

KID-FIT LICENSE AGREEMENT

THIS KID-FIT LICENSE AGREEMENT ("Agreement") is made and entered into as of _____ by and between THE KID-FIT PRESCHOOL HEALTH AND FITNESS ORGANIZATION, a California non-profit located at 135 W. Maple Ave., Monrovia, California 91016 ("Licensor") and _____ located at _____, ("Licensee").

RECITALS

WHEREAS, Licensor is the exclusive rights holder of a physical education program for children entitled "KID-FIT Virtual Studio" (the "Program");

WHEREAS, Licensor and Licensee are desirous of entering into an agreement pursuant to which Licensor shall grant to Licensee an exclusive license to advertise, promote, market and/or exploit the Program in a certain territory, all on the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Term. The term of this Agreement shall commence on the date hereof and shall continue for a period of two (2) years (unless earlier terminated as provided herein) and shall automatically be extended for successive terms of two (2) years each, unless prior to the end of the then-current Term either party sends to the other written notice terminating this Agreement (the initial term, including any extensions thereof, is referred to herein as the "Term").
2. License Rights. Licensor hereby grants to Licensee the exclusive rights during the Term in the Territory (as defined below) to use Licensor's "KID-FIT" name, trademarks, logo, concept, curriculum, classroom activities, exercises, training routines and format (all such items are collectively referred to herein as the "Materials") in connection with the Program. All uses of the Materials by Licensee hereunder must comply with all applicable trademark and copyright laws so as to protect Licensor's ownership rights in and to the Materials and shall be subject to the prior written approval of Licensor. Licensor reserves the right, in its sole discretion, to change, modify, add or remove portions of the Materials at any time upon written notice to Licensee, and Licensee will be deemed to have accepted any changes after deemed receipt of notice thereof.
3. Territory. The territory for this Agreement shall be that time zone associated with the geographic area surrounding the business address set forth above of Licensee (the "Territory"). Licensee may market the program anywhere within the time zone and does

not have exclusive rights to the time zone. Other Licensees who reside in the same area are also able to market within the same time zone.

4. Licensee's Ownership Rights. Neither Licensee nor any other third party shall acquire or be transferred any ownership interest or right, title or interest in such Materials or other property of Licensor by virtue of this Agreement, and Licensor reserves all rights not specifically granted hereunder. By way of clarification, Licensee acknowledges that all rights in and to such Materials other than as expressly provided for herein shall remain the sole property of Licensor on a worldwide basis in perpetuity. In addition, Licensee recognizes that Licensor retains all rights to the merchandising (other than with respect to the Program in the Territory) and other ancillary and subsidiary rights and all associated materials and properties (now or in the future) of Licensor and the Program in all territories throughout the world and Licensor retains the right to license the foregoing in all territories throughout the world. In the event that Licensee wishes to make use of the Materials or any products bearing the KID-FIT name or logo other than as permitted herein or to acquire additional rights not granted herein, Licensee shall notify Licensor and the parties shall negotiate same in good faith and reflect any subsequent arrangement in a separate written agreement.
5. Licensee's Obligations. Licensee agrees to organize, operate, market and promote the Program in the Territory exclusively using the name KID-FIT Virtual Studio as the title of the Program. Licensee must use the Materials in connection with the Program. In addition, Licensