure to comply, Franchisor will have an additional thirty (30) days following the arbitrators' ruling to correct the failure. If Franchisor fails to do so, then Area Representative may terminate this Agreement effective an additional thirty (30) days after Area Representative delivers to Franchisor written notice of termination.

### 16.2 Termination by Franchisor – Automatic Termination Without Notice

Area Representative will be in default of this Agreement, and all rights granted in this Agreement will immediately and automatically terminate and revert to Franchisor without notice to Area Representative, if: (i) Area Representative, the AR Business or the business to which the Franchise relates is adjudicated as bankrupt or insolvent; (ii) all or a substantial part of the assets of the AR Business are assigned to or for the benefit of any creditor; (iii) a petition in bankruptcy is filed by or against Area Representative or the AR Business and is not immediately contested and/or dismissed within sixty (60) days from filing; (iv) a bill in equity or other proceeding for the appointment of a receiver or other custodian of Area Representative, the AR Business or assets of either is filed and consented to by Area Representative; (v) a receiver or other custodian (permanent or temporary) of all or part of Area Representative's assets or property is appointed by any court of competent jurisdiction; (vi) proceedings for a composition with creditors under any state or federal law are instituted by or against Area Representative or the AR Business; (vii) Area Representative is dissolved, if Area Representative is

an Entity; (viii) execution is levied against Area Representative, the AR Business or its property; or, (ix) the real or personal property of the AR Business is sold after levy thereon by any governmental body or agency, sheriff, marshal or constable.

### **16.3 Termination by Franchisor Upon Notice – No Opportunity to Cure**

Area Representative will have materially breached this Agreement and Franchisor may, at its option, terminate this Agreement and all rights granted under this Agreement, without affording Area Representative any opportunity to cure the breach, effective immediately upon Area Representative's receipt of notice (which, whether sent by certified mail, registered mail, overnight courier or personal physical delivery, will be deemed to have been received by Area Representative upon delivery or first attempted delivery of the notice to Area Representative) upon the occurrence of any of the following events:

- (a) Area Representative at any time ceases to operate the AR Business or abandons the relationship with Franchisor hereunder.
- (b) Area Representative does not begin operating the AR Business within sixty (60) days after the Effective Date.
- (c) Area Representative or Area Representative's Owners make any material misrepresentation or omission in acquiring the Franchise or operating the AR Business.
- (d) Area Representative (or, if Area Representative is an Entity, any of its Owners) is convicted by a trial court of, or plead or have pleaded no contest to, a felony, fraud, crime involving moral turpitude, or any other crime or offense which Franchisor reasonably believes adversely affects the reputation of Franchisor, Area Representative, Oxygen Yoga & Fitness AR Businesses, Oxygen Yoga & Fitness Facilities, the System, or the goodwill associated with the Marks.
- (e) Area Representative or any of its Owners makes or attempts to make an Assignment in violation of the terms of this Agreement.
- (f) Area Representative does not comply with the covenant not to compete during the Term of this Agreement; violates the restrictions pertaining to the use of Confidential Information contained in this Agreement, or does not obtain the execution of the Nondisclosure and Non-Competition Agreements required in Section 8.19 of this Agreement.
- (g) Area Representative conceals revenues; knowingly maintains false books or records; falsifies information or otherwise defrauds or makes false representations to Franchisor; or, knowingly submits any substantially false report to Franchisor.
- (h) Area Representative or any of its employees, Owners or affiliates, directly or indirectly, applies for a trademark registration of any Mark anywhere in the world, makes any unauthorized use of the Marks, or makes an unauthorized use or disclosure of the Confidential Information, or Area Representative or any Restricted Person violates the restrictions in Article 8.

- (i) If Area Representative has received two (2) or more previous notices of default from Franchisor within a twelve (12) month period, regardless of whether Area Representative cured the previous defaults.
- (j) Area Representative makes a willful misrepresentation or does not make a material disclosure required by any Government Entity regarding any matter involving or affecting the operations of the AR Business.
- (k) Area Representative interferes or attempts to interfere with Franchisor's contractual relations with other Oxygen Yoga & Fitness AR Businesses, Oxygen Yoga & Fitness Facilities, customers, employees, advertising agencies or any third parties.
- (l) Area Representative or any of its Owners engages in any dishonest or unethical conduct which, in Franchisor's opinion, may adversely affect the reputation of Franchisor, Area Representative, Oxygen Yoga & Fitness AR Businesses, Oxygen Yoga & Fitness Facilities, the System or the goodwill associated with the Marks.
- (m) Area Representative, any of its Owners, representatives, or employees make any illicit statements, including in an email to Franchisor's employees, officers, or directors, or in any social media posts, or any other unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, pornographic, gambling-related, drug-related, alcohol-related, profane, racist, sexually explicit or indecent comments that in Franchisor's opinion negatively affects Franchisor, its employees, its operations or otherwise affects the AR Business' reputation or the goodwill associated with the Marks;
- (n) Area Representative violates any federal, state or local law or regulation applicable to the operation of the AR Business and does not begin to correct the violation immediately, and correct the violation completely within thirty (30) days, after Area Representative has received notice from any Government Entity of the violation.
- (o) Area Representative for any reason fails to pay any amounts owed to Franchisor or its affiliates when due and does not correct the failure within ten (10) days after Franchisor's delivery of written notice of the failure.
- (p) Any other agreement between Franchisor (or its affiliate) and Area Representative (or its affiliate), including any other area representative agreement or Franchise Agreement, is terminated before its term expires for any reason whatsoever.
- (q) Area Representative fails to comply with any other provision of this Agreement or any System Standard and does not correct such failure within thirty (30) days after written notice of such failure to comply is delivered to Area Representative.
- (r) Area Representative fails to submit reports or other data, information or supporting records when due and does not correct the failure within ten (10) days after Franchisor's delivery of written notice of the failure.
- (s) Area Representative offers or sells as part of the AR Business any unapproved program, service or product, or does not use and disseminate (as applicable) all materials, notices and procedures specified by Franchisor.

- (t) Area Representative uses or duplicates any aspect of Franchisor's System, Services, programs or products in an unauthorized fashion.
- (u) Area Representative breaches the provisions of Article 11 relating to advertising and does not cure this breach within three (3) days following written notice of the breach by Franchisor.
- (v) Area Representative fails to comply with the Development Schedule set forth in Section 8.1 and Exhibit C of this Agreement.
- (w) Area Representative or any of its Owners fail to comply with Section 23.8 of this Agreement, or Area Representative's or any of its Owners' assets, property, or interests are blocked under any law, ordinance, or regulation relating to terrorist activities.

#### **16.4 Cross Default**

Any default or breach by Area Representative of any other agreement between Franchisor or its affiliates and Area Representative will be deemed a default under this Agreement, and any default or breach of this Agreement by Area Representative will be deemed a default or breach under any and all other agreements between Franchisor (or any of its affiliates) and Area Representative. If the nature of the default under any other agreement would have permitted Franchisor to terminate this Agreement if the default had occurred under this Agreement, then Franchisor (or its affiliate) will have the right to terminate all the other agreements between Franchisor (or any of its affiliates) and Area Representative in the same manner provided for in this Agreement for termination of this Agreement.

#### **16.5 Alternative Remedies Upon Area Representative's Default**

In addition to, and without limiting, Franchisor's other rights and remedies under this Agreement, any other agreement or applicable law, upon the occurrence of any event giving rise to Franchisor's right to terminate this Agreement in Section 16.3 during the Term, Franchisor may instead elect, at Franchisor's sole option and upon delivering providing Area Representative written notice, to take any or all of the following actions without terminating this Agreement:

- (a) temporarily or permanently reduce the size of the Franchised Territory;
- (b) temporarily remove information concerning the AR Business from any Website or extranet operated for the network of AR Businesses, and/or restrict Area Representative or the AR Business's participation in other programs or benefits offered on or through any such Website or extranet;
- (c) require Area Representative to engage a third-party accounting firm Franchisor approves to conform to the bookkeeping, accounting, reporting and recordkeeping system requirements and formats Franchisor prescribes;
- (d) require Area Representative to pay Five Hundred Dollars (\$500) for each day the condition giving rise to Franchisor's right to terminate continues to exist to help offset Franchisor's increased administrative expenses associated with Area Representative's failure to comply with the terms of this Agreement;

- (e) suspend Area Representative's right to participate in any advertising, marketing, promotional, or public relations programs that Franchisor or the Advertising Fund provides, authorizes, or administers; or
- (f) assume, or appoint a third party to assume, management of the AR business.

However, such termination shall be without prejudice to Franchisor's right to terminate this Agreement at any time thereafter for the same default or any other defaults under this Agreement.

## **16.6 Notice Required By Law**

If any valid, applicable law or regulation of a competent governmental authority with jurisdiction over this Agreement or the parties to this Agreement limits Franchisor's rights of termination under this Agreement or requires longer notice or cure periods than those set forth above, then this Agreement will be deemed modified to conform to the minimum notice, cure periods or restrictions upon termination required by the laws and regulations. Franchisor will not, however, be precluded from contesting the validity, enforceability or application of the laws or regulations in any action, proceeding, hearing or dispute relating to this Agreement or the termination of this Agreement.

## **ARTICLE 17 FURTHER OBLIGATIONS AND RIGHTS OF THE PARTIES ON TERMINATION OR EXPIRATION**

### **17.1 Further Obligations and Rights on Termination or Expiration**

- (a) If this Agreement expires or terminates for any reason or is assigned by Area Representative, Area Representative will cease to be an authorized area representative of Franchisor, and Area Representative will lose all rights to the use of the Marks, the System, all Confidential Information and know-how owned by Franchisor and any goodwill (including "local" goodwill) engendered by the use of the Marks and/or attributed to Area Representative's conduct of the AR Business.
- (b) Upon expiration or earlier termination of this Agreement for whatever reason, or upon assignment of this Agreement, Area Representative agrees to:
  - (i) Immediately pay all sums due and owing to Franchisor or its affiliates.
  - (ii) Discontinue the use of the Marks, and not operate or do business under any name or in any manner that might tend to give the general public the impression that it is operating an Oxygen Yoga & Fitness AR Business, or any similar business. Area Representative may not use, in any manner or for any purpose, directly or indirectly, any of Franchisor's Confidential Information, trade secrets, procedures, forms, techniques, know-how or materials acquired by Area Representative by virtue of the relationship established by this Agreement, including (without limitation): products, Services, and programs; specifications or descriptions of the products and services; lists of prospective, current and former Franchise Owners, employees and independent contractors; the Manual and any supplements to the Manual; forms, advertising matter, marks, devices, signs, insignia, slogans and designs used in connection with the AR Business; telephone numbers listed in any telephone directory under any of the Marks licensed under this Agreement or any similar designation or directory listings

relating to the AR Business; and, the systems, procedures, techniques, criteria, concepts, designs, advertising and promotion techniques, specifications, and all other components, specifications and standards, which comprise (or in the future may comprise) a part of the System.

- (iii) Take all necessary action to cancel any assumed name or equivalent registration that contains any of the Marks, or any variant, within fifteen (15) days following termination or expiration of this Agreement. If Area Representative fails or refuses to do so, Franchisor may, in Area Representative's name, on Area Representative's behalf and expense, execute all documents necessary to cause discontinuance of Area Representative's use of the name "Oxygen Yoga & Fitness" or any related name or Mark used under this Agreement. Area Representative irrevocably appoints Franchisor as Area Representative's attorney-in-fact to do so. Area Representative shall not identify itself to third parties as a former Area Representative of Franchisor.
- (iv) Upon any termination of this Agreement by Franchisor for cause, Franchisor will have the right immediately to enter and take possession of the Office to maintain continuous operation of the previous AR Business, provide for orderly change of management and disposition of personal property, and otherwise protect Franchisor's interests. If Area Representative disputes the validity of Franchisor's termination of the Franchise, Franchisor will nevertheless have the option (which Area Representative irrevocably grants) to operate the business pending the final, unappealed determination of the dispute by a court of competent jurisdiction. If a court of competent jurisdiction makes a final, unappealed determination that the termination was not valid, Franchisor agrees to make a full and complete accounting for the period during which it operated the previous AR Business.
- (v) In the event of termination for any default by Area Representative or of termination by Area Representative through failure to make payment following notice to cure, pay to Franchisor all losses and expenses it incurs as a result of the default or termination, including all damages, costs, and expenses, and reasonable attorneys' and experts' fees directly or indirectly related thereto, such as (without limitation) lost profits, lost opportunities, damage to the Marks and reputation, travel and personnel costs and the cost of securing a new Area Representative for the Franchised Territory. This obligation will give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of assets, property, furnishings, equipment, signs, fixtures and inventory owned by Area Representative or the AR Business at the time of termination and against any money of Area Representative in the possession of Franchisor.
- (vi) Immediately deliver to Franchisor all training or other manuals furnished to Area Representative (including the Manual and supplements to the Manual), computer software and database material, customer lists, records and files, documents, instructions, display items, advertising and promotional material, any and all materials, signs and related items which bear the Marks or slogans or insignias or designs, advertising contracts, forms and other materials or property of Franchisor, and any copies of them in Area Representative's possession which relate to the operation of the AR Business. Area Representative may retain no

copy or record of any of these items, except for Area Representative's copy of this Agreement, any correspondence between the parties and any other documents that Area Representative reasonably needs for compliance with any provision of law.

- (vii) Immediately execute all agreements necessary to effectuate the termination in a prompt and timely manner.
- (viii) Strictly comply with the post-termination/post-expiration covenants not to compete set forth in Article 19 of this Agreement.
- (ix) Assign all accounts receivable to Franchisor for collection. Area Representative appoints Franchisor as attorney-in-fact to engage in collection activities following the termination or expiration of this Agreement. Franchisor will employ reasonable efforts to collect the accounts receivable, including, where appropriate in Franchisor's judgment, the commencement of appropriate arbitration or litigation proceedings. Franchisor will have no duty or obligation to collect these accounts receivable. If Franchisor is successful in collecting all or a part of the accounts receivable, Franchisor agrees to remit to Area Representative the sums collected after deducting all money owed to Franchisor or to its affiliates; the pro rata cost of serving the customers with respect to whom the receivable is collected; and, Franchisor's cost of collection.
- (x) Immediately refrain from engaging in any contacts with Franchise Owners, prospective Franchise Owners and former Franchise Owners and any of their customers.
- (xi) Immediately surrender to Franchisor all computer software, data storage disks or tapes and other electronic media used in the operation of the AR Business, printouts, and other information pertaining to computer operations, codes, procedures and programming. Area Representative agrees not to destroy, damage, hide or take any steps to prevent Franchisor from obtaining any information that Area Representative had stored in the Computer System. Area Representative agrees not to retain any printouts, disks or tapes containing any of the programs or data stored in the Computer System.

## **17.2 No Prejudice**

The expiration or termination of this Agreement will be without prejudice to Franchisor's rights against Area Representative, and will not relieve Area Representative of any of its obligations to Franchisor at the time of expiration or termination, or terminate Area Representative's obligations that by their nature survive the expiration or termination of this Agreement.

## **17.3 Agent**

If Area Representative has not performed any act which is required upon termination or expiration of this Agreement then Area Representative hereby irrevocably appoints Franchisor as its true and lawful agent to complete the same in Area Representative's name, place and stead and on Area Representative's behalf, and to take any action necessary to fulfill all Area Representative's obligations to

Franchisor upon termination or expiration of this Agreement, this appointment being coupled with sufficient authority to enable Franchisor to protect the System, the Marks and the Franchised Methods.

#### **17.4 Continuing Obligations**

All of Franchisor's and Area Representative's (and Area Representative's Owners') obligations which expressly or by their nature survive the termination of this Agreement or the expiration of the Term or any Renewal Term shall continue in full force and effect subsequent to and notwithstanding such expiration or termination until they are satisfied in full or by their nature expire.

#### **17.5 No Compensation**

Except as set forth in Article 21, upon the expiration or termination of the Term or any Renewal Term of this Agreement (other than pursuant to Section 16.1), Area Representative hereby waives and disclaims, and agrees that it shall not be entitled to receive, any compensation or payment from Franchisor, whether for actual, consequential, indirect, special or incidental damages, costs or expenses, whether foreseeable or unforeseeable (including labor claims or loss of profits, investments or goodwill). Area Representative acknowledges that any enhancement of goodwill or customer base of Franchisor will be mainly attributable to the Marks, the Confidential Information and the System, as well as the continuing support of Franchisor, and that Area Representative has no right to compensation for any contribution it may have rendered to such enhancement of goodwill or customer base.

### **ARTICLE 18** **RELATIONSHIP OF THE PARTIES/INDEMNIFICATION**

#### **18.1 Independent Contractor**

- (a) Area Representative understands and agrees that Area Representative is and will be an independent contractor of Franchisor under this Agreement. Nothing in this Area Representative Agreement may be construed to create a partnership, joint venture, agency, employment or fiduciary relationship of any kind.
- (b) None of Area Representative's employees or other personnel will be considered to be Franchisor's employees or personnel. Neither Area Representative nor any of Area Representative's employees or personnel whose compensation Area Representative pays may in any way, directly or indirectly, expressly or by implication, be construed to be Franchisor's employee or personnel for any purpose, most particularly with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state, provincial, or federal governmental agency. Franchisor will not have the power to hire or fire Area Representative's employees or personnel. Area Representative expressly agrees, and will never contend otherwise, that Franchisor's authority under this Agreement to certify certain of Area Representative's employees or personnel for qualification to perform certain functions for the AR Business does not directly or indirectly vest in Franchisor the power to hire, fire or control any such employee. Area Representative acknowledges and agrees, and will never contend otherwise, that Area Representative alone will exercise day-to-day control over all operations, activities and elements of the AR Business and that under no circumstance shall Franchisor do so or be deemed to do so. Area Representative further acknowledges and agrees, and will never contend otherwise, that the various requirements, restrictions, prohibitions, specifications and procedures of the System which Franchisor is required to comply with under this Agreement, whether

set forth in the Manual or otherwise, do not directly or indirectly constitute, suggest, infer or imply that Franchisor controls any aspect or element of the day-to-day operations of the AR Business, which Area Representative alone controls, but only constitute standards Area Representative must adhere to when exercising Area Representative's control of the day-to-day operations of the AR Business.

- (c) Area Representative may not, without Franchisor's prior written approval, have any power to obligate Franchisor for any expenses, liabilities or other obligations, other than as specifically provided for in this Agreement. Except as otherwise expressly authorized by this Agreement, neither party will make any express or implied agreements, warranties, guarantees or representations or incur any debt in the name of or on behalf of the other party, or represent that the relationship between Franchisor and Area Representative is other than that of Franchisor and Franchise Owner. Franchisor does not assume any liability, and will not be deemed liable, for any agreements, representations, or warranties made by Area Representative that are not expressly authorized under this Agreement. Franchisor will not be obligated for any damages to any person or property that directly or indirectly arise from or relate to the operation of the AR Business, the business Area Representative conducts under this Agreement, or the acts, errors or omissions of Area Representative's employees.
- (d) Area Representative agrees to identify itself conspicuously in all dealings with actual and potential Franchise Owners, Franchise Owners' customers, suppliers, public officials, AR Business personnel, and others as the AR Business' owner under a franchise Franchisor has granted and to place notices of independent ownership on the forms, business cards, stationery, advertising, and other materials Franchisor requires from time to time.

## 18.2 Indemnification

- (a) Area Representative must indemnify, defend and hold Franchisor, Franchisor's affiliates, and Franchisor's and Franchisor's affiliates' respective shareholders, members, directors, officers, employees, affiliates, agents, successors and assignees and other franchise owners of Franchisor (collectively, "**Indemnified Parties**") harmless against and reimburse one or more of the Indemnified Parties for all claims, losses, liabilities, obligations, damages, and taxes arising out of the operation of the AR Business' operation, employment matters in connection with the AR Business, the business Area Representative conducts under this Agreement, or Area Representative's breach of this Agreement, including, without limitation, those alleged to be or found to have been caused by the Indemnified Party's negligence, unless (and then only to the extent that) the claims, obligations, or damages are determined to be caused solely by Franchisor's gross negligence or willful misconduct in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction. Area Representative agrees to give Franchisor and the Indemnified Parties written notice of any action, suit, proceeding, claim, demand, inquiry or investigation that could be the basis for a claim for indemnification by any of the Indemnified Parties within three (3) days of Area Representative's actual or constructive knowledge of it. The Indemnified Parties shall have the right, in their sole discretion to: (i) retain counsel of their own choosing to represent them with respect to any claim; and (ii) control the response thereto and the defense thereof, including the right to enter into settlements or take any other remedial, corrective, or other actions. Area Representative agrees to give its full cooperation to the Indemnified Parties in

assisting the Indemnified Parties with the defense of any such claim, and to reimburse the Indemnified Parties for all of their costs and expenses in defending any such claim, including court costs and reasonable attorneys' fees, within ten (10) days of the date of each invoice delivered by the Indemnified Parties to Area Representative enumerating such costs, expenses and attorneys' fees.

For purposes of this indemnification, "**claims**" include all obligations, damages (actual, consequential, or otherwise), and costs that any Indemnified Party reasonably incurs in defending any claim against it, including, without limitation, reasonable accountants', arbitrators', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation, arbitration, or alternative dispute resolution, regardless of whether litigation, arbitration, or alternative dispute resolution is commenced. Each Indemnified Party may defend any claim against it at Area Representative's expense and agree to settlements or take any other remedial, corrective, or other actions.

This indemnity will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination. An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its or their losses and expenses, in order to maintain and recover from third parties fully a claim against Area Representative under this subparagraph. Area Representative agrees that a failure to pursue a recovery or mitigate a loss will not reduce or alter the amounts that an Indemnified Party may recover from Area Representative under this subparagraph. Area Representative's or any of the other Indemnified Parties' undertaking of defense and/or settlement will in no way diminish Area Representative's obligation to indemnify Franchisor and the other Indemnified Parties and to hold Franchisor and any of the Indemnified Parties harmless.

- (b) Notwithstanding the foregoing, (i) Franchisor shall have the right to employ its own counsel in any case to defend a claim, or to compromise or settle such claim insofar as such compromise or settlement does not involve monetary damage or payment of money; (ii) Franchisor shall not have any obligation to give any notice of a claim by a third party unless such claim is in writing; and (iii) the rights of Franchisor to be indemnified herein shall not be deemed forfeited by its failure to give notice unless Area Representative is prejudiced by such failure.
- (c) After receipt of the aforesaid notice of a claim, if Area Representative fails to assume the defense of Franchisor against such claim, Franchisor shall have the right to undertake the defense and to compromise or settle such claim on behalf of and for the account and risk of Area Representative, and at Area Representative's expense, payable to Franchisor on written demand.

## **ARTICLE 19**

### **RESTRICTIVE COVENANTS**

#### **19.1 Non-Competition and Non-Disparagement**

- (a) Upon (i) Franchisor's or Area Representative's termination of this Agreement according to its terms and conditions; (ii) Area Representative's termination of this Agreement without cause, or (iii) expiration of this Agreement (if Franchisor offers, but Area

Representative elects not to enter into, a Successor Agreement, or if Franchisor does not offer Area Representative a Successor Agreement due to Area Representative's failure to satisfy the conditions to enter into a Successor Agreement set forth in Article 15), Area Representative, the Restricted Persons, any Guarantor, and any officer, director, or employee of Area Representative or any of the Restricted Persons shall not, for two (2) years beginning on the effective date of termination or expiration of this Agreement (or upon a transfer as provided in Article 14 above), either directly or indirectly, on Area Representative's, a Restricted Person's or an Owner's behalf, or on behalf of any person, firm, or Entity, have any direct or indirect interest (whether through affiliates, Immediate Family members or otherwise) as an owner (whether of record, beneficially, or otherwise), investor, partner, director, officer, member, employee, consultant, representative, or agent in, or provide services for, any Competitive Business located or operating:

- (i) within the Franchised Territory;
  - (ii) within a ten (10) mile radius of the Franchised Territory;
  - (iii) within the territory of any, and within a ten (10) mile radius of any other, Oxygen Yoga & Fitness Facility in operation or in the process of opening on the later of the effective date of the termination or expiration of this Agreement or the date on which all persons restricted by this Section 19.1 begin to comply with this Section 19.1; or,
  - (iv) within the franchised territory of any, and within a ten (10) mile radius of the franchised territory of any other, Oxygen Yoga & Fitness AR Business in operation or in the process of opening on the later of the effective date of the termination or expiration of this Agreement or the date on which all persons restricted by this Section 19.1 begin to comply with this Section 19.1.
- (b) During the Term and any Renewal Term, and after the termination or expiration of this Agreement, neither Area Representative nor any of Area Representative's owners shall, directly or indirectly, make any false representation of facts, or defame, disparage, discredit or deprecate Franchisor or Franchisor's officers, directors, managers, employees or agents in any respect or otherwise communicate with any person or entity in a manner intended to damage Franchisor, Franchisor's owners, Franchisor's officers, directors, managers, employees or agents, the Marks, Franchisor's business or Franchisor's reputation.

## 19.2 Covenant Not to Solicit

Upon the termination or expiration of this Agreement, Area Representative and its Owners agree that, for two (2) years beginning on the effective date of termination or expiration of this Agreement (or upon a transfer as provided in Article 14 above), neither Area Representative nor any of its Owners, Guarantors, Restricted Persons, officers, directors or employees will, directly or indirectly (whether through affiliates, Immediate Family members or otherwise), solicit, or attempt to solicit, any customer of Franchisor or of any of Franchisor's affiliates, current or prospective Oxygen Yoga & Fitness Facility franchise owners or Oxygen Yoga & Fitness AR Business franchise owners to discontinue the customer relationship with Franchisor or with any of Franchisor's affiliates, Oxygen Yoga & Fitness Facility franchise owners or Oxygen Yoga & Fitness AR Business franchise owners. In addition, the use of

Franchisor's customer lists, employee files or other such Confidential Information for the purpose of soliciting is prohibited.

### **19.3 Tolling of Covenants**

The restrictions under Sections 19.1 and 19.2 above also apply after Assignments, as provided in Article 14 above. If any person restricted by Sections 19.1 and 19.2 refuses voluntarily to comply with these obligations, the two (2) year period for that person will commence with the entry of a court order enforcing the provision. The two (2) year period will be tolled, if applicable, for the period during which a Restricted Person is in breach of Sections 19.1 and 19.2 and will resume when that person begins or resumes compliance. Area Representative and its Owners expressly acknowledge that Area Representative and its Owners possess skills and abilities of a general nature and have other opportunities for exploiting these skills. Consequently, Franchisor's enforcement of the covenants made in Article 19 will not deprive Area Representative or its Owners of its or their personal goodwill or ability to earn a living.

## **ARTICLE 20** **INSURANCE**

During the Term, Area Representative must maintain the following categories of insurance coverage in force at its sole expense, all containing the minimum liability coverage Franchisor prescribes at any time and from time to time in the Manual (unless otherwise indicated below):

- (1) Comprehensive general liability insurance against civil public liability for personal and bodily injuries or death and damage to or destruction of property in an amount of no less than Two Million Dollars (\$2,000,000.00) per person or occurrence, which limit may be increased by Franchisor from time to time on written notice by Franchisor to Area Representative;
- (2) Business interruption insurance to cover previous profit margins, maintenance of competent personnel and other fixed expenses for the duration of the interruption to the AR Business' operation;
- (3) Worker's compensation (including occupational disease) in accordance with the law and including other state endorsement where legally required and commercially appropriate;
- (4) If any vehicle is used (whether owned, non-owned, leased or hired) in connection with the operation of the AR Business, motor vehicle liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in connection with the AR Business' operation.
- (5) Employer's liability insurance (in amounts authorized by statute);
- (6) Unemployment insurance and state disability insurance (as required by governing law) for Area Representative's employees;
- (7) Employment practices liability insurance;
- (8) Cyber security insurance;
- (9) Crime insurance;

(10) Umbrella or excess liability insurance providing coverage excess of the underlying general liability, motor vehicle liability and employer's liability insurance above; and

(11) Insurance coverage of such type, nature and scope sufficient to satisfy Area Representative's indemnification obligations under Section 18.2 above.

Area Representative understands that the types and coverage amounts Franchisor prescribes are only minimums, and that Franchisor has not assessed whether, and does not guarantee that, the types and coverage amounts are sufficient for the AR Business.

Franchisor may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverage (including reasonable excess liability insurance, employment practices liability insurance and cybersecurity insurance) at any time to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances. Required coverage must contain the following: (i) a severability of interest clause for all named insureds, with no cross-liability for exclusion; (ii) insurers' waiver of subrogation against Franchisor and all named insureds; and (iii) a waiver of rights of recovery against Franchisor.

These insurance policies must be obtained from responsible insurance carriers acceptable to Franchisor and which are authorized to do business in the state(s) in which the AR Business operates. These insurance policies must name Franchisor, any affiliates Franchisor designates, and the Indemnified Parties (as defined in Section 18.2 above) as additional named insureds for claims arising from the AR Business' operation and provide for thirty (30) days' prior written notice to Franchisor of a policy's material modification, cancellation or expiration. These insurance policies must be primary to and without right of contribution from any other insurance policy purchased by Franchisor or any other Indemnified Party; must not limit or reduce coverage for Area Representative if there is a claim by Franchisor or any one or more of the other Indemnified Parties; must not contain a self-insured retention; must not contain a deductible in excess of Twenty-Five Thousand Dollars (\$25,000); must make satisfaction of any/all deductibles Area Representative's sole responsibility; and must extend to and provide indemnity for all of Area Representative's indemnification obligations to Franchisor and the other Indemnified Parties under this Agreement. Area Representative agrees not to reduce the policy limits, restrict coverage, cancel or otherwise alter or amend its insurance policies without Franchisor's prior written consent. If there is a claim by Franchisor or any one or more of the other Indemnified Parties against Area Representative, Area Representative must, upon Franchisor's request, assign to Franchisor all rights which Area Representative then has or thereafter may have with respect to the claim against the insurer(s) providing the coverages described above.

Area Representative must provide Franchisor with copies of Area Representative's certificates of insurance or other evidence Franchisor requires evidencing the required coverages no later than ten (10) days before Area Representative commence operations of the AR Business. Area Representative must furnish Franchisor, on an annual basis, copies of Area Representative's certificates of insurance or other evidence Franchisor requires of Area Representative maintaining this insurance coverage and paying premiums. Area Representative must furnish Franchisor the original policies evidencing all such insurance coverages within five (5) days of Franchisor's written request. Area Representative agrees to renew all policies and documents, and to furnish Franchisor copies of renewal certificates of insurance or other evidence Franchisor requires of Area Representative maintaining this insurance coverage and paying premiums prior to the expiration date of the policy.

If Area Representative fails or refuses to obtain and maintain the insurance Franchisor specifies, in addition to Franchisor's other remedies, Franchisor may (but need not) obtain such insurance for Area Representative and the AR Business on Area Representative's behalf, in which event Area Representative shall cooperate with Franchisor and reimburse Franchisor for all premiums, costs and expenses Franchisor incurs in obtaining and maintaining the insurance, plus a reasonable fee for Franchisor's time incurred in obtaining such insurance. If Franchisor obtains such insurance for Area Representative and the AR Business on Area Representative's behalf, Area Representative must furnish all information necessary to obtain and maintain such insurance within fifteen (15) days of Franchisor's request.

## **ARTICLE 21**

### **DISPUTE RESOLUTION**

#### **21.1 Mediation**

Except as otherwise provided herein, if a dispute arises out of or relates to this Agreement, the breach hereof, the rights and obligations of the parties hereto, or the making, interpretation, or performance of either party under this Agreement, the parties agree first to try in good faith to settle the dispute by mediation administered by non-binding mediation administered by the American Arbitration Association in accordance with its commercial mediation rules before resorting to arbitration or litigation in accordance with the terms of this Agreement. Such mediation shall take place before a sole mediator at a location Franchisor designates in Vancouver, British Columbia (Canada). The parties shall each bear all of their own costs of mediation; provided, however, the fees of the mediator shall be divided equally between Area Representative and Franchisor. All aspects of the mediation, including statements made and documents produced within the mediation, will be confidential in nature and will not be admissible in any subsequent arbitration or other legal proceeding. If the matter is not settled by mediation within thirty (30) days of the commencement of the mediation, or such further period as the parties shall agree in writing, the matter shall be referred to arbitration as described in Section 21.2 below. The parties hereto agree that mediation shall not be required with respect to: (a) any claim or dispute involving any payment obligation of Franchisor that is more than thirty (30) days past due; (b) any claim or dispute involving actual or threatened disclosure or misuse of Franchisor's Confidential Information; (c) any claim or dispute involving the ownership, validity, or use of the Marks; (d) any claim or dispute involving the insurance or indemnification provisions of this Agreement; (e) any claim or dispute involving a non-curable default; (f) any claim or dispute involving Area Representative's failure to comply with Franchisor's System Standards; or (g) any action by Franchisor to enforce the covenants set forth in Section 8.19, Section 19.1 or Section 19.2 of this Agreement.

The object of any mediation subject to this Section 21.1 is to assist the parties in reaching a mutually acceptable resolution of the dispute. Such mediation will, in all circumstances, be consistent with the rights and obligations created by this Agreement and will not be premised on the derogation or diminution of those rights or disregard of those rights.

#### **21.2 Arbitration**

Subject to the parties' obligation to mediate certain controversies, disputes, and claims pursuant to Section 21.1 above, Franchisor and Area Representative agree that all controversies, disputes, or claims between Franchisor and Franchisor's affiliates, and Franchisor's and Franchisor's affiliates' respective shareholders, officers, directors, agents, and/or employees, and Area Representative (and/or its Owners, Guarantors, affiliates, and/or employees) arising out of or related to:

- (1) this Agreement or any other agreement between Area Representative and Franchisor or Area Representative's or Franchisor's respective affiliates;
- (2) Franchisor's relationship with Area Representative;
- (3) the scope and validity of this Agreement or any other agreement between Area Representative and Franchisor or any provision of such agreements (including the validity and scope of the arbitration obligations under this Section 21.2, which the parties acknowledge is to be determined by an arbitrator and not a court); or
- (4) any System Standard;

must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association ("AAA"). There shall be one (1) arbitrator if the amount of the claim is Five Hundred Thousand Dollars (\$500,000) or less, or three (3) arbitrators if the amount of the claim is more than Five Hundred Thousand Dollars (\$500,000). If there is one (1) arbitrator, the arbitrator shall be appointed by the AAA. If there are three (3) arbitrators, the claimant shall appoint one (1) arbitrator in its notice of arbitration and statement of claim; the respondent shall appoint one (1) arbitrator in its statement of defense, and the third arbitrator, who shall act as the Chairman, shall be appointed by the two (2) arbitrators appointed by the parties within thirty (30) days of the appointment of the second arbitrator. If any arbitrators are not appointed within these time periods, the AAA shall make the appointments. Except as this Section 21.2 otherwise provides, the arbitration proceedings will be conducted according to the then current commercial arbitration rules of the AAA. All proceedings will be conducted at a suitable location chosen by the arbitrator(s) in Vancouver, British Columbia (Canada). All matters relating to arbitration will be governed by the Federal Arbitration Act (9 U.S.C. §§ 1 *et seq.*). Except as expressly provided otherwise in the remainder of this Section 21.2, judgment upon the arbitrators' award may be entered in any court of competent jurisdiction.

The arbitrators have the right to award or include in their award any relief which they deem proper, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator(s) may not declare any Mark generic or otherwise invalid or, except as expressly provided in Section 21.6 below, award any punitive or exemplary damages against either party (Franchisor and Area Representative hereby waiving to the fullest extent permitted by law, except as expressly provided in Section 21.6 below, any right to or claim for any punitive or exemplary damages against the other). All aspects of the arbitration, including statements made and documents produced within the arbitration, will be confidential in nature and will not be admissible in any subsequent legal proceeding.

Except as expressly limited by Section 21.8 below, Franchisor and Area Representative agree to be bound by the provisions of any limitation on the period of time in which claims must be brought under applicable law or this Agreement, whichever expires earlier. Franchisor and Area Representative further agree that, in any arbitration proceeding, each must submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any claim which is not submitted or filed as required is forever barred. The arbitrator(s) may not consider any settlement discussions or offers that might have been made by either Area Representative or Franchisor. Franchisor reserves the right, but has no obligation, to advance Area Representative's share of the costs of any arbitration proceeding in order for such arbitration proceeding to take place and by doing so will not be deemed to have waived or relinquished Franchisor's right to seek the recovery of those costs in accordance with Section 21.3.

Franchisor and Area Representative agree that arbitration will be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between Franchisor and Franchisor's affiliates, and Franchisor's and Franchisor's affiliates' respective shareholders, officers, directors, agents, and/or employees, and Area Representative (and/or its Owners, Guarantors, affiliates, and/or employees) may not be consolidated with any other arbitration proceeding between Franchisor and any other person. Notwithstanding the foregoing or anything to the contrary in this Section 21.2 or Section 23.3, if any court or arbitrator determines that all or any part of the preceding sentence is unenforceable with respect to a dispute that otherwise would be subject to arbitration under this Section 21.2, then the parties agree that this arbitration clause shall not apply to that dispute and that such dispute will be resolved in a judicial proceeding in accordance with this Article 21 (excluding this Section 21.2).

Except as expressly provided otherwise in the remainder of this Article 21, despite Franchisor's and Area Representative's agreement to arbitrate, Franchisor and Area Representative each have the right in a proper case to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction; provided, however, that Franchisor and Area Representative must contemporaneously submit the dispute for arbitration on the merits as provided in this Section 21.2.

The provisions of this Section 21.2 are intended to benefit and bind certain third party non-signatories and will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination.

### **21.3 Attorneys' Fees**

If Franchisor incurs costs and expenses due to Area Representative's failure to pay when due amounts owed to Franchisor, to submit when due any reports, information, or supporting records, or otherwise to comply with this Agreement, Area Representative agrees, whether or not Franchisor initiates a formal legal proceeding, to reimburse Franchisor for all of the costs and expenses that Franchisor incurs, including, without limitation, reasonable accounting, attorneys', arbitrators', and related fees.

### **21.4 Governing Law**

**ALL MATTERS RELATING TO ARBITRATION WILL BE GOVERNED BY THE FEDERAL ARBITRATION ACT (9 U.S.C. §§1 *ET SEQ.*). EXCEPT TO THE EXTENT GOVERNED BY THE FEDERAL ARBITRATION ACT, THE UNITED STATES TRADEMARK ACT OF 1946 (LANHAM ACT, 15 U.S.C. SECTIONS 1051 *ET SEQ.*), OR OTHER FEDERAL LAW, THIS AGREEMENT, THE FRANCHISE, AND ALL CLAIMS ARISING FROM THE RELATIONSHIP BETWEEN FRANCHISOR AND AREA REPRESENTATIVE WILL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES, EXCEPT THAT ANY DELAWARE LAW REGULATING THE SALE OF FRANCHISES OR GOVERNING THE RELATIONSHIP OF A FRANCHISOR AND ITS AREA REPRESENTATIVE WILL NOT APPLY UNLESS ITS JURISDICTIONAL REQUIREMENTS ARE MET INDEPENDENTLY WITHOUT REFERENCE TO THIS SECTION 21.4.**

### **21.5 Consent to Jurisdiction**

**SUBJECT TO SECTION 21.1 AND SECTION 21.2 ABOVE AND THE PROVISIONS BELOW, AREA REPRESENTATIVE AND ITS OWNERS AGREE THAT ALL ACTIONS ARISING UNDER THIS AGREEMENT OR OTHERWISE AS A RESULT OF THE RELATIONSHIP BETWEEN AREA REPRESENTATIVE AND FRANCHISOR MUST BE COMMENCED IN THE STATE OR FEDERAL COURT OF GENERAL JURISDICTION**

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OYF US INC.

Oxygen Yoga & Fitness Area Representative Agreement – 20245  
**ACTIVE 692924973v4**[ACTIVE 706338495v2](#)

LOCATED CLOSEST TO FRANCHISOR'S THEN CURRENT PRINCIPAL BUSINESS ADDRESS (CURRENTLY, DOVER, DELAWARE), AND AREA REPRESENTATIVE (AND EACH OWNER) IRREVOCABLY SUBMITS TO THE JURISDICTION OF THOSE COURTS AND WAIVES ANY OBJECTION AREA REPRESENTATIVE (OR THE OWNER) MIGHT HAVE TO EITHER THE JURISDICTION OF OR VENUE IN THOSE COURTS. NONETHELESS, AREA REPRESENTATIVE AND ITS OWNERS AGREE THAT FRANCHISOR MAY ENFORCE THIS AGREEMENT AND ANY ARBITRATION ORDERS AND AWARDS IN THE COURTS OF THE STATE OR STATES IN WHICH AREA REPRESENTATIVE IS DOMICILED OR THE AR BUSINESS IS LOCATED.

#### **21.6 Waiver of Punitive Damages and Jury Trial**

EXCEPT FOR AREA REPRESENTATIVE'S OBLIGATION TO INDEMNIFY FRANCHISOR FOR THIRD PARTY CLAIMS UNDER SECTION 18.2, AREA REPRESENTATIVE'S FAILURE TO COMPLY WITH AREA REPRESENTATIVE'S CONFIDENTIALITY, NON-COMPETITION, NON-DISPARAGEMENT AND NON-SOLICITATION OBLIGATIONS UNDER ARTICLE 9, SECTION 19.1 AND SECTION 19.2, AND EXCEPT FOR PUNITIVE DAMAGES AVAILABLE TO EITHER PARTY UNDER FEDERAL LAW, FRANCHISOR AND AREA REPRESENTATIVE (AND ITS OWNERS) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN FRANCHISOR AND AREA REPRESENTATIVE, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.

#### **21.7 Waiver of Right to a Jury**

FRANCHISOR AND AREA REPRESENTATIVE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER FRANCHISOR OR AREA REPRESENTATIVE.

#### **21.8 Limitation of Claims**

EXCEPT FOR CLAIMS ARISING FROM AREA REPRESENTATIVE'S NON PAYMENT OR UNDERPAYMENT OF AMOUNTS AREA REPRESENTATIVE OWES FRANCHISOR, ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FRANCHISOR'S RELATIONSHIP WITH AREA REPRESENTATIVE WILL BE BARRED UNLESS A JUDICIAL OR ARBITRATION PROCEEDING IS COMMENCED WITHIN EIGHTEEN (18) MONTHS FROM THE DATE ON WHICH THE PARTY ASSERTING THE CLAIM KNEW OR SHOULD HAVE KNOWN OF THE FACTS GIVING RISE TO THE CLAIMS.

#### **21.9 Limited Liability for Franchisor's Related Parties**

Area Representative agrees that no past, present or future director, officer, employee, incorporator, member, partner, stockholder, subsidiary, affiliate, owner, Entity under common control, ownership or management, vendor, service provider, agent, attorney or representative of Franchisor will have any liability for (i) any of Franchisor's obligations or liabilities relating to or arising from this Agreement; (ii) any claim against Franchisor based on, in respect of, or by reason of, the relationship

between Area Representative and Franchisor, or (iii) any claim against Franchisor based on any alleged unlawful act or omission of Franchisor.

### **21.10 Covenant of Good Faith**

If applicable law implies a covenant of good faith and fair dealing in this Agreement, the parties hereto agree that the covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement. Additionally, if applicable law will imply the covenant, Area Representative agrees that: (i) this Agreement (and the relationship of the parties hereto that is inherent in this Agreement) grants Franchisor the judgment to make decisions, take actions and/or refrain from taking actions not inconsistent with Franchisor's explicit rights and obligations under this Agreement that may favorably or adversely affect Area Representative's interests; (ii) any judgment Franchisor exercises will be based on Franchisor's assessment of its own interests and balancing those interests against the interests of Franchisor's area representatives generally, and specifically without considering Area Representative's individual interests or the individual interests of any other particular area representative; (iii) Franchisor will have no liability to Area Representative for the exercise of Franchisor's judgment in this manner, so long as the judgment is not exercised in bad faith; and (iv) in the absence of bad faith, no trier of fact in any arbitration or litigation will substitute its judgment for Franchisor's judgment so exercised.

### **21.11 Injunctive Relief**

In the event of a breach or a threatened breach of this Agreement, Franchisor may seek temporary, preliminary, permanent or any other form of mandatory or prohibitory injunctive relief or any other extraordinary remedy against threatened or actual breach thereof. Franchisor and Area Representative agree that Franchisor may have such injunctive relief without posting any bond, but upon due notice, in addition to any other equitable relief available to it.

### **21.12 Multiple Forms of Agreement**

Area Representative acknowledges and agrees that there may be more than one form of area representative agreement in effect between Franchisor and Franchisor's area representatives; those other agreements may contain provisions that may be materially different from the provisions contained in this Agreement; and Area Representative is not entitled to rely on any provision of any other agreement with other area representatives whether to establish course of dealing, waiver, or estoppel, or for any other purpose.

## **ARTICLE 22** **AUDIT AND INSPECTION**

### **22.1 Accounting and Audit**

Area Representative must prepare on a current basis, complete and accurate records concerning all financial, marketing and other operating aspects of the Office and the AR Business conducted under this Agreement. Area Representative shall maintain an accounting system reflecting all operational aspects of the Office and the AR Business, including uniform reports as may be required by Franchisor, prepared in accordance with generally accepted accounting principles. Area Representative's records shall include tax returns, and complete annual financial statements. Area Representative shall also submit to Franchisor current financial statements and such other reports as Franchisor may reasonably request to evaluate or compile research data on any operational aspect of the Office and the AR Business. All financial data with respect to the AR Business shall be for Franchisor's own use, shall be kept

confidential and shall not be made available to other area representatives or Franchise Owners, prospective Franchise Owners, or other third parties except to the extent Franchisor needs such information to make a "financial performance representation" under any franchise disclosure laws. Area Representative shall maintain the records required under this Section 22.1 for a period of three (3) years after the expiration of the Term. Franchisor shall have no right to inspect, audit or copy the records of any business activity unrelated to the AR Business.

## 22.2 Inspection by Franchisor

During the Term and for three (3) years after the expiration of the Term or any Renewal Term, Franchisor shall have the right to request, receive, inspect or audit any of the records referred to in Section 22.1. This Section 22.2 shall survive termination or expiration of this Agreement. If any audit discloses a failure by Area Representative to operate the AR Business in accordance with Franchisor's standards, then Franchisor may require Area Representative to undertake additional training at a designated training facility and/or at an operating Oxygen Yoga & Fitness Facility. Franchisor shall determine the duration of the training and the number of trainers in its sole discretion. If Franchisor requires Area Representative to undertake this additional training, Area Representative agrees to pay Franchisor its then current training charge (currently, Three Thousand Seven Hundred Fifty Dollars (\$3,750)) per trainer plus all charges, including Franchisor's personnel's then current per diem charges and actual travel and living expenses~~which Franchisor's trainers incur during such additional training.~~

## 22.3 Inspection Rights

To ensure conformity with the standards and specifications of Franchisor, Franchisor, or its representatives, reserves the right to inspect all aspects of the operation of the AR Business and the Oxygen Yoga & Fitness Facilities in the Franchised Territory, during normal business hours. Area Representative shall have the right to be present during any inspection of the AR Business conducted by Franchisor or Franchisor's representatives and Franchisor shall give Area Representative or a Franchise Owner, as the case may be, reasonable prior notice of such inspection. Franchisor will not interfere unreasonably with the AR Business' operation during an inspection, and if Area Representative's Office is located in a residence, Franchisor will only conduct an inspection if Area Representative hosts customers or actual or prospective Franchise Owners at the Office.

## ARTICLE 23 MISCELLANEOUS PROVISIONS

### 23.1 Binding Effect

This Agreement is binding upon Franchisor and Area Representative and Franchisor's and Area Representative's respective executors, administrators, heirs, beneficiaries, permitted assigns, and successors in interest. Subject to Franchisor's right to modify the Manual and System Standards, this Agreement may not be modified except by a written agreement signed by both Franchisor's and Area Representative's duly-authorized officers.

### 23.2 Construction

The preambles and exhibits are a part of this Agreement which, together with any addenda or riders signed at the same time as this Agreement, constitutes Franchisor's and Area Representative's entire agreement, and supersedes all prior and contemporaneous oral or written agreements and

understandings between Franchisor and Area Representative relating to the subject matter of this Agreement. There are no other oral or written understandings or agreements between Franchisor and Area Representative, or oral or written representations by Franchisor, relating to the subject matter of this Agreement, the franchise relationship, or the AR Business (any understandings or agreements reached, or any representations made, before this Agreement are superseded by this Agreement). Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require Area Representative to waive reliance on any representation made by Franchisor in Franchisor's most recent franchise disclosure document (including exhibits and amendments) delivered to Area Representative or Area Representative's representative.

Any policies that Franchisor adopts and implements from time to time to guide Franchisor in Franchisor's decision-making are subject to change, are not a part of this Agreement, and are not binding on Franchisor.

Except as provided in Sections 18.2 and 21.2, nothing in this Agreement is intended or deemed to confer any rights or remedies upon any person or Entity not a party to this Agreement.

Except where this Agreement expressly obligates Franchisor reasonably to approve or not unreasonably to withhold Franchisor's approval of any Area Representative's actions or requests, Franchisor has the absolute right to refuse any request Area Representative makes or to withhold Franchisor's approval of any of Area Representative's proposed, initiated, or completed actions that require Franchisor's approval. The headings of the sections and paragraphs are for convenience only and do not define, limit, or construe the contents of these sections or paragraphs.

References in this Agreement to "Franchisor," with respect to all of Franchisor's rights and all of Area Representative's obligations to Franchisor under this Agreement, include any of Franchisor's affiliates with whom Area Representative deals. The term "**affiliate**" means any person or Entity directly or indirectly owned or controlled by, under common control with, or owning or controlling Area Representative or Franchisor. "**Control**" means the power to direct or cause the direction of management and policies. The words "include" and "including" are meant to be illustrative and not exhaustive and are deemed to be read in all cases as "including, without limitation" and/or "including but not limited to."

The term "**Area Representative**" is applicable to one or more persons or business entities, as the case may be, and the singular usage includes the plural and the masculine and neuter usages include the other and the feminine. If two or more persons are at any time Area Representative or its Owners hereunder, whether or not as partners or joint venturers, their obligations and liabilities to Franchisor shall be joint and several.

"**Person**" means any natural person, corporation, limited liability company, general or limited partnership, unincorporated association, cooperative, or other legal or functional entity.

Unless otherwise specified, all references to a number of days shall mean calendar days and not Business Days.

The term "**employee**" includes all of the AR Business' personnel, including all managers, administrators and other personnel that perform services for the AR Business, whether such person is classified as an employee of Area Representative or an independent contractor.

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

### 23.3 Severability and Substitution of Valid Provisions

Except as expressly provided to the contrary in this Agreement, each section, paragraph, term, and provision of this Agreement is severable, and if, for any reason, any part is held to be invalid or contrary to or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court, agency, or tribunal with competent jurisdiction, that ruling will not impair the operation of, or otherwise affect, any other portions of this Agreement, which will continue to have full force and effect and bind the parties.

If any covenant which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of area, business activity prohibited, and/or length of time, but would be enforceable if modified, Area Representative and Franchisor agree that the covenant will be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction whose law determines the covenant's validity.

If any applicable and binding law or rule of any jurisdiction requires more notice than this Agreement requires of this Agreement's termination or of Franchisor's refusal to enter into a Successor Agreement, or some other action that this Agreement does not require, or if, under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement or any System Standard is invalid, unenforceable, or unlawful, the notice and/or other action required by the law or rule will be substituted for the comparable provisions of this Agreement, and Franchisor may modify the invalid or unenforceable provision or System Standard to the extent required to be valid and enforceable or delete the unlawful provision in its entirety. Area Representative agrees to be bound by any promise or covenant imposing the maximum duty the law permits which is subsumed within any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement.

### 23.4 Notices and Payments

All written notices, reports, and payments permitted or required to be delivered by this Agreement or the Manual will be deemed to be delivered:

- a) at the time delivered by hand;
- b) at the time delivered via computer transmission and, in the case of the Royalty, Advertising Fund Fees, and other amounts due, at the time Franchisor actually receives payment via the EDTA;
- c) one (1) business day after being placed in the hands of a nationally recognized commercial courier service for next business day delivery; or
- d) three (3) business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid.

Any notice to Franchisor must be sent to the address specified on the first page of this Agreement, with a copy to the following:

Greenberg Traurig, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, Illinois 60601  
Attn: Alan R. Greenfield, Esq.

OYF US Inc.  
PO Box 21056  
Maple Ridge Square  
Maple Ridge, British Columbia (Canada) V2X 1P7  
Attn: Chief Operations Officer

Franchisor may change these addresses for notice by giving Area Representative notice of the new address(es). Any notice that Franchisor sends to Area Representative may be sent only to the one (1) person identified on **Exhibit B**, even if Area Representative has multiple owners, at the email or postal address specified on **Exhibit B**. Area Representative may change the person and/or address for notice only by giving Franchisor thirty (30) days' prior notice by any of the means specified in subparagraphs (a) through (d) above.

Any required payment or report which Franchisor does not actually receive during regular business hours on the date due (or postmarked by postal authorities at least two (2) days before then) will be deemed delinquent.

### **23.5 Relationship With the Public**

Area Representative shall use all reasonable steps to ensure that the best possible relationship is maintained with the public with a view to enhancing the reputation of Franchisor, the System and the Marks and Area Representative shall not take any action or commit any omission which would improperly adversely affect the reputation of Franchisor, the System or the Marks or be intentionally misleading.

### **23.6 Waiver of Obligations**

Franchisor and Area Representative may by written instrument unilaterally waive or reduce any obligation of or restriction upon the other under this Agreement, effective upon delivery of written notice to the other or another effective date stated in the notice of waiver. Any waiver granted will be without prejudice to any other rights Franchisor or Area Representative has, will be subject to continuing review, and may be revoked at any time and for any reason effective upon delivery of ten (10) days' prior written notice.

Franchisor and Area Representative will not waive or impair any right, power, or option this Agreement reserves (including, without limitation, Franchisor's right to demand exact compliance with every term, condition, and covenant or to declare any breach to be a default and to terminate this Agreement before its term expires) because of any custom or practice at variance with this Agreement's terms; Franchisor's or Area Representative's failure, refusal, or neglect to exercise any right under this Agreement or to insist upon the other's compliance with this Agreement, including, without limitation, any System Standard; Franchisor's waiver of or failure to exercise any right, power, or option, whether of the same, similar, or different nature, with other Oxygen Yoga & Fitness AR Businesses; the existence of area representative agreements for other Oxygen Yoga & Fitness AR Businesses which contain provisions different from those contained in this Agreement; or Franchisor's acceptance of any payments due from Area Representative after any breach of this Agreement. No special or restrictive legend or endorsement on any check or similar item given to Franchisor will be a waiver, compromise, settlement,

or accord and satisfaction. Franchisor is authorized to remove any legend or endorsement, which then will have no effect.

### **23.7 Excuse of Performance**

It is hereby understood and agreed that, where Franchisor retains the discretion to approve or disapprove a request by Area Representative, unless such right of approval is expressly indicated to be in Franchisor's sole judgment, Franchisor will respond in a commercially reasonable and timely manner, and will communicate with Area Representative in good faith in responding.

Neither Franchisor nor Area Representative will be liable for loss or damage or be in breach of this Agreement if Franchisor's or Area Representative's failure to perform Franchisor's or Area Representative's obligations results from: (1) compliance with the orders, requests, regulations, or recommendations of any federal, state, or municipal government; (2) acts of God; (3) fires, strikes, embargoes, war, acts of terrorism or similar events, or riot; or (4) any other similar event or cause. Any delay resulting from any of these causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that these causes will not excuse payments of amounts owed at the time of the occurrence or payment of Royalties or Advertising Fund Fees due afterward.

### **23.8 Compliance with Anti-Terrorism and Other Laws**

Area Representative and its Owners agree to comply, and to assist Franchisor to the fullest extent possible in Franchisor's efforts to comply, with all applicable legislation, laws, regulations, rules, ordinances, administrative orders, decrees and policies of any court, arbiter, government, governmental agency, department, or similar organization that are in effect from time to time pertaining to: (a) the various anti-terrorism, economic sanctions, and anti-money laundering and narco-trafficking laws, regulations, orders, decrees and guidelines of the U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"), (b) the USA PATRIOT Act (Title III of Pub. L. 107-56, signed into law October 26, 2001), as amended, (c) the provisions of United States Executive Order 13224, (d) the U.S. Prevention of Corruption Act 1988, (e) the U. S. Foreign Corrupt Practices Act, 15 U.S.C. Section 78dd-2, (e) relevant multilateral measures such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UN Convention Against Corruption, (f) bribery and anti-corruption laws, (g) the laws against money laundering, and (h) the laws against facilitating or supporting persons who conspire to commit these and other crimes against any person or government. Area Representative immediately shall notify Franchisor in writing if a potential violation of any of the foregoing legislation, laws, regulations, rules, ordinances, administrative orders, decrees and/or policies has occurred or is suspected to have occurred. Area Representative immediately shall provide Franchisor with copies of any communication to or from any such agency, government, or commission that relates to or affects this Agreement, the AR Business, or the Marks. Any failure to comply with this Section by Area Representative or its Owners, or any blocking of Area Representative's or its Owners' assets under any of such laws, legislation, regulations, orders, decrees and/or policies shall constitute good cause for immediate termination of this Agreement, as provided in Subsection 16.3(w) above.

### **23.9 Electronic Mail**

Area Representative acknowledges and agrees that exchanging information with Franchisor by e-mail is efficient and desirable for day-to-day communications and that Franchisor and Area Representative may utilize e-mail for such communications. Area Representative authorizes the

transmission of e-mail by Franchisor and Franchisor's employees, vendors, and affiliates ("**Official Senders**") to Area Representative during the Term of this Agreement.

Area Representative further agrees that: (a) Official Senders are authorized to send e-mails to those of Area Representative's employees as Area Representative may occasionally authorize for the purpose of communicating with Franchisor; (b) Area Representative will cause Area Representative's officers, directors, and employees to give their consent to Official Senders' transmission of e-mails to them; (c) Area Representative will require such persons not to opt out or otherwise ask to no longer receive e-mails from Official Senders during the time that such person works for or is affiliated with Area Representative; and (d) Area Representative will not opt out or otherwise ask to no longer receive e-mails from Official Senders during the Term of this Agreement.

The consent given in this Section 23.9 shall not apply to the provision of notices by either party under this Agreement pursuant to Section 23.4 using e-mail unless the parties otherwise agree in a written document manually signed by both parties.

### **23.10 Electronic Signatures**

The counterparts of this Agreement and all ancillary documents executed or delivered in connection with this Agreement may be executed and signed by electronic signature by any of the parties to this Agreement, and delivered by electronic or digital communications to any other party to this Agreement, and the receiving party may rely on the receipt of such document so executed and delivered by electronic or digital communications signed by electronic signature as if the original has been received. For the purposes of this Agreement, electronic signature means, without limitation, an electronic act or acknowledgement (*e.g.*, clicking an "I Accept" or similar button), sound, symbol (digitized signature block), or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

OYF US INC., a Delaware corporation

AREA REPRESENTATIVE

By: \_\_\_\_\_  
Jennifer Hamilton, CEO

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

**DATED\*:** \_\_\_\_\_  
(\*Effective Date of this Agreement)

\_\_\_\_\_  
[Print Name of Area Representative Entity]

By: \_\_\_\_\_  
[signature of person signing on behalf of entity]

Title of Signator: \_\_\_\_\_

**DATED:** \_\_\_\_\_

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[signature of individual area representative]

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

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
[signature of individual area representative]

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

**DATED:** \_\_\_\_\_

**EXHIBIT A**  
**FRANCHISED TERRITORY**

The Franchised Territory referred to in Article 3 of the Area Representative Agreement will be as follows: \_\_\_\_\_.

[Signatures on following page.]

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
Jennifer Hamilton, CEO

**DATED\*:** \_\_\_\_\_  
(\*Effective Date of this Agreement)

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative Entity]

By: \_\_\_\_\_  
[signature of person signing on behalf of entity]

Title of Signator: \_\_\_\_\_

**DATED:** \_\_\_\_\_  
**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[signature of individual area representative]

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

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
[signature of individual area representative]

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

**DATED:** \_\_\_\_\_

**EXHIBIT B**  
**LISTING OF OWNERSHIP INTERESTS**

**Effective Date: This Exhibit B is current and complete  
as of \_\_\_\_\_, 20\_\_**

**Area Representative and its Owners**

1. **Form of Owner.** (Choose (a) or (b))

(a) **Individual Proprietorship.** List individual(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) **Corporation, Limited Liability Company, or Partnership.** (CIRCLE ONE)  
Area Representative was incorporated or formed on \_\_\_\_\_, under the laws of the  
State of \_\_\_\_\_. Area Representative has not conducted business under any name other  
than Area Representative's corporate, limited liability company, or partnership name and  
\_\_\_\_\_. The following is a list of Area  
Representative's directors, if applicable, and officers as of the effective date shown above:

<b><u>Name of Each Director/Officer</u></b>	<b><u>Position(s) Held</u></b>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. **Owners.** The following list includes the full name of each person who is one of Area Representative's Owners (as defined in the Area Representative Agreement), or an owner of one of Area Representative's Owners, and fully describes the nature of each owner's interest (attach additional pages if necessary).

**Owner's Name**

**Percentage/Description of Interest**

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_

3. **Name and Address of Person to Receive Notice for Area Representative.**

- (a) Name: \_\_\_\_\_
- (b) Postal Address: \_\_\_\_\_  
\_\_\_\_\_
- (c) E-mail Address: \_\_\_\_\_

[Signatures on following page.]

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
Jennifer Hamilton, CEO

DATED: \_\_\_\_\_

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative Entity]

By: \_\_\_\_\_  
[signature of person signing on behalf of entity]

Title of Signator: \_\_\_\_\_

DATED: \_\_\_\_\_

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[signature of individual area representative]

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
[signature of individual area representative]

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

DATED: \_\_\_\_\_

**EXHIBIT C**  
**DEVELOPMENT SCHEDULE**

The Development Schedule referred to in Section 8.1 of the Area Representative Agreement will be as follows:

<u>Development Period</u>	<u>Number of New Oxygen Yoga &amp; Fitness Facilities to be Opened Within the Franchised Territory During Development Period</u>	<u>Cumulative Minimum Number of Oxygen Yoga &amp; Fitness Facilities to be Open and Operating Within the Franchised Territory By End of Development Period</u>

[Signatures on following page.]

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
Jennifer Hamilton, CEO

DATED: \_\_\_\_\_

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative Entity]

By: \_\_\_\_\_  
[signature of person signing on behalf of entity]

Title of Signator: \_\_\_\_\_

DATED: \_\_\_\_\_

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[signature of individual area representative]

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
[signature of individual area representative]

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

DATED: \_\_\_\_\_

**EXHIBIT D**  
**NONDISCLOSURE AND NON-COMPETITION AGREEMENT**

NAME: \_\_\_\_\_

AREA REPRESENTATIVE: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

HOME TELEPHONE: \_\_\_\_\_

CLASSIFICATION: \_\_\_\_\_

**(Owner, Shareholder, Officer, Director, Employee)**

\_\_\_\_\_ ("**Area Representative**") is an Area Representative of OYF US INC. ("**Franchisor**") pursuant to an Area Representative Agreement entered into by Area Representative and Franchisor dated \_\_\_\_\_. The franchised business Company authorizes Area Representative to operate under the Area Representative Agreement is known as the "**AR Business**," which AR Business is one among all businesses that Company owns, operates, or franchises under the "Oxygen Yoga & Fitness" name. I agree that, unless otherwise specified, all terms in this Agreement have those meanings ascribed to them in the Area Representative Agreement.

I agree that during the term of my employment by, ownership participation in, association with or service to Area Representative, or at any time thereafter, I will not communicate, divulge or use for the benefit of any other person, persons, partnership, proprietorship, association, corporation or entity, Company's proprietary and confidential information relating to the development and operation of Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities, including but not limited to the following concerning Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities: (1) site selection criteria and layouts, designs and other plans and specifications; (2) training and operations materials and manuals; (3) methods, formats, specifications, standards, systems, procedures, sales, and marketing techniques, knowledge and experience used in developing and operating Oxygen Yoga & Fitness Facilities; (4) marketing, promotional and advertising research and programs for Oxygen Yoga & Fitness Facilities; (5) knowledge of specifications for and suppliers of Operating Assets, and other products and supplies, including supplier pricing and related terms; (6) any computer software or similar technology which is proprietary to Franchisor or the System, including, without limitation, digital passwords and identifications and any source code of, and data, reports, and other printed materials generated by, the software or similar technology; (7) knowledge of the operating results and financial performance of Oxygen Yoga & Fitness Facilities located both within and outside of the Franchised Territory; (8) graphic designs and related intellectual property; (9) customer solicitation, communication and retention programs, along with data and information used or generated in connection with those programs; (10) all data and other information generated by, or used in, the operation of Oxygen Yoga & Fitness Facilities, including customer and member names, addresses, phone numbers and other information supplied by any customer (such as credit card information or personal information), and any other information contained at any time and from time to time in the Computer System or that visitors to the Oxygen Yoga & Fitness Facilities (including Area Representative and Area Representative's personnel) provide to the Website for the network of Oxygen Yoga & Fitness Facilities; (11) future business plans relating to Oxygen Yoga & Fitness Facilities and the Oxygen Yoga & Fitness franchise opportunity, including expansion and development plans; and (12) any and all other information Company provides to me, Area Representative, Area Representative's Owners or affiliates that is designated orally or in writing as proprietary or confidential, or by its nature would reasonably be

understood to be proprietary or confidential, regardless of whether such information is specifically designated as proprietary or confidential (collectively, all information referenced above, including examples (1) through (12), is known as the "**Confidential Information**").

Furthermore, any and all information, knowledge, know-how, techniques and information which the entities mentioned above (or their officers) designate as confidential is considered, and hereby acknowledged by me, to be Confidential Information for the purposes of this Agreement, except information which I can demonstrate came to my attention before disclosure or which had become or becomes a part of the public domain through publication or communication by others (unless the publication or communication violates a similar confidentiality agreement), but in no event through any act of mine.

I specifically understand that, without limitation, all the above items, concepts, and/or examples contained in the preceding paragraph constitute Confidential Information of Company, and I will not divert any business to competitors of Area Representative and/or Company. I will at no time copy, duplicate, record or otherwise reproduce any of the Confidential Information or material containing it, in whole or in part, store them in a computer retrieval or database, nor otherwise make them available to any unauthorized person.

I further agree that, during the term of my employment/service/association or ownership participation, unless Franchisor provides prior written consent in its sole discretion, I will not, directly or indirectly, engage or participate in any Competitive Business (defined below in this paragraph), any of which such prohibited behavior I understand and hereby explicitly acknowledge would or could be injurious to, or (in Company's sole judgment) have an adverse effect upon, Company's protectable interests in the Confidential Information, the "Oxygen Yoga & Fitness" trademark or related Marks, or the goodwill and/or reputation of Oxygen Yoga & Fitness AR Businesses and Oxygen Yoga & Fitness Facilities generally. I agree that I am prohibited from engaging in any Competitive Business as a proprietor, partner, investor, shareholder, director, officer, employee, principal, agent, advisor, or consultant. For purposes of this Agreement, a "Competitive Business" means (i) any fitness, health and wellness business which derives more than five percent (5%) of its revenue from providing yoga, related fitness, weight loss, wellness and health classes and programs or; (ii) grants franchises or licenses to others to operate the type of business specified in the preceding subparagraph (i) (other than an Oxygen Yoga & Fitness AR Business or Oxygen Yoga & Fitness Facility operated under a franchise agreement with Company). Despite the foregoing definition of a Competitive Business, nothing under this Agreement or the Area Representative Agreement will prevent Individual from owning for investment purposes less than two percent (2%) of a Competitive Business whose stock or other forms of ownership interest are publicly traded on a recognized United States stock exchange, and so long as neither Individual nor Area Representative controls the company in question.

Upon the expiration or other termination for any reason of my employment, association, service or ownership participation, I agree:

- (i) to return immediately to Company or Area Representative, as the case may be, all Confidential Information, and any material(s) containing a subset thereof, in my possession that was utilized, or to which I had access, during my employment, association, service or ownership participation;
- (ii) to refrain, beginning upon such expiration or termination and forever thereafter, from any and all contacts with customers of Oxygen Yoga & Fitness AR Businesses or Oxygen Yoga & Fitness Facilities for any purpose whatsoever; and

- (iii) for a period of two (2) years, starting on the effective date of termination or expiration of my employment/service/association or ownership participation, to refrain from directly or indirectly (such as through any one or more members of my Immediate Family) owning a legal or beneficial interest in, or rendering services or giving advice to: any Competitive Business operating (a) within the Franchised Territory; (b) within a ten (10) mile radius of the Franchised Territory; (c) within the territory of any, and within a ten (10) mile radius of any other, Oxygen Yoga & Fitness Facility in operation or in the process of opening; or (d) within the franchised territory of any other, Oxygen Yoga & Fitness AR Business in operation or in the process of opening.
- (iv) for a period of two (2) years, starting on the effective date of termination or expiration of my employment/service/association or ownership participation, to refrain from directly or indirectly (such as through any one or more members of my Immediate Family) soliciting or attempting to solicit any customer of Franchisor or of any of Franchisor's affiliates, current or prospective Oxygen Yoga & Fitness Facility franchise owners or Oxygen Yoga & Fitness AR Business franchise owners to discontinue the customer relationship with Franchisor or with any of Franchisor's affiliates, Oxygen Yoga & Fitness Facility franchise owners or Oxygen Yoga & Fitness AR Business franchise owners. In addition, the use of Franchisor's customer lists, employee files or other such Confidential Information for the purpose of soliciting is prohibited.

I acknowledge and understand that the provisions of this Agreement, including my representations, covenants, and warranties (as applicable) given hereunder, are necessary and integral to this Agreement and to Company's and Area Representative's interests under the Area Representative Agreement, and are intended to:

- (i) preclude not only direct competition, but also all forms of indirect competition, such as consultation for Competitive Businesses, service as an independent contractor for Competitive Businesses, or any assistance or transmission of information of any kind which would be of any material assistance to a competitor;
- (ii) bind any person or entity having any legal or beneficial interest in me, or traceable to, down or through me, including (without limitation) any of member of my Immediate Family, any direct or indirect beneficiary, any partner (general or limited) or proprietor of mine, and any other such related person or entity, regardless of how many levels or tiers there may be between any such described person or entity and me; and
- (iii) identify for me, toward the goal of preserving through this Agreement, Company's protectable legal interests in the System, the Confidential Information, and the goodwill associated with the Marks.

I also expressly acknowledge my possession of skills and abilities of a general nature, and the opportunity for exploiting such skills in other ways than the operation or involvement in the activities of an Oxygen Yoga & Fitness AR Business or a Competitive Business, so that enforcement of my covenants made in this Agreement will not deprive me of my personal goodwill or ability to earn a living after the effective date of expiration or termination of my relationship with Area Representative, the AR Business, or Oxygen Yoga & Fitness AR Businesses generally. If I fail or refuse to abide by any of my foregoing obligations or promises made under this Agreement, and Company or Area Representative obtains enforcement in a judicial or arbitration proceeding, then my obligations and responsibilities specified under the breached covenant will be tolled during the period(s) of time that the covenant is breached

and/or Company or Area Representative seeks to enforce it, and will continue for two (2) years starting from the effective date of the order enforcing the covenant.

**I acknowledge that violation of the covenants not to compete contained in this Agreement would result in immediate and irreparable injury to Company and Area Representative, for which no adequate remedy at law will be available. Accordingly, I hereby consent to the entry of an injunction procured by Company or Area Representative (or both), in any appropriate jurisdiction and venue (notwithstanding other references to resolution of actions exclusively in Company's home prohibiting any conduct by me in violation of the terms of those covenants not to compete and/or restrictions on the use of Confidential Information under this Agreement. I expressly agree that it may conclusively be presumed in any legal action that any violation of the terms of these covenants not to compete was accomplished by and through my unlawful utilization of Company's Confidential Information. Further, I expressly agree that any claims I may have against Company will not constitute a defense to Company's enforcement of the covenants not to compete under this Agreement. I further agree to pay all costs and expenses (including reasonable attorneys' and experts' fees) incurred by Company in connection with the enforcement of those covenants not to compete set forth in this Agreement.**

If all, or any portion of, this covenant not to use Confidential Information and not to compete is held unreasonable, void, vague or illegal by any court or agency having valid jurisdiction in an unappealed final decision to which Area Representative and/or Company is a party, the court or agency will be empowered to revise and/or construe the covenant to fall within permissible legal limits, and should not invalidate the entire covenant. I expressly agree to be bound by any lesser covenant subsumed within the terms of this Agreement as if the resulting covenant were separately stated in and made a part of this Agreement.

I agree that this Agreement and all relations and disputes between myself on the one hand, and Area Representative or Company on the other hand, whether sounding in contract, tort, or otherwise, are to be exclusively construed in accordance with and/or governed by (as applicable) the law of the State of Delaware without recourse to Delaware (or any other) choice of law or conflicts of law principles. If, however, any provision of this Agreement would not be enforceable under the laws of the State of Delaware, and if the Business is located outside of the State of Delaware and the provision would be enforceable under the laws of the state in which the AR Business is located, then the provision (and only that provision) will be interpreted and construed under the laws of that state. Nothing in this Agreement is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant", unfair competition, fiduciary or any other doctrine of law of the State of Delaware or any other state, which would not otherwise apply.

I further agree that any litigation arising out of or related to this Agreement, any breach of this Agreement, and any and all relations and/or disputes between myself on the one hand, and Area Representative or Company on the other hand, whether sounding in contract, tort, or otherwise, will be instituted exclusively in the U.S. District Court sitting nearest to Company's corporate headquarters (currently, Dover, Delaware). I agree that any dispute as to the aforementioned venue will be submitted to and resolved exclusively by such aforementioned court. Nonetheless, I agree that Area Representative or Company may enforce this Agreement and any awards in the courts of the state or states in which I am domiciled or the AR Business is located.

**I IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY ME, AREA REPRESENTATIVE OR COMPANY. I hereby waive and covenant never to assert or claim that said**

venue is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of forum non conveniens).

*Remainder of page intentionally left blank*

*Signatures on following page*

**IN WITNESS WHEREOF**, Area Representative has hereunto caused this Agreement to be executed by its duly authorized officer, and Individual has executed this Agreement, as of the day and year first written above.

**ATTESTED TO BY AREA INDIVIDUAL:  
REPRESENTATIVE:**

\_\_\_\_\_,  
a/an \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

By: \_\_\_\_\_  
(Name of Area Representative's Officer)

\_\_\_\_\_  
(Signature)

Signed: \_\_\_\_\_  
(Signature of Area Representative's  
Officer)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

**WITNESS TO INDIVIDUAL'S SIGNATURE:**

\_\_\_\_\_  
(Print Witness Name)

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Date)

**EXHIBIT E**  
**GUARANTY AND ASSUMPTION OF OBLIGATIONS**

**THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS** is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By (list each guarantor):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In consideration of, and as an inducement to, the execution of that certain Area Representative Agreement (the "**Agreement**") on this date by OYF US INC., a Delaware corporation ("**us**," "**we**," or "**our**"), each of the undersigned personally and unconditionally (a) guarantees to us and our successors and assigns, for the term of the Agreement (including extensions) and afterward as provided in the Agreement, that \_\_\_\_\_ ("**Area Representative**") will punctually pay and perform each and every undertaking, agreement, and covenant set forth in the Agreement (including any amendments or modifications of the Agreement) and (b) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement (including any amendments or modifications of the Agreement), both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities, including the non-competition, confidentiality, transfer, and arbitration requirements.

Depending on the creditworthiness of each guarantor and the community property laws of the states in which they reside, we may require that the spouses of one or more guarantors execute this Guaranty as well. Each guarantor represents and warrants that, if no signature appears below for such guarantor's spouse, such guarantor is either not married or, if married, is a resident of a state that does not require the consent of both spouses to encumber the assets of a marital estate or we have waived in writing any requirement that such spouse execute this Guaranty.

Each of the undersigned consents and agrees that: (1) his or her direct and immediate liability under this Guaranty will be joint and several, both with Area Representative and among other guarantors; (2) he or she will render any payment or performance required under the Agreement upon demand if Area Representative fails or refuses punctually to do so; (3) this liability will not be contingent or conditioned upon our pursuit of any remedies against Area Representative or any other person; (4) this liability will not be diminished, relieved, or otherwise affected by any extension of time, credit, or other indulgence which we may at any time and from time to time grant to Area Representative or to any other person, including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims (including the release of other guarantors), none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable during the term of the Agreement (including extensions), for so long as any performance is or might be owed under the Agreement by Area Representative or its owners, and for so long as we have any cause of action against Area Representative or its owners; and (5) this Guaranty will continue in full force and effect for (and as to) any extension or modification of the Agreement and despite the transfer of any interest in the Agreement or Area Representative, and each of the undersigned waives notice of any and all renewals, extensions, modifications, amendments, or transfers.

Each of the undersigned waives: (i) all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Area Representative arising as a result of the undersigned's execution of and performance under this Guaranty; and (ii) acceptance and notice of acceptance by us of his or her undertakings under this Guaranty, notice of demand for payment of any indebtedness or non-performance of any obligations hereby guaranteed, protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed, and any other notices to which he or she may be entitled.

If we are required to enforce this Guaranty in a judicial or arbitration proceeding, and prevail in such proceeding, we shall be entitled to reimbursement of our costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants', arbitrators', and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any such proceeding. If we are required to engage legal counsel in connection with any failure by the undersigned to comply with this Guaranty, the undersigned shall reimburse us for any of the above-listed costs and expenses we incur.

Subject to the arbitration obligations and the provisions below, each of the undersigned agrees that all actions arising under this Guaranty or the Agreement, or otherwise as a result of the relationship between us and the undersigned, must be commenced in the state or federal court of competent jurisdiction located closest to our then current principal business address (currently, Dover, Delaware), and each of the undersigned irrevocably submits to the jurisdiction of those courts and waives any objection he or she might have to either the jurisdiction of or venue in those courts. Nonetheless, each of the undersigned agrees that we may enforce this Guaranty and any arbitration orders and awards in the courts of the state or states in which he or she is domiciled.

IN WITNESS WHEREOF, each of the undersigned has affixed his or her signature on the same day and year as the Agreement was executed.

<b>Signatures Of Each Guarantor</b>	<b>Percentage Of Ownership In Area Representative</b>
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**EXHIBIT F**  
**SUPPORT OBLIGATIONS OF AREA REPRESENTATIVE**

Area Representative shall be required to provide the following support services to all Franchise Owners in the Franchised Territory:

1. Area Representative shall organize and conduct an annual conference at a location within the Franchised Territory;
2. Area Representative shall contact each Franchise Owner every month for the purpose of determining the status of each Oxygen Yoga & Fitness Facility;
3. Area Representative shall assist Franchise Owners with the development of their Oxygen Yoga & Fitness Facilities; and
4. Area Representative shall provide Franchise Owners with ongoing and ad hoc sales and operations support.

**EXHIBIT D**

**STATE ADDENDA TO AREA REPRESENTATIVE AGREEMENT**

**ADDENDUM TO AREA REPRESENTATIVE AGREEMENT  
FOR USE IN CALIFORNIA**

**This Addendum** (the “**Addendum**”) is made and entered into as of the Effective Date as stated in the Area Representative Agreement (defined below), by and between **OYF US INC.**, a Delaware corporation whose principal business address is located at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904 (“**Franchisor**”), and \_\_\_\_\_ (“**Area Representative**”).

1. **Background.** Franchisor and Area Representative are parties to that certain Area Representative Agreement that has been signed at the same time as the signing of this Addendum (the “**Area Representative Agreement**”). This Addendum is annexed to and forms part of the Area Representative Agreement. This Addendum is being signed because (a) any of the offering or sales activity relating to the Area Representative Agreement occurred in California and the AR Business will be operated in California and/or (b) Area Representative is a resident of California.

2. **Late Fees and Interest on Delinquent Payments.** Section 5.5 of the Area Representative Agreement is revised to reflect that the maximum interest rate in California currently is 10% annually, notwithstanding any statement to the contrary contained in Section 5.5 of the Area Representative Agreement.

3. **Fee Deferral.** The California Department of Financial Protection and Innovation has determined that Franchisor has not demonstrated that it is adequately capitalized and/or that Franchisor must rely on area representative fees to fund its operations. The Commissioner of the Department of Financial Protection and Innovation has imposed a fee deferral condition, which requires that Franchisor defers collection of all initial fees from California area representatives until Franchisor has completed all of its pre-opening obligations and Area Representative has commenced operations.

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

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

**IN WITNESS WHEREOF**, the parties have executed this Addendum to the Area Representative Agreement on the date stated on the first page.

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
[ ]

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative]

By: \_\_\_\_\_  
[Signature of person signing on behalf of entity]

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

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[Signature of individual area representative]

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

\_\_\_\_\_  
[Signature of individual area representative]

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

**ADDENDUM TO AREA REPRESENTATIVE AGREEMENT**  
**FOR USE IN ILLINOIS**

This Addendum (the “Addendum”) is made and entered into as of the Effective Date as stated in the Area Representative Agreement (defined below), by and between OYF US INC., a Delaware corporation whose principal business address is located at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904 (“Franchisor”), and (“Area Representative”).

1. Background. Franchisor and Area Representative are parties to that certain Area Representative Agreement that has been signed at the same time as the signing of this Addendum (the “Area Representative Agreement”). This Addendum is annexed to and forms part of the Area Representative Agreement. This Addendum is being signed because (a) the offer or sale of the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was made in the State of Illinois and the AR Business is or will be operated in Illinois, and/or (b) Area Representative is a resident of Illinois.

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

3. Governing Law. Illinois law governs the Area Representative Agreement.

4. Consent to Jurisdiction. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in an area representative agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, an area representative agreement may provide for arbitration to take place outside of Illinois.

5. Waiver of Jury Trial. In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

6. Termination and Non-Renewal. A franchisee’s rights upon termination and non-renewal of an area representative agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

7. Limitations of Claims. The following language is added to the end of Section 21.8 of the Area Representative Agreement:

However, nothing in this Section shall shorten any period within which Area Representative may bring a claim under Section 705/27 of the Illinois Franchise Disclosure Act or constitute a condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act of 1987 or any other Illinois law.

8. Waivers Void. The following language is added as a new Section 23.11 of the Area Representative Agreement:

Nothing in this Agreement shall constitute a condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act of 1987 or any other Illinois law.

9. Consideration to Franchisor. Notwithstanding anything to the contrary contained in Section 5.1 (Area Representative Fee) or Section 5.4 (Initial Marketing Fee) of the Area Representative Agreement, payment of the Area Representative Fee and Initial Marketing Fee will be deferred until Franchisor has satisfied its pre-opening obligations to Area Representative, and Area Representative has commenced business operations.

10. Franchisor's Purchase Option. Franchisor's Purchase Option under Section 4.2 of the Area Representative Agreement is subject to state law.

11. Fees. Payment of initial franchise/development fees will be deferred until Franchisor has met its initial obligations to Area Representative, and Area Representative has commenced doing business. This financial assurance requirement was imposed by the Office of the Illinois Attorney General due to Franchisor's financial condition.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have executed this Addendum to the Area Representative Agreement on the date stated on the first page.

OYF US INC., a Delaware corporation

By:

\_\_\_\_\_

AREA REPRESENTATIVE

(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):

\_\_\_\_\_  
[Print Name of Area Representative]

By:

\_\_\_\_\_  
[Signature of person signing on behalf of entity]

Title:

(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):

\_\_\_\_\_  
[Signature of individual area representative]

Print Name:

\_\_\_\_\_  
[Signature of individual area representative]

Print Name:

**ADDENDUM TO AREA REPRESENTATIVE AGREEMENT**  
**FOR USE IN MICHIGAN**

This Addendum (the “Addendum”) is made and entered into as of the Effective Date as stated in the Area Representative Agreement (defined below), by and between **OYF US INC.**, a Delaware corporation whose principal business address is located at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904 (“Franchisor”), and \_\_\_\_\_ (“Area Representative”).

1. **Background.** Franchisor and Area Representative are parties to that certain Area Representative Agreement that has been signed at the same time as the signing of this Addendum (the “Area Representative Agreement”). This Addendum is annexed to and forms part of the Area Representative Agreement. This Addendum is being signed because (a) the offer or sale of the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was made in the State of Michigan, (b) the offer to buy the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was accepted in the State of Michigan, and/or (c) Area Representative is a resident of Michigan and the AR Business Area Representative will operate under the Area Representative Agreement is or will be located in Michigan.

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

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

IN WITNESS WHEREOF, the parties have executed this Addendum to the Area Representative Agreement on the date stated on the first page.

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
[ ]

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative]

By: \_\_\_\_\_  
[Signature of person signing on behalf of entity]

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

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[Signature of individual area representative]

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

\_\_\_\_\_  
[Signature of individual area representative]

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

**ADDENDUM TO AREA REPRESENTATIVE AGREEMENT**  
**FOR USE IN MINNESOTA**

This Addendum (the “Addendum”) is made and entered into as of the Effective Date as stated in the Area Representative Agreement (defined below), by and between **OYF US INC.**, a Delaware corporation whose principal business address is located at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904 (“Franchisor”), and \_\_\_\_\_ (“Area Representative”).

1. **Background.** Franchisor and Area Representative are parties to that certain Area Representative Agreement that has been signed at the same time as the signing of this Addendum (the “Area Representative Agreement”). This Addendum is annexed to and forms part of the Area Representative Agreement. This Addendum is being signed because (a) the offer or sale of the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was made in the State of Minnesota, (b) the offer to purchase the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was made and accepted in the State of Minnesota, and/or (c) the AR Business Area Representative will operate under the Area Representative Agreement is or will be located in Minnesota.

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

3. **Fee Deferral.** The Minnesota Department of Commerce has determined that Franchisor has not demonstrated that it is adequately capitalized and/or that Franchisor must rely on area representative fees to fund its operations. The Commissioner has imposed a fee deferral condition, which requires that Franchisor defers collection of all initial fees from Minnesota area representatives until Franchisor has completed all of its pre-opening obligations and Area Representative has commenced operations.

4. **Releases.** The following language is added to the end of Subsection 7.1(d), Subsection 14.4(a)(viii), and Section 15.3 of the Area Representative Agreement:

; however, any release required as a condition of renewal and/or assignment/transfer will not apply to the extent prohibited by the Minnesota Franchises Law.

5. **Infringement.** The following language is added to the end of Article 12 of the Area Representative Agreement:

To the extent required by Minnesota Stat. Sec. 80C.12, Subd. 1(g), Franchisor will protect Area Representative's right to use the Marks and indemnify Area Representative from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the Marks.

6. **Termination.** The following is added to the end of Section 16.3 of the Area Representative Agreement:

However, with respect to franchises governed by Minnesota law, Franchisor will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 which require, except in certain specified cases, that an Area Representative be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice of non-renewal of this Agreement.

7. **Governing Law/Consent to Jurisdiction.** The following is added to the end of Sections 21.4 and 21.5 of the Area Representative Agreement:

However, nothing in this Section shall abrogate or reduce any of Area Representative's rights under Minnesota Statutes Chapter 80C or Area Representative's right to any procedure, forum or remedies that the laws of the jurisdiction provide.

However, Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit Franchisor, except in certain specified cases, from requiring litigation to be conducted outside Minnesota. Nothing in this Section shall abrogate or reduce any of Area Representative's rights under Minnesota Statutes Chapter 80C or Area Representative's right to any procedure, forum or remedies that the laws of the jurisdiction provide.

8. **Waiver of Punitive Damages and Jury Trial.** If required by the Minnesota Franchises Law, Section 21.6 of the Area Representative Agreement is deleted.

9. **Injunctive Relief.** Notwithstanding anything to the contrary set forth in Section 21.11 of the Area Representative Agreement, Minn. Rule 2860.400(J) prohibits Area Representative from consenting to Franchisor obtaining injunctive relief (including any bond requirement).

10. **Limitations of Claims.** Notwithstanding anything to the contrary set forth in Section 21.8 of the Area Representative Agreement, Minnesota law provides that no action may be commenced under Minn. Stat. Sec. 80C.17 more than three (3) years after the cause of action accrues.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

IN WITNESS WHEREOF, the parties have executed this Addendum to the Area Representative Agreement on the date stated on the first page.

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
[ ]

AREA REPRESENTATIVE

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative]

By: \_\_\_\_\_  
[Signature of person signing on behalf of entity]

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

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[Signature of individual area representative]

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

\_\_\_\_\_  
[Signature of individual area representative]

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

**ADDENDUM TO AREA REPRESENTATIVE AGREEMENT  
FOR USE IN NEW YORK**

This Addendum (the “Addendum”) is made and entered into as of the Effective Date as stated in the Area Representative Agreement (defined below), by and between **OYF US INC.**, a Delaware corporation whose principal business address is located at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904 (“Franchisor”), and \_\_\_\_\_ (“Area Representative”).

1. **Background.** Franchisor and Area Representative are parties to that certain Area Representative Agreement that has been signed at the same time as the signing of this Addendum (the “Area Representative Agreement”). This Addendum is annexed to and forms part of the Area Representative Agreement. This Addendum is being signed because (a) the offer or sale of the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was made in the State of New York, and/or (b) Area Representative is a resident of New York and will operate the AR Business in New York.

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

3. **Releases.** The following language is added to the end of Section 7.1(d), Section 14.4(a)(viii) and Section 15.3 of the Area Representative Agreement:

; provided, however, that all rights enjoyed by Area Representative and any causes of action arising in Area Representative’s favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of GBL Sections 687.4 and 687.5 be satisfied.

4. **Assignment by Franchisor.** The following language is added to the end of Section 14.1 of the Area Representative Agreement:

However, to the extent required by applicable law, no assignment will be made except to an assignee who, in Franchisor’s good faith judgment, is willing and able to assume Franchisor’s obligations under this Agreement.

5. **Termination by Area Representative.** The following language is added to the end of Section 16.1 of the Area Representative Agreement:

Area Representative may terminate this Agreement on any grounds available by law under the provisions of Article 33 of the General Business Law of the State of New York.

6. **Governing Law/Consent to Jurisdiction.** The following language is added to the end of Sections 21.4 and 21.5 of the Area Representative Agreement:

However, to the extent required by Article 33 of the General Business Law of the State of New York, this Section shall not be considered a waiver of any right conferred upon Area Representative by the provisions of Article 33 of the New York State General Business Law, as amended, and the regulations issued thereunder.

7. **Limitation of Claims**. The following language is added to the end of Section 21.8 of the Area Representative Agreement:

However, to the extent required by Article 33 of the General Business Law of the State of New York, all rights and any causes of action arising in Area Representative's favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this provision that the non-waiver provisions of GBL Sections 687.4 and 687.5 be satisfied.

8. **Application of Addendum**. There are circumstances in which an offering made by Franchisor would not fall within the scope of the New York General Business Law, Article 33, such as when the offer and acceptance occurred outside the State of New York. However, an offer or sale is deemed to be made in New York if Area Representative is domiciled in and the franchise will be opened in New York. Franchisor is required to furnish a New York prospectus to every prospective franchisee who is protected under the New York General Business Law, Article 33.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

**IN WITNESS WHEREOF**, the parties have executed this Addendum to the Area Representative Agreement on the date stated on the first page.

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
[ ]

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative]

By: \_\_\_\_\_  
[Signature of person signing on behalf of entity]

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

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[Signature of individual area representative]

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

\_\_\_\_\_  
[Signature of individual area representative]

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

**WASHINGTON ADDENDUM TO AREA REPRESENTATIVE AGREEMENT**  
**AND RELATED AGREEMENTS ~~FOR USE IN WASHINGTON~~**

This Addendum (the “Addendum”) is made and entered into as of the Effective Date as stated in the Area Representative Agreement (defined below), by and between OYF US INC., a Delaware corporation whose principal business address is located at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904 (“Franchisor”), and \_\_\_\_\_ (“Area Representative”).

1. **Background.** Franchisor and Area Representative are parties to that certain Area Representative Agreement that has been signed at the same time as the signing of this Addendum (the “Area Representative Agreement”). ~~This~~ The provisions of this Addendum is annexed to and forms an integral part of, are incorporated into, and modify the Area Representative Agreement, and all related agreements regardless of anything to the contrary contained therein. This Addendum ~~is being signed because~~ applies if: (a) the offer ~~or sale of the franchise for the AR Business Area Representative will operate under the Area Representative Agreement was made in the State of Washington, (b) Area Representative to sell a franchise is accepted in Washington; (b) the purchaser of the franchise~~ is a resident of Washington; and/or (c) the ~~AR franchised B~~ business will be that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

2. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, chapter 19.100 RCW will prevail.

3. **Area Representative Bill of Rights.** RCW 19.100.180 may supersede provisions in the Area Representative Agreement or related agreements concerning Area Representative’s relationship with Franchisor, including in the areas of termination and renewal of Area Representative’s franchise. There may also be court decisions that supersede the Area Representative Agreement or related agreements concerning Area Representative’s relationship with Franchisor. Provisions in the Area Representative Agreement, including those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.

4. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the Area Representative Agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

5. **General Release.** A release or waiver of rights executed in the Area Representative Agreement or related agreements purporting to bind Area Representative to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2). In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).

6. **Statute of Limitations and Waiver of Jury Trial.** Provisions contained in the Area Representative Agreement or related agreements that unreasonably restrict or limit the statute of

limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

7. Transfer Fees. Transfer fees are collectable only to the extent that they reflect Franchisor's reasonable estimated or actual costs in effecting a transfer.

8. Termination by Area Representative. Area Representative may terminate the Area Representative Agreement under any grounds permitted under state law.

9. Certain Buy-Back Provisions. Any provisions in the Area Representative Agreement or related agreements that permit Franchisor to repurchase Area Representative's business for any reason during the term of the Area Representative Agreement without Area Representative's consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.

10. Fair and Reasonable Pricing. Any provision in the Area Representative Agreement or related agreements that requires Area Representative to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).

11. Waiver of Exemplary & Punitive Damages. RCW 19.100.190 permits franchisees to seek treble damages under certain circumstances. Accordingly, any provisions contained in the Area Representative Agreement or elsewhere requiring franchisees to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).

12. Franchisor's Business Judgement. Any provisions in the Area Representative Agreement or related agreements stating that Franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.

13. Indemnification. Any provision in the Area Representative Agreement or related agreements requiring Area Representative to indemnify, reimburse, defend, or hold Franchisor or other parties harmless is hereby modified such that Area Representative has no obligation to indemnify, reimburse, defend, or hold Franchisor or any other indemnified party harmless for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.

14. Attorneys' Fees. If the Area Representative Agreement or related agreements require Area Representative to reimburse Franchisor for court costs or expenses, including attorneys' fees, such provision applies only if Franchisor is the prevailing party in any judicial or arbitration proceeding.

15. Noncompetition Covenants. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted

annually for inflation). As a result, any provision contained in the Area Representative Agreement or elsewhere that conflict with these limitations is void and unenforceable in Washington.

16. Nonsolicitation Agreements. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the Area Representative Agreement or elsewhere are void and unenforceable in Washington.

17. ~~2. No Waiver of Disclaimer of Reliance~~ Questionnaires and Acknowledgments. No statement, questionnaire, or acknowledgment signed or agreed to by ~~Area Representative franchisee~~ in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by ~~Franchisor,~~ any franchisor, franchise seller, or ~~any~~ other person acting on behalf of ~~the F~~franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

18. Prohibitions on Communicating with Regulators. Any provision in the Area Representative Agreement or related agreements that prohibits Area Representative from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

19. Advisory Regarding Franchise Brokers. Under the Washington Franchise Investment Protection Act, a “franchise broker” is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents Franchisor and is paid a fee for referring prospects to Franchisor and/or selling the franchise. If Area Representative is working with a franchise broker, Area Representative is advised to carefully evaluate any information provided by the franchise broker about a franchise.

20. ~~3. Fee Deferral.~~ In lieu of an impound of franchise fees, ~~the~~ Franchisor will not require or accept the payment of any initial franchise fees until Area Representative has (a) received all initial training that it is entitled to under the Area Representative Agreement or franchise disclosure document, and (b) commenced operations.

21. ~~4. Franchisor’s Purchase Option.~~ Franchisor’s purchase option as disclosed in Section 4.2 of the Area Representative Agreement does not apply in Washington.

22. ~~5. Technology Fee.~~ Notwithstanding anything to the contrary contained in Section 5.2 of the Area Representative Agreement, the Technology Fee will not exceed Five Hundred Dollars (\$500) per month during the Term of the Area Representative Agreement.

23. ~~6. Refunds or Other Payments.~~ Notwithstanding anything to the contrary set forth in Section 6.5 of the Area Representative Agreement, (i) Area Representative will not be responsible for any of the payments, losses or damages Franchisor (or Franchisor’s affiliates) makes, incurs or suffers with respect to a franchise owner in the Franchised Territory if those payments, losses or damages are made, incurred or suffered as a result of Franchisor’s negligence, willful misconduct, strict liability, fraudulent conduct or violation of the Franchise Investment Protection Act, chapter 19.100 RCW and (ii) Area Representative will be responsible for all of the payments, losses or damages Franchisor (or Franchisor’s affiliates) makes, incurs or suffers with respect to a franchise owner in the Franchised

Territory if those payments, losses or damages are made, incurred or suffered as a result of Area Representative's negligence, willful misconduct, strict liability, fraudulent conduct or violation of the Franchise Investment Protection Act, chapter 19.100 RCW.

**24. ~~7.~~ Compliance with System Standards; Modifications to the System, System Standards and Franchised Methods.** Section 8.2(e) of the Area Representative Agreement is revised to read as follows for franchises offered and sold in Washington:

Area Representative covenants not to join in any litigation or other proceeding against Franchisor or any third party complaining of any such modifications or seeking expenses, losses or damages caused by such modifications.

**25. Initial Fees for Complying with Franchise Laws.** Section 8.6(b) of the Area Representative Agreement is hereby deleted in its entirety.

**26. ~~9.~~ Franchise Owner Payments.** Notwithstanding anything to the contrary contained in Section 8.10 of the Area Representative Agreement, Area Representative shall only be required to pay (or reimburse as the case may be) Franchisor for sixty-six point six percent (66.6%) of all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the collection of delinquent payments (including franchise royalty fees) from Franchise Owners who entered into Franchise Agreements for Oxygen Yoga & Fitness Facilities located within the Franchised Territory for which Area Representative is entitled to a portion of such delinquent payments.

**27. ~~10.~~ Acknowledgments.**

(a) Subparagraphs (b), (c) and (f) of Section 10.1 of the Area Representative Agreement are hereby deleted in their entirety.

(b) Subparagraph (g) of Section 10.1 of the Area Representative Agreement is revised to read as follows: "Area Representative accepts the terms contained in this Agreement as being reasonably necessary to maintain Franchisor's high standards of quality and service and the uniformity of those standards and thereby to protect and preserve the goodwill of the Marks and the integrity of the Franchised Methods and the System."

**28. Indemnification.** The first sentence of Section 18.2(a) of the Area Representative Agreement is replaced with the following language: "Area Representative must indemnify, defend and hold Franchisor, Franchisor's affiliates, and Franchisor's and Franchisor's affiliates' respective shareholders, members, directors, officers, employees, affiliates, agents, successors and assignees and other franchise owners of Franchisor (collectively, "**Indemnified Parties**") harmless against and reimburse one or more of the Indemnified Parties for all claims, losses, liabilities, obligations, damages, and taxes arising out of the operation of the AR Business' operation, employment matters in connection with the AR Business, the business Area Representative conducts under this Agreement, or Area Representative's breach of this Agreement, unless (and then only to the extent that) the claims, losses, liabilities, obligations, damages or taxes are determined to be caused solely by Franchisor's negligence or willful misconduct, or liabilities caused by an Indemnified party's acts or omissions amounting to strict liability or fraud in a final, unappealable ruling issued by a court or arbitrator(s) with competent jurisdiction."

**29. ~~12. Restrictive Covenants.~~** Notwithstanding anything to the contrary set forth in Article ~~19~~ of the Area Representative Agreement, the covenants set forth in Article 19 of the Area Representative Agreement only apply to Immediate Family (as defined in the area representative agreement) members to the extent they receive Franchisor's Confidential Information (as defined in the area representative agreement).

**30. ~~13. Waiver of Punitive Damages and Jury Trial.~~** The limitations on damages set forth in Section ~~21.6~~ of the Area Representative Agreement shall not apply to Washington franchise owners.

**31. ~~14. Covenant of Good Faith.~~** Notwithstanding anything to the contrary contained in Section ~~21.10~~ of the Area Representative Agreement, the parties shall deal with each other in good faith in accordance with the Washington Investment Protection Act, RCW 19.100.180(1).

~~**15. Addition of Paragraphs.** The following paragraphs are added to the end of the Area Representative Agreement:~~

~~In recognition of the requirements by the Washington Franchise Investment Protection Act and the Rules and Regulations promulgated thereunder (the "Act"), the Area Representative Agreement of OYF US Inc. shall be modified as follows:~~

~~In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.~~

~~RCW 19.100.180 may supersede the Area Representative Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Area Representative Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise.~~

~~In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the Area Representative Agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.~~

~~A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or~~

~~remedies under the Act such as a right to a jury trial, may not be enforceable.~~

~~Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.~~

~~Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the Area Representative Agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.~~

~~RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the Area Representative Agreement or elsewhere are void and unenforceable in Washington.~~

~~An area representative may be required to register as a franchise broker in Washington pursuant to RCW 19.100.140.~~

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have executed this Addendum to the Area Representative Agreement on the date stated on the first page.

OYF US INC., a Delaware corporation

By: \_\_\_\_\_  
[ ]

**AREA REPRESENTATIVE**

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP):**

\_\_\_\_\_  
[Print Name of Area Representative]

By: \_\_\_\_\_  
[Signature of person signing on behalf of entity]

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

**(IF AREA REPRESENTATIVE IS TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY):**

\_\_\_\_\_  
[Signature of individual area representative]

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

\_\_\_\_\_  
[Signature of individual area representative]

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

**EXHIBIT E**  
**FINANCIAL STATEMENTS**



Report of Independent Auditors and  
Consolidated Financial Statements

**OYF US Inc. and Subsidiary**

December 31, 2024 and 2023

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## **Report of Independent Auditors**

To the Stockholder  
OYF US Inc. and Subsidiary

### **Report on the Audit of the Financial Statements**

#### ***Opinion***

We have audited the consolidated financial statements of OYF US Inc. and Subsidiary which comprise the consolidated balance sheets as of December 31, 2024 and 2023, and the related consolidated statements of operations, changes in stockholder's deficit, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of OYF US Inc. and Subsidiary, as of December 31, 2024 and 2023, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

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

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

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

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

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about OYF US Inc. and Subsidiary's ability to continue as a going concern within one year after the date that the consolidated financial statements are available to be issued.

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

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

In performing an audit in accordance with U.S. GAAS, we:

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

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



Los Angeles, California  
March 31, 2025

## **Consolidated Financial Statements**

**OYF US Inc. and Subsidiary**  
**Consolidated Balance Sheets**  
**December 31, 2024 and 2023**

	2024	2023
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash	\$ 282,749	\$ 216,275
Receivables	18,889	-
Current portion of contract assets	500	-
Total current assets	302,138	216,275
CONTRACT ASSETS, net of current portion	93,345	-
ASSETS HELD FOR SALE	-	286,026
Total assets	\$ 395,483	\$ 502,301
<b>LIABILITIES AND STOCKHOLDER'S DEFICIT</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable and accrued expenses	\$ 18,597	\$ -
Contract liability, current	9,041	-
Line of credit	-	299,000
Total current liabilities	27,638	299,000
DUE TO RELATED PARTIES	82,727	392,380
CONTRACT LIABILITY, net of current portion	1,315,209	240,000
Total liabilities	1,425,574	931,380
<b>STOCKHOLDER'S DEFICIT</b>		
Common stock, \$.001 par value; 5,000 shares authorized; 100 shares issued and outstanding	-	-
Additional paid-in capital	100	100
Accumulated deficit	(1,030,191)	(429,179)
Total stockholder's deficit	(1,030,091)	(429,079)
Total liabilities and stockholder's deficit	\$ 395,483	\$ 502,301

See accompanying notes.

**OYF US Inc. and Subsidiary**  
**Consolidated Statements of Operations**  
**Years Ended December 31, 2024 and 2023**

	<u>2024</u>	<u>2023</u>
REVENUES		
Royalties	\$ 51,022	\$ -
Franchise fee	6,337	-
Total revenue	<u>57,359</u>	<u>-</u>
OPERATING EXPENSES		
General and administrative	507,593	-
Advertising and marketing	32,347	-
Total operating expenses	<u>539,940</u>	<u>-</u>
LOSS FROM OPERATIONS	<u>(482,581)</u>	<u>-</u>
OTHER (INCOME) EXPENSE		
Interest expense	4,838	-
Other income	(10,000)	-
Total other expense	<u>(5,162)</u>	<u>-</u>
Loss from continuing operations before income taxes	(477,419)	-
INCOME TAX EXPENSE	<u>800</u>	<u>-</u>
NET LOSS FROM CONTINUING OPERATIONS	<u>(478,219)</u>	<u>-</u>
LOSS FROM DISCONTINUED OPERATIONS	-	(331,050)
LOSS ON SALE OF DISCONTINUED OPERATIONS	<u>(122,793)</u>	<u>-</u>
NET LOSS	<u>\$ (601,012)</u>	<u>\$ (331,050)</u>

See accompanying notes.

**OYF US Inc. and Subsidiary**  
**Consolidated Statements of Changes in Stockholder's Deficit**  
**Years Ended December 31, 2024 and 2023**

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	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholder's Deficit
	Shares	Amount			
BALANCE at December 31, 2022	100	\$ -	\$ 100	\$ (98,129)	\$ (98,029)
Net loss	-	-	-	(331,050)	(331,050)
BALANCE at December 31, 2023	100	\$ -	\$ 100	\$ (429,179)	\$ (429,079)
Net loss	-	-	-	(601,012)	(601,012)
BALANCE at December 31, 2024	<u>100</u>	<u>\$ -</u>	<u>\$ 100</u>	<u>\$ (1,030,191)</u>	<u>\$ (1,030,091)</u>

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See accompanying notes.

**OYF US Inc. and Subsidiary**  
**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2024 and 2023**

	2024	2023
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net loss	\$ (601,012)	\$ (331,050)
less loss from discontinued operations	-	(331,050)
less loss from sale of discontinued operations	(122,793)	-
Net loss from continuing operations	(478,219)	-
Adjustments to reconcile net loss to net cash provided by operating activities		
Changes in operating assets and liabilities		
Accounts receivable	(18,889)	(8,497)
Due from related parties	(309,653)	214,955
Prepaid expenses	-	(5,321)
Contract assets	(93,845)	-
Accounts payable and accrued expenses	18,597	7,015
Deferred franchise fees	1,084,250	240,000
Net cash provided by continuing operations	202,241	448,152
Net cash provided by (used in) discontinued operations	163,233	(275,880)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Net cash used in discontinued operations	-	(19,712)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from line of credit	-	49,000
Repayment of line of credit	(299,000)	-
Net cash (used in) provided by financing activities	(299,000)	49,000
<b>NET CHANGE IN CASH</b>	<b>66,474</b>	<b>201,560</b>
CASH, beginning of year	216,275	14,715
CASH, end of year	<b>\$ 282,749</b>	<b>\$ 216,275</b>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION</b>		
Interest paid	\$ 4,838	\$ 16,676
Taxes paid	\$ 2,480	\$ -

See accompanying notes.

# OYF US Inc. and Subsidiary

## Notes to Consolidated Financial Statements

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### Note 1 – Organization of Business and Nature of Operations

OYF US Inc. is a Delaware Corporation (the Company) that was formed in June 2022, and operates as a franchisor of fitness facilities offering the “Oxygen Yoga & Fitness” concept. The fitness facilities offer yoga and related fitness, weight loss, wellness, and health programs using specific standards and specifications, including Far InfraRed Ray or specialized Heat Therapy environment. In July 2022, the Company formed a wholly owned subsidiary OYF (CA) LLC to operate a corporate fitness facility, which opened in November 2022.

On January 1, 2024, the Company sold its corporate fitness facility line of business which included one operating location. The transaction qualified for held-for-sale in accordance with discontinued operations accounting under Accounting Standards Codification 205-20, *Presentation of Financial Statements – Discontinued Operations*. The results from operations of the corporate fitness facility line of business are presented as discontinued operations in the consolidated financial statements as of December 31, 2023. The balance sheet as of December 31, 2023, has been adjusted to reflect the studio operator line of business as held for sale.

The Company operates as a franchisor throughout the United States through a royalty free trademark, copyright, and know-how license agreement (Agreement) with Oxygen Yoga & Fitness Inc. (the Parent). The Agreement has an indefinite term, unless earlier terminated by either party upon 120 days’ prior written notice to the other party. The Parent owns all of the intellectual property, rights in certain systems, trademarks, service marks, and other intellectual property used in the operation of Oxygen Yoga & Fitness Facilities (the OYF IP). The Agreement allows the Company to develop the Oxygen Yoga & Fitness franchise system to offer, sell, and support the franchise business.

As of December 31, 2024, the Company had two franchises in operation within the U.S. As of December 31, 2023, the Company had no franchises in operation. During the year ended December 31, 2024, the Company sold 10 franchise rights, to new and existing franchisees mainly through area representative agreements.

### Note 2 – Summary of Significant Accounting Policies

**Basis of presentation** – The Company’s consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP). The Company believes this information includes all adjustments, consisting of normal recurring accruals, necessary to fairly present the financial condition. References to ASC and ASU included hereinafter refer to the Accounting Standards Codification and Accounting Standards Update established by the Financial Accounting Standards Board (FASB) as the source of authoritative U.S. GAAP.

**Reclassification** – Certain financial statement reclassifications have been made to prior-year amounts to conform to current-year presentation. The reclassifications had no impact on the statement of operations or net income previously reported.

## OYF US Inc. and Subsidiary

### Notes to Consolidated Financial Statements

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**Use of estimates** – The preparation of the consolidated financial statements in accordance with U.S. GAAP requires that management makes certain estimates and assumptions. These estimates and assumptions affect the reported amount of assets and liabilities and the disclosure of contingent assets and liabilities as of the balance sheets date. The actual results could differ significantly from those estimates.

**Cash** – Cash consists of cash on hand and cash on deposit with commercial banks. The Company considers all highly liquid investments with an initial maturity of three months or less to be cash equivalents. As of December 31, 2024 and 2023, the Company carried no cash equivalents.

**Concentration of credit risk** – Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and receivables. The Company currently maintains its day-to-day operating cash balances with a major financial institution. The Company has experienced no loss or lack of access to cash in its operating accounts and believes it is not exposed to any significant credit risk.

**Receivables** – As of December 31, 2024, receivables primarily consist of amounts due from franchisees for royalty revenue and are stated at the amounts expected to be collected from balances outstanding. The Company estimates the allowance for credit losses when lifetime credit losses are expected. As of December 31, 2024, there was no allowance for credit losses recorded. As of January 1, 2023, the opening balance of accounts receivable was \$238.

**Contract liabilities and assets** – The contract liability or deferred revenue is a liability related to a revenue-producing activity for which revenue has not yet been recognized. The Company records a contract liability when it receives consideration from a franchisee or customer before achieving certain criteria that must be met for revenue to be recognized in conformity with U.S. GAAP. Contract assets are unearned commissions that have been paid to customers but not yet amortized.

**Revenue recognition** – The Company records revenue under FASB ASC Topic 606, *Revenue from Contracts with Customers (Topic 606)*, which requires revenue to be recorded as the transfer of promised goods or services to customers in an amount that reflects the consideration to which the reporting entity expects to be entitled in exchange for those goods or services. The Company analyzes each contract for separate performance obligations existing over the term of the contract and recognizes revenue as those performance obligations are satisfied. The revenue recognition approach under ASC 606 includes the following five-step approach:

- Identification of the contract with a customer,
- Identification of the performance obligations in the contract,
- Determination of the transaction price,
- Allocation of the transaction price to the performance obligations in the contract, and
- Recognition of revenue when, or as, the Company satisfies a performance obligation.

## **OYF US Inc. and Subsidiary**

### **Notes to Consolidated Financial Statements**

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As part of its assessment of each franchise contract, the Company evaluates certain factors including the customer's ability to pay, or credit risk. For each contract, the Company considers the promise to fulfill services, each of which is distinct to be the identified performance obligations. The Company has broken the revenue streams as follows:

*Initial franchise fees* – The franchise arrangement between the Company and each franchise owner is documented in the form of a franchise agreement and, in select cases, an area representative agreement (ARA.) The franchise agreement requires the Company as the franchisor to perform various activities to support the Oxygen Yoga & Fitness brand and does not involve the direct transfer of goods and services to the franchise owner as a customer. Activities performed by the Company are highly interrelated with the franchise license and are considered to represent a single performance obligation, which is the transfer of the franchise license and intellectual property.

The Company's performance obligation under ARAs generally consists of an obligation to grant geographic area representative rights through the ARA. The ARA provides the area representative the right to operate an "Oxygen Yoga & Fitness" area representative business under which the area representative will develop the geographic area the Company grants to it by soliciting franchise owners to own and operate "Oxygen Yoga & Fitness" facilities. These ARA rights are not distinct from franchise agreements, so upfront fees paid by franchisees for representative rights are deferred and apportioned to each franchise agreement signed by the franchisee. The pro rata amount apportioned to each franchise agreement is accounted for with the initial franchise fee.

*Royalty fee revenue* – Royalty fee revenue represents royalties earned from each of the franchise facilities in accordance with the franchise disclosure document and the franchise agreement. The Company charges a rate of 6% of gross revenues or \$1,800, whichever is large is recorded for use of the OYF IP, including name, processes, and procedures. The Company charges a rate of 2.5% of gross revenues for the use of the "Oxygen Yoga & Fitness" name and promotional materials. Royalty fee revenue is recognized in the period earned and is payable to the Company monthly when the sales are reported by the franchise owners.

*Technology fee revenue* – Technology fee revenue is earned from a monthly technology fee of \$250 per month charged to ongoing franchise owners for each club operated.

*Membership revenues* – In 2023, revenues at the corporate fitness facility are comprised of monthly memberships, purchases of classes, either single or a package, and the sale of merchandise items. Memberships are automatically billed monthly through the member's credit card. The Company records revenue for merchandise items and classes at the time the member makes a purchase, which is when the Company's obligation to perform is satisfied.

**General and administrative** – General and administrative expenses consist of costs associated with administrative support functions. These costs primarily consist of management and administrative fees, legal and professional, and commissions expense.

## **OYF US Inc. and Subsidiary**

### **Notes to Consolidated Financial Statements**

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**Advertising and marketing** – Advertising and marketing costs, including general brand marketing, are expensed when incurred and are primarily amounts paid to third parties but may also include personnel expenses and allocated costs. The Company is committed under its franchise and other agreements to spend revenues of the advertising and development fund on marketing, creative efforts, media support, or related purposes specified in the agreements.

**Compensation and benefits** – Compensation and benefits consist of salaries, wages, and benefits incurred at the corporate fitness facility.

**Income taxes** – The Company accounts for income taxes in accordance with ASC 740, *Income Taxes*, which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events. A valuation allowance is established to reduce deferred tax assets to their estimated realizable value when, in the opinion of management, it is more likely than not that some portion or all of the deferred income tax assets will not be realized in the future. The deferred tax asset is offset by a valuation allowance of the same amount reducing the deferred asset to zero. The Company files tax returns in U.S. federal and state jurisdictions and is subject to examination by federal or state and local, income tax authorities for three to four years from the filing of a tax return.

The Company recognizes benefits of uncertain tax positions if it is more likely than not that such positions will be sustained upon examination based solely on their technical merits, as the largest amount of benefit that is more likely than not to be realized upon the ultimate settlement. The Company's policy is to recognize interest and penalties related to unrecognized tax benefits as a part of income tax expense. The Company has not accrued any such uncertain tax positions as of December 31, 2024 and 2023.

**Subsequent events** – Subsequent events are events or transactions that occur after the balance sheet date, but before the consolidated financial statements are issued. The Company recognizes in the consolidated financial statements the effects of all subsequent events that provide additional evidence about conditions that existed at the date of the balance sheet, including the estimates inherent in the process of preparing the consolidated financial statements. The Company's consolidated financial statements do not recognize subsequent events that provide evidence about conditions that did not exist at the date of the balance sheet but arose after the balance sheet date and before the consolidated financial statements were available to be issued.

The Company has evaluated subsequent events through March 31, 2025, which is the date the consolidated financial statements were available to be issued, and concluded that there were no additional events or transactions that need to be disclosed.

### **Note 3 – Discontinued Operations**

On January 1, 2024, the Company discontinued its fitness facility line of business and sold off certain of its assets for approximately \$150,000, resulting in a loss of approximately \$123,000. The sale of the business qualified for discontinued operations accounting under ASC 205-20, *Presentation of Financial Statements – Discontinued Operations*.

**OYF US Inc. and Subsidiary**  
**Notes to Consolidated Financial Statements**

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Summarized results of the discontinued operations and the loss on the sale of assets for the corporate fitness facility line of business for the year ended December 31, 2023, are as follows:

REVENUES	
Membership revenue	\$ 398,925
OPERATING EXPENSES	
General and administrative	506,159
Advertising and marketing	63,926
Compensation and benefits	110,132
Depreciation	30,534
Total operating expenses	710,751
Loss from discontinued operations	(311,826)
Other (income) expense	
Interest expense	16,676
Loss before income tax expense	(328,502)
Income tax expense	2,548
Net loss from discontinued operations	\$ (331,050)

The major classes of assets and liabilities reflected for the discontinued line of business as assets held for sale in the accompanying balance sheet as of December 31, 2023, are approximately as follows:

Accounts receivable	\$ 8,745
Prepaid expenses	12,195
Property and equipment, net	282,081
Operating lease right-of-use asset	763,445
Deposits	8,562
Accounts payable and accrued expenses	(9,056)
Operating lease liabilities	(779,946)
Net assets	\$ 286,026

Depreciation and amortization expense for discontinued operations amounted to approximately \$31,000 for the year ended December 31, 2023, and is included in loss from discontinued operations.

For the year ended December 31, 2023, the Company had one operating lease which was accounted for under ASU No. 2016-02, *Leases (Topic 842)*. Lease expense during the year ended December 31, 2023, amounted to approximately \$102,000 and is included in loss from discontinued operations.

**OYF US Inc. and Subsidiary**  
**Notes to Consolidated Financial Statements**

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**Note 4 – Contract Assets and Liabilities**

The Company has contract assets for receivables and capitalized commissions, and contract liabilities as a result of the accounting for revenues under Topic 606, which are as follows as of December 31:

	<u>2024</u>	<u>2023</u>
Receivables	<u>\$ 17,209</u>	<u>\$ -</u>
Contract assets:		
Capitalized commissions	<u>\$ 93,845</u>	<u>\$ -</u>
Contract assets, current	<u>\$ 500</u>	<u>\$ -</u>
Contract assets, long term	<u>\$ 93,345</u>	<u>\$ -</u>
Contract liabilities	<u>\$ 1,324,250</u>	<u>\$ 240,000</u>
Contract liability, current	<u>\$ 9,041</u>	<u>\$ -</u>
Contract liability, long term	<u>\$ 1,315,209</u>	<u>\$ 240,000</u>

The following table reflects the change in contract assets between January 1, 2023, and December 31, 2024:

	<u>Contract Assets</u>
BALANCE, January 1, 2023	\$ -
Expenses recognized that were included in the contract assets at beginning of the year	-
Increase, excluding amounts recognized as expenses during the period	<u>-</u>
BALANCE, December 31, 2023	-
Expenses recognized that were included in the contract assets at beginning of the year	-
Increase, excluding amounts recognized as expenses during the period	<u>93,845</u>
BALANCE, December 31, 2024	<u>\$ 93,845</u>

As of December 31, 2024, contract liabilities are made up of deferred revenues of approximately \$85,000 and \$1,239,000, respectively, related to franchise agreements and ADAs. As of December 31, 2023, contract liabilities are made up of deferred revenues of approximately \$40,000 and \$200,000, respectively, related to franchise agreements and ADAs.

**OYF US Inc. and Subsidiary**  
**Notes to Consolidated Financial Statements**

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The following table reflects the change in contract liability between January 1, 2023, and December 31, 2024:

	Contract Liabilities
BALANCE, January 1, 2023	\$ -
Revenue recognized that was included in contract liability at beginning of the year	-
Increase, excluding amounts recognized as revenue during the period	240,000
BALANCE, December 31, 2023	240,000
Revenue recognized that was included in contract liability at beginning of the year	(3,987)
Increase, excluding amounts recognized as revenue during the period	1,088,237
BALANCE, December 31, 2024	\$ 1,324,250

As of December 31, 2024, approximately \$89,000 and (\$1,242,000) of contract assets and contract liabilities were not available for amortization as the obligation was not yet satisfied.

The following table illustrates estimated (expenses) /revenues expected to be recognized in the future related to performance obligations that are partially unsatisfied as of December 31, 2024:

	Contract	
	Assets	Liabilities
Contract liability to be recognized in		
2025	\$ (500)	\$ 9,041
2026	(500)	9,041
2027	(500)	9,041
2028	(500)	9,041
2029	(500)	9,041
Thereafter	(2,375)	38,545
Total	\$ (4,875)	\$ 83,750

**Note 5 – Line of Credit**

The Company has a line of credit with a bank for advances up to \$300,000. The outstanding balance as of December 31, 2023, was \$299,000 and had an interest rate of 6.51%. In February 2024, the Company paid off the line of credit with the proceeds of the sale of its corporate facility. In December 2024, the Company amended the loan agreement, which updated the maturity date to August 4, 2025, with a fixed interest rate of 5.50%. As of December 31, 2024, the outstanding balance on the line of credit was zero. Interest expense amounted to approximately \$5,000 and \$17,000 during the years ended December 31, 2024 and 2023, respectively.

**OYF US Inc. and Subsidiary**  
**Notes to Consolidated Financial Statements**

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**Note 6 – Due to Related Parties**

Parties are considered to be related if one party has the ability, directly or indirectly, to control the other party or exercise significant influence over the other party in making financial and operational decisions or if they are subject to common control or common significant influence. The Company had amounts due to its Parent and its affiliates under common control related to operating expenses paid by the Parent on behalf of the Company in the normal course operations. The amount due to related parties has no maturity date and is noninterest-bearing.

**Note 7 – Income Taxes**

The federal and state income tax provision is summarized as follows as of December 31:

	<u>2024</u>	<u>2023</u>
Current		
Federal	\$ -	\$ 2,548
State	800	-
	<u>800</u>	<u>2,548</u>
Deferred		
Federal	(218,697)	(91,281)
State	-	-
Valuation allowance	218,697	91,281
	<u>218,697</u>	<u>91,281</u>
Income tax expense	<u>\$ 800</u>	<u>\$ 2,548</u>

The provision for income taxes differs from the expense that would result from applying statutory rates to income before income taxes due to net operating losses and the valuation allowance recorded.

Deferred income taxes reflect the impact of carryforwards and temporary differences between the amounts of assets and liabilities for financial reporting purposes and such amounts as measured by tax laws.

Total deferred tax assets and liabilities as of December 31, are as follows:

	<u>2024</u>	<u>2023</u>
Deferred income tax asset		
Lease liability	\$ -	\$ 163,789
Operating lease right-of-use asset	-	(160,323)
Basis difference in fixed assets	-	(59,237)
Net operating losses	218,697	147,052
	<u>218,697</u>	<u>91,281</u>
Less valuation allowance	<u>(218,697)</u>	<u>(91,281)</u>
Net deferred income tax asset	<u>\$ -</u>	<u>\$ -</u>

## **OYF US Inc. and Subsidiary**

### **Notes to Consolidated Financial Statements**

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Valuation allowances are established when necessary to reduce deferred income tax assets to the amounts expected to be realized. As of December 31, 2024 and 2023, the Company determined that valuation allowance against its deferred assets was necessary as it is more likely than not that it will not be able to realize the future tax benefits.

During the years ended December 31, 2024 and 2023, the Company has federal net operating loss carryforwards of approximately \$1,041,000 and \$700,000, respectively, which are available to reduce the Company's future taxes and are carried forward indefinitely.

#### **Note 8 – Stockholder's Equity**

The Company's Articles of Incorporation authorizes 5,000 shares of common stock with a par value of \$0.001 per share. Holders of common stock will be entitled to receive dividends, if any, as may be declared from time to time by the Company's board of directors out of legally available funds. The rights of such holders are subject to the rights of any senior obligations issued by the Company. Each outstanding share of common stock will be entitled to one vote on all matters submitted to a vote of stockholders.

#### **Note 9 – Commitments and Contingencies**

The Company may become party to various disputes and legal matters considered routine and in the ordinary course of its activities. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company's consolidated financial statements.



**EXHIBIT F**

**MANUAL TABLE OF CONTENTS**

## TABLE OF CONTENTS

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<u>Total</u>	<u>138</u>

**EXHIBIT G**

**SAMPLE FORM OF GENERAL RELEASE**

**OYF US INC.**  
**GRANT OF FRANCHISOR CONSENT AND AREA REPRESENTATIVE RELEASE**

OYF US INC. (“we,” “us,” “our,” or “Franchisor”) and the undersigned area representative, \_\_\_\_\_ (“you,” “your,” or “Area Representative”), currently are parties to a certain area representative agreement dated \_\_\_\_\_ (the “Area Representative Agreement”). You have asked us to take the following action or to agree to the following request: [insert as appropriate for renewal or transfer situation] \_\_\_\_\_

\_\_\_\_\_. We have the right under the Area Representative Agreement to obtain a general release from you (and, if applicable, your owners) as a condition of taking this action or agreeing to this request. Therefore, we are willing to take the action or agree to the request specified above if you (and, if applicable, your owners) give us the release and covenant not to sue provided below in this document. You (and, if applicable, your owners) are willing to give us the release and covenant not to sue provided below as partial consideration for our willingness to take the action or agree to the request described above.

Consistent with the previous introduction, you, on your own behalf and on behalf of your successors, heirs, executors, administrators, personal representatives, agents, assigns, partners, shareholders, members, directors, officers, principals, employees, and affiliated entities (collectively, the “Releasing Parties”), hereby forever release and discharge us and our affiliates, our and their current and former officers, directors, shareholders, principals, employees, agents, representatives, affiliated entities, successors, and assigns (collectively, the “Franchisor Parties”) from any and all claims, damages (known and unknown), demands, causes of action, suits, duties, liabilities, and agreements of any nature and kind (collectively, “Claims”) that you and any of the other Releasing Parties now has, ever had, or, but for this document, hereafter would or could have against any of the Franchisor Parties (1) arising out of or related to the Franchisor Parties’ obligations under the Area Representative Agreement or (2) otherwise arising from or related to your and the other Releasing Parties’ relationship, from the beginning of time to the date of your signature below, with any of the Franchisor Parties. You, on your own behalf and on behalf of the other Releasing Parties, further covenant not to sue any of the Franchisor Parties on any of the Claims released by this paragraph and represent that you have not assigned any of the Claims released by this paragraph to any individual or entity that is not bound by this paragraph.

We also are entitled to a release and covenant not to sue from your owners. By his, her, or their separate signatures below, your transferring owners likewise grant to us the release and covenant not to sue provided above.

The foregoing release does not apply to claims arising under the Washington Franchise Investment Protection Act, chapter 19.100 RCW, or any rules or order adopted thereunder, in accordance with RCW 19.100.220(2).

*[Signature Page Follows]*

Sample Form of Consent/Release-1

**OYF US INC. ,**  
a Delaware corporation

**AREA REPRESENTATIVE,**  
a/an \_\_\_\_\_

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

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

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

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

Sample Form of Consent/Release-2

**EXHIBIT H**

**LISTS OF CURRENT AND FORMER AREA REPRESENTATIVES**

## LISTS OF CURRENT AND FORMER AREA REPRESENTATIVES

### Area Representatives as of the Prior Fiscal Year End:

Operational: N/A

Signed Area Representative Agreement but Have Not Yet Commenced Operations:

#### Arizona

O2 Life, Inc.  
Andrew  
Karczewski 3851 E  
Vallejo Dr., Gilbert,  
AZ 85298  
480-250-0163

#### California

OYF SOCAL INC  
Lindy Pearson  
5631 Kanan Road,  
Agoura Hills, CA 91307  
818-968-0741

NorCal Oxygen LLC  
Jasmeet Bahia  
2210 Sunset Blvd suite 120,  
~~2937 Shady Acres Loop~~ Rocklin, CA 95765  
209-614-4101

#### Florida

Oxygen Yoga & Fitness West Florida Inc.  
Dimitri Aramouni and Laura Hayes  
2635 S Hwy 27, Suite 10,  
Clermont, FL 34711  
613-276-3080

Rensi Yoga & Fitness LLC  
Sneha Desai  
126 W International Speedway Blvd,  
Daytona Beach, FL 32114  
281-704-1889

Iowa

OYF Iowa, LLC  
Peter and Amy Johannsen  
4820 100th St., Suite 201,  
Urbandale, Iowa, 50322  
515-499-2835

New York

Gayatri Sharma  
93 Revelstoke Crescent,  
Richmond Hill ON, L4B 4T4  
647-771-6823

Ohm to Emerald LLC  
Jenny Farrell and Elizabeth Hayes ~~9~~  
~~Peregrine Way~~1855 Monroe Ave,  
~~Webster~~Rochester, NY 14~~5~~6180  
857-636-9010

~~Area Representatives Since the Prior Fiscal Year End:~~

**Florida**

~~Rensi Yoga & Fitness LLC~~  
~~Sneha Desai~~  
~~2435 S. Atlantic Avenue~~  
~~Daytona Beach Shores, FL~~  
~~32118 281-704-1889~~

**Former Area Representatives that Departed the Franchise Network during Prior Fiscal Year:**

The name, city and state, and current business telephone number (or if unknown, the last known home telephone number) of each Area Representative who had an AR Business terminated, canceled, transferred, or not renewed, or otherwise voluntarily or involuntarily ceased to do business under our Area Representative Agreement, during our last fiscal year or who has not communicated with us within 10 weeks of this Disclosure Document's issuance date, is listed below. The states listed below in which these former Area Representatives may be contacted are not necessarily the same states in which the former Area Representatives' franchised AR Businesses operated. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Transfers: N/A

~~Former Area Representatives that Departed the Franchise Network Since the end of the Prior Fiscal Year:~~

Terminations, Cancellations, Not Renewed, Ceased to do Business: N/A

N/A

OYF US INC. – Area Representative FDD 2024~~5~~  
Exhibit H Lists of Current and Former Area Representatives  
ACTIVE ~~692924993v1~~708704867v1

**EXHIBIT I**

**AREA REPRESENTATIVE DISCLOSURE QUESTIONNAIRE**

\*The following language applies only to transactions governed by the California Franchise Investment Protection Act– Do not sign this questionnaire if you are a resident of California or the franchise is to be operated in California.

\*\* The following language applies only to transactions governed by the Washington Franchise Investment Law– Do not sign this questionnaire if you are a resident of Washington or the franchise is to be operated in Washington.

As you know, OYF US INC. (“we” or “us”), and you are preparing to enter into an Area Representative Agreement for the operation of an AR Business franchise. The purpose of this Questionnaire is to determine whether any statements or promises were made to you that we have not authorized, or that may be untrue, inaccurate or misleading, in order to be certain that you have been properly represented in this transaction and that you understand the limitations on claims you may make arising from the purchase and operation of your franchise. **You cannot sign or date this Questionnaire the same day as the receipt for the Franchise Disclosure Document; instead, you must sign and date it the same day you sign the Area Representative Agreement and pay your area representative fee.** Please review each of the following questions carefully and provide honest responses to each question. If you answer “No” to any of the questions below, then please explain your answer on the back of this sheet.

- Yes\_\_ No\_\_ 1. Have you received and personally reviewed the Area Representative Agreement and each attachment or schedule attached to it?
- Yes\_\_ No\_\_ 2. Have you received and personally reviewed the Franchise Disclosure Document we provided?
- Yes\_\_ No\_\_ 3. Did you sign a receipt for the Franchise Disclosure Document indicating the date you received it?
- Yes\_\_ No\_\_ 4. Do you understand all the information contained in the Franchise Disclosure Document and Area Representative Agreement?
- Yes\_\_ No\_\_ 5. Have you reviewed the Franchise Disclosure Document and Area Representative Agreement with a lawyer, accountant or other professional advisor?
- Yes\_\_ No\_\_ 6. Have you discussed the benefits and risks of operating an AR Business with an existing AR Business area representative?
- Yes\_\_ No\_\_ 7. Do you understand the risks of developing and operating an AR Business?
- Yes\_\_ No\_\_ 8. Do you understand the success or failure of your franchise will depend in large part upon your skills, abilities and efforts and those of the persons you employ as well as many factors beyond your control such as competition, interest rates, the economy, inflation, supply costs and other relevant factors?
- Yes\_\_ No\_\_ 9. Do you understand all disputes or claims you may have arising out of or relating to the Area Representative Agreement must be arbitrated in Vancouver, British Columbia (Canada)?
- Yes\_\_ No\_\_ 10. Do you understand that you must satisfactorily complete the AR Training Program before we will allow your AR Business to commence operating, or otherwise before we will consent to a transfer of your franchised business?

- Yes\_\_ No\_\_ 11. Do you understand that you must not begin soliciting new Franchise Owners for Oxygen Yoga & Fitness Facilities to be located in the Franchised Territory until your own Oxygen Yoga & Fitness Facility has been in operation and in compliance with the Franchise Agreement for at least three (3) months?
- Yes\_\_ No\_\_ 12. Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating an AR Business that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
- Yes\_\_ No\_\_ 13. Do you agree that no employee or other person speaking on our behalf made any statement or promise to you, or any agreement with you, other than those matters addressed in your Area Representative Agreement, concerning advertising, marketing, media support, marketing penetration, training, support service or assistance that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
- Yes\_\_ No\_\_ 14. Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the actual, average or projected profits or earnings, the likelihood of success, the amount of money you may earn, or the total amount of revenue an AR Business will generate, that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document.
- Yes\_\_ No\_\_ 15. Do you understand that the Franchise Agreement and attachments to the Franchise Agreement contain the entire agreement between us and you concerning the franchise for the Oxygen Yoga & Fitness Facility business, meaning any prior oral or written statements not set out in the Franchise Agreement or the attachments to the Franchise Agreement will not be binding? When considering this question, please note that nothing in the Franchise Agreement or the attachments to the Franchise Agreement will disclaim or require you (the franchisee) to waive reliance on any representation that we made in our most recent franchise disclosure document (including its exhibits and amendments) delivered to you or your representative.

YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS QUESTIONNAIRE, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS.

\_\_\_\_\_

Signature of Area Representative Applicant

\_\_\_\_\_

Name (please print)

\_\_\_\_\_

\_\_\_\_\_

Signature of Area Representative Applicant

\_\_\_\_\_

Name (please print)

\_\_\_\_\_

Dated

Dated

EXPLANATION OF ANY NEGATIVE RESPONSES (REFER TO QUESTION NUMBER):

**EXHIBIT J**

**STATE ADDENDA TO DISCLOSURE DOCUMENT**

## FOR THE STATE OF CALIFORNIA

1. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.
2. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
3. Neither Franchisor nor any officer identified in Item 2 of this Disclosure Document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A 78a et seq., suspending or expelling such persons from membership in such association or exchange.
4. FRANCHISOR'S WEBSITE WWW.OXYGENYOGAANDFITNESS.COM HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT WWW.DFPI.CA.GOV.
5. The following is added to the end of Item 5 of the Disclosure Document:

The California Department of Financial Protection and Innovation has determined that Franchisor has not demonstrated that it is adequately capitalized and/or that Franchisor must rely on area representative fees to fund its operations. The Commissioner of the Department of Financial Protection and Innovation has imposed a fee deferral condition, which requires that Franchisor defers collection of all initial fees from California area representatives until Franchisor has completed all of its pre-opening obligations and Area Representative has commenced operations.

6. The row entitled "Interest" in Item 6 of the Disclosure Document is amended to state that the maximum interest rate in California currently is 10% annually.
7. The following paragraphs are added at the end of Item 17 of the Disclosure Document:

California Law Regarding Termination, Non-renewal, and Transfer. California Business and Professions Code Sections 20000 through 20043 provide rights to franchisees concerning termination, non-renewal, and transfer of a franchise. If the Area Representative Agreement contains any provision that is inconsistent with the law, the law will control.

Post-Termination Noncompetition Covenants. The Area Representative Agreement contains a covenant not to compete that extends beyond the termination of the franchise. This provision might not be enforceable under California law.

Applicable Law. Both the governing law and choice of law for area representatives operating outlets located in California, will be the California Franchise Investment Law and the California Franchise Relations Act regardless of the choice of law or dispute resolution venue stated elsewhere. Any language in the area representative agreement to the contrary is superseded by this condition.

Termination. The Area Representative Agreement provides for termination upon insolvency, bankruptcy, or re-organization. This provision might not be enforceable under federal bankruptcy law (11 U.S.C.A. Sections 101 et seq.).

Material Modification. Before the franchisor can ask you to materially modify your existing area representative agreement, Section 31125 of the California Corporations Code requires the franchisor to file a material modification application with the Department that includes a disclosure document showing the existing terms and the proposed new terms of your area representative agreement. Once the application is registered, the franchisor must provide you with the disclosure document with an explanation that the changes are voluntary.

Arbitration. The Area Representative Agreement requires binding arbitration. The arbitration will occur at a suitable location in Vancouver, British Columbia (Canada) with the costs being borne as the arbitrator determines. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provision of the Area Representative Agreement restricting venue to a forum outside the State of California.

Releases. The Area Representative Agreement requires you to sign a general release of claims upon renewal or transfer of the Area Representative Agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order thereunder is void. Section 31512 might void a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 31000 – 31516). Business and Professions Code Section 20010 might void a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 – 20043).

Personal Guarantee. Franchisees and all owners must sign a personal guarantee, making you and your spouse individually liable for your financial obligations under the agreement if you are married. The guarantee will place your and your spouse's marital and personal assets at risk, perhaps even your house, if your franchise fails.

**The registration of this franchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**

FOR THE STATE OF ILLINOIS

1. Illinois law governs the Area Representative Agreement.
2. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in the Area Representative Agreement that designates jurisdiction or venue outside the State of Illinois is void. However, arbitration may take place outside of Illinois.
3. Your rights upon termination and non-renewal of the Area Representative Agreement are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act.
4. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.
5. Beginning on the third (3<sup>rd</sup>) anniversary of the effective date of the Area Representative Agreement, and at any time thereafter during the term or any renewal term, Franchisor has the first right to purchase: (i) Area Representative's interest in the Area Representative Agreement and the business Area Representative conducts thereunder, including any assets used in operating the Area Representative business; or (ii) if Area Representative is an entity, one hundred percent (100%) of the ownership interests in Area Representative (subject to state law).
6. Item 5 of the Franchise Disclosure Document is amended to reflect as follows:

“Payment of initial/development fees will be deferred until we have met our initial obligations to you, and you have commenced doing business. This financial assurance requirement was imposed by the Office of the Illinois Attorney General due to our financial condition.”
7. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on behalf of the Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**FOR THE STATE OF MICHIGAN**

The following language is added after the “Special Risks to Consider About This Franchise” page and before the “Table of Contents” page of the Disclosure Document:

**ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO  
THE MICHIGAN FRANCHISE INVESTMENT LAW**

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.

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

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual service.

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE ATTORNEY GENERAL. ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO:

State of Michigan  
Office of the Attorney General  
Consumer Protection Division  
Attention: Franchise Section  
670 Law Building  
525 West Ottawa Street  
Lansing, Michigan 48913  
Telephone Number: (517) 373-7117

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

## FOR THE STATE OF MINNESOTA

1. Item 5 and 7 of the disclosure document is supplemented by the following language:

The Minnesota Department of Commerce has determined that Franchisor has not demonstrated that it is adequately capitalized and/or that Franchisor must rely on area representative fees to fund its operations. The Commissioner has imposed a fee deferral condition, which requires that Franchisor defers collection of all initial fees from Minnesota area representatives until Franchisor has completed all of its pre-opening obligations and Area Representative has commenced operations.

2. Item 13 of the disclosure document is supplemented by the following language:

We will protect your right to use the trademarks, service marks, trade names, logos, or other commercial symbols or will indemnify you from any loss, costs, or expenses arising out of any claim, suit, or demand regarding the use of the marks to the extent required by Minnesota law.

3. Item 17 of the disclosure document is supplemented by the following language:

Under Minnesota law, and except in certain specified cases, we must give you 90 days notice of termination with 60 days to cure. We also must give you at least 180 days' notice of our intention not to renew a franchise and sufficient opportunity to recover the fair market value of the franchise as a going concern. To the extent that the Area Representative Agreement is inconsistent with Minnesota law, Minnesota law will control.

To the extent that any condition, stipulation, or provision contained in the Area Representative Agreement (including any choice of law provision) purports to bind any person who, at the time of acquiring a franchise is a resident of Minnesota, or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance with Minnesota franchise law, such condition, stipulation, or provision may be void and unenforceable under the non-waiver provision of Minnesota franchise law.

4. To the extent you are required to execute a general release in our favor, such release will exclude liabilities arising under the Minnesota Franchises Act or a rule or any order promulgated thereunder.

5. Sec. 80C.17, Subd. 5 of the Minnesota Franchises Act provides that no action may be commenced thereunder more than 3 years after the cause of action accrues.

6. Sec. 80C.21 of the Minnesota Franchises Act and Minn. Rules 2860.4400(J) prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreements can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, including your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

7. All sections of the disclosure document referencing our right to obtain injunctive relief are hereby amended to refer to our right to seek to obtain.

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

## FOR THE STATE OF NEW YORK

The following provisions supersede the Disclosure Document and apply to all franchises offered and sold in the State of New York:

1. The following information is added to the cover page of the Franchise Disclosure Document:

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR RESOURCES OR INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS THAT ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

2. The following is to be added at the end of Item 3:

Except as provided above, the following applies to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

(a) No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

(b) No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

(c) No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

(d) No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled “Requirements for a franchisee to renew or extent,” and Item 17(m) entitled “Conditions for franchisor approval of transfer”:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; this proviso intends that the non-waiver provisions of General Business Law Sections 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled “Termination by franchisee”:

You may terminate the Agreement on any grounds available by law.

5. The following is added to the end of the “Summary” sections of Item 17(v) titled “Choice of Forum” and Item 17(w) entitled “Choice of law”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

6. Receipts - Any sale made must be in compliance with §683(8) of the Franchise Sale Act (N.Y. Gen Bus. L. §680 et seq.), which describes the time period a Franchise Disclosure Document (offering prospectus) must be provided to a prospective franchisee before a sale may be made. New York law requires a franchisor to provide the Franchise Disclosure Document at the earliest of the first personal meeting, ten (10) business days before the execution of the franchise or other agreement, or the payment of any consideration that relates to the franchise relationship.
7. No statement, questionnaire or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or any other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**NEW YORK REPRESENTATIONS PAGE**

THE FRANCHISOR REPRESENTS THAT THIS PROSPECTUS DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT.

**FOR THE STATE OF WASHINGTON**  
**WASHINGTON ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Franchise Disclosure Document regardless of anything to the contrary contained therein. This Addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

Conflict of Laws. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act ~~(the “Act”)~~, Chapter 19.100 RCW, will prevail.

~~Section~~ Area Representative Bill of Rights. RCW 19.100.180 ~~of the Act,~~ may supersede provisions in the area representative agreement ~~in~~ or related agreements concerning your relationship with ~~us~~ the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions ~~which may that~~ supersede the area representative agreement ~~in~~ or related agreements concerning your relationship with ~~us~~ the franchisor. Area representative agreement provisions, including ~~the area of termination and renewal of your~~ those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.

Site of Arbitration, Mediation, and/or Litigation. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the ~~A~~ area R ~~representative A~~ greement, a franchisee, an area representative may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

General Release. A release or waiver of rights ~~executed by a franchisee may not include rights~~ in the area representative agreement or related agreements purporting to bind the area representative to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, ~~in accordance with RCW 19.100.220(2).~~ In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).

Statute of Limitations and Waiver of Jury Trial. Provisions ~~such as those which~~ contained in the area representative agreement or related agreements that unreasonably restrict or limit the statute of limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer Fees. Transfer fees are collectable only to the extent that they reflect ~~our~~ the franchisor’s reasonable estimated or actual costs in effectuating effecting a transfer.

Termination by Area Representative. The area representative may terminate the area representative agreement under any grounds permitted under state law.

Certain Buy-Back Provisions. Provisions in area representative agreements or related agreements that permit the franchisor to repurchase the area representative’s business for any reason during the term of the area representative agreement without the area representative’s consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.

Fair and Reasonable Pricing. Any provision in the area representative agreement or related agreements that requires the area representative to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).

Waiver of Exemplary & Punitive Damages. RCW 19.100.190 permits area representatives to seek treble damages under certain circumstances. Accordingly, provisions contained in the area representative agreement or elsewhere requiring area representatives to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).

Franchisor's Business Judgement. Provisions in the area representative agreement or related agreements stating that the franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.

Indemnification. Any provision in the area representative agreement or related agreements requiring the area representative to indemnify, reimburse, defend, or hold harmless the franchisor or other parties is hereby modified such that the area representative has no obligation to indemnify, reimburse, defend, or hold harmless the franchisor or any other indemnified party for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.

Attorneys' Fees. If the area representative agreement or related agreements require an area representative to reimburse the franchisor for court costs or expenses, including attorneys' fees, such provision applies only if the franchisor is the prevailing party in any judicial or arbitration proceeding.

Noncompetition Covenants. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of ~~a franchisee~~ an area representative, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of ~~a franchisee~~ an area representative under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the area representative agreement or elsewhere that conflicts with these limitations ~~are~~ is void and unenforceable in Washington.

Nonsolicitation Agreements. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting ~~a franchisee~~ an area representative from (i) soliciting or hiring any employee of ~~a franchisee~~ an area representative of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the area representative agreement or elsewhere are void and unenforceable in Washington.

~~An area representative may be required to register as a franchise broker in Washington pursuant to RCW 19.100.140.~~

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

Prohibitions on Communicating with Regulators. Any provision in the area representative agreement or related agreements that prohibits the area representative from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

Advisory Regarding Franchise Brokers. Under the Washington Franchise Investment Protection Act, a “franchise broker” is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. If an area representative is working with a franchise broker, area representatives are advised to carefully evaluate any information provided by the franchise broker about a franchise.

The “Special Risks to Consider About This Franchise” cover page of the FDD is amended to include the following risk factor:

**Minimum Development Schedule.** The area representative agreement requires an area representative to ensure that a minimum number of franchise owners are opened and continue operating in the franchised territory according to a schedule that is part of the area representative agreement. Failure to open or maintain the minimum number of franchises required under the development schedule may result in termination of the area representative agreement, loss of the franchised territory, or payment of \$600 per month for the number of franchises that are not open and operating under the area representative agreement.

Item 5 is amended by adding the following new paragraph at the end of the Item:

In lieu of an impound of franchise fees, we will not require or accept the payment of any initial franchise fees until an area representative has (a) received all initial training that it is entitled to under the area representative agreement or franchise disclosure document, and (b) commenced operations.

The “Cost of Complying with Franchise Laws” section of Item 5 is amended by adding the following sentence to the end of the paragraph:

Notwithstanding the foregoing, Washington franchise owners will not be charged for any costs and expenses that we incur in connection with this paragraph.

The “Remarks” column of the “Franchise Owner Collection Reimbursement” row of the Item 6 table is amended to add the following:

Notwithstanding anything to the contrary contained herein, you are only required to pay (or reimburse as the case may be) us for 66.6% of all costs and expenses (including reasonable attorneys' fees) incurred by us in connection with the collection of delinquent payments (including franchise royalty fees) from franchise owners who entered into franchise agreements for Oxygen Yoga & Fitness Facilities located within the Franchised Territory for which you are entitled to a portion of those delinquent payments.

The “Remarks” column of the “Reimbursement of Losses or Payments” row of the Item 6 table is amended to add the following:

Notwithstanding anything to the contrary contained herein, (i) you will not be responsible for any of the payments, losses or damages we (or our affiliates) make, incur or suffer with respect to a franchise owner in the Franchised Territory if those payments, losses or damages are made, incurred or suffered as a result of our negligence, willful misconduct, strict liability, fraudulent conduct or violation of the Franchise Investment Protection Act, chapter 19.100 RCW and (ii) you will be responsible for all of the payments, losses or damages we (or our affiliates) make, incur or suffer with respect to a franchise owner in the Franchised Territory if those payments, losses or damages are made, incurred or suffered as a result of

your negligence, willful misconduct, strict liability, fraudulent conduct or violation of the Franchise Investment Protection Act, chapter 19.100 RCW.

The “Remarks” column of the “Transfer Fee” row of the Item 6 table is amended by adding the following to the end of the paragraph:

This fee is subject to state law.

The “Amount” column of the “Technology Fee” row of the Item 6 table is amended to read as follows:

May vary, but will not exceed \$500 per month (currently, the fee is \$200 per month)

The Item 6 table is amended by adding the following “Payment Conditions” and “Refund or Reduction of License Fee or Continuing Fees” rows to the end of the table:

<b>Column 1</b> <b>Type of Fee</b>	<b>Column 2</b> <b>Amount</b>	<b>Column 3</b> <b>Due Date</b>	<b>Column 4</b> <b>Remarks</b>
Payment Conditions	Will vary under circumstances	As incurred	We will have no obligation to pay you any amounts due to you under the Area Representative Agreement (and none of those amounts will accrue): (a) for any period during which you or your affiliate(s) are in breach of, or default under, your obligations under the Area Representative Agreement or any Franchise Agreement, (b) for any month where, for any one or more Oxygen Yoga & Fitness Facilities, you failed to conduct monthly evaluations, or deliver to us any monthly reports that you are required to conduct or provide, or (c) unless and until you are licensed or registered, or maintain a permit, as necessary, to conduct your activities under the Area Representative Agreement.
Refund or Reduction of License Fee or Continuing Fees	Will vary under circumstances	As incurred	If we are required or agree to refund all or a part of a franchise owner’s initial franchise fees or royalty fees, you must pay us the License Fee or Continuing Fees we previously paid to you for that franchise owner. We may also reduce the License Fee and/or Continuing Fees payable to you to cover the costs of third party franchise broker services,

Column 1 Type of Fee	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
			discounts, referral fees, internal or external sales representative services, and for any other costs we incur to sell Oxygen Yoga & Fitness Facilities within your Franchised Territory.

Notwithstanding anything to the contrary in the “Cost of complying with franchise laws applicable to Franchised Territory” row of the Item 7 table and the associated Note 4, Washington area representatives will not be charged for any costs associated with preparing franchise disclosure documents or registration of our offering in Washington under chapter 19.100 RCW.

The “Summary” column of Row “1” of Item 17 is amended to read as follows:

No transfer without our written consent, which may not be unreasonably withheld.

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

### State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated.

State	Effective Date
California	<b>June 10, 2024</b>
Hawaii	Not Effective
Illinois	<b>Not Effective</b>
Indiana	Not Effective
Maryland	Not Effective
Michigan	<b>April 22, 2024</b>
Minnesota	<b>August 8, 2024</b>
New York	<del><b>June 25, 2024</b></del>
North Dakota	Not Effective
Rhode Island	Not Effective
South Dakota	Not Effective
Virginia	Not Effective
Washington	<b>July 19, 2024</b> <u>Pending</u>
Wisconsin	Not Effective

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

**ITEM 23**  
**RECEIPT**

This Disclosure Document summarizes certain provisions of the Area Representative Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If OYF US Inc. offers you a franchise, it must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires you to receive this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If OYF US Inc. does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state agency listed on Exhibit A.

The franchisor is OYF US Inc., located at ~~838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904~~33-24076 112 Avenue, Maple Ridge, British Columbia, Canada V2W 0K2. Its telephone number is 604-619-6901.

The franchise seller for this offering is:

Jennifer Hamilton, Director/CEO/President ~~at 838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904, 33-24076 112 Avenue, Maple Ridge, British Columbia, Canada V2W 0K2~~, 604-619-6901; and jen@oxygenyogafitness.com.

Melissa Hanssens, COO, ~~838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904~~33-24076 112 Avenue, Maple Ridge, British Columbia, Canada V2W 0K2, 604-619-6901; and operations@oxygenyogafitness.com.

\_\_\_\_\_; and/or

\_\_\_\_\_.

Issuance Date: April ~~19~~5, 202~~4~~5

We authorize the respective state agencies identified on Exhibit B to receive service of process for us in the particular state.

I have received a Disclosure Document dated April ~~19~~5, 202~~4~~5 that included the following Exhibits:

Exhibit A	List of State Administrators
Exhibit B	List of State Agents for Service of Process
Exhibit C	Area Representative Agreement
Exhibit D	State Addenda to Area Representative Agreement
Exhibit E	Financial Statements
Exhibit F	Manual Table of Contents
Exhibit G	Sample Form of General Release
Exhibit H	Lists of Current and Former Area Representatives
Exhibit I	Area Representative Disclosure Questionnaire
Exhibit J	State Addenda to Disclosure Document

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Area Representative

(Sign, Date and Keep This Copy for Your  
Records)

\_\_\_\_\_  
Authorized Signature

**ITEM 23**  
**RECEIPT**

This Disclosure Document summarizes certain provisions of the Area Representative Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

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Melissa Hanssens, COO, ~~838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware-19904~~33-24076 112 Avenue, Maple Ridge, British Columbia, Canada V2W 0K2, 604-619-6901; and operations@oxygenyogafitness.com.

\_\_\_\_\_; and/or

\_\_\_\_\_.

Issuance Date: April ~~19~~5, 20245

We authorize the respective state agencies identified on Exhibit B to receive service of process for us in the particular state.

I have received a Disclosure Document dated April ~~19~~5, 20245 that included the following Exhibits:

Exhibit A	List of State Administrators
Exhibit B	List of State Agents for Service of Process
Exhibit C	Area Representative Agreement
Exhibit D	State Addenda to Area Representative Agreement
Exhibit E	Financial Statements
Exhibit F	Manual Table of Contents
Exhibit G	Sample Form of General Release
Exhibit H	Lists of Current and Former Area Representatives
Exhibit I	Area Representative Disclosure Questionnaire
Exhibit J	State Addenda to Disclosure Document

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Area Representative

\_\_\_\_\_  
Authorized Signature

Please sign this copy of the receipt, date your signature, and return it to Melissa Hanssens, ~~838 Walker Road, Suite 21-2, Dover, County of Kent, Delaware 19904~~33-24076 112 Avenue, Maple Ridge, British Columbia, Canada V2W 0K2, email: [operations@oxygenyogafitness.com](mailto:operations@oxygenyogafitness.com).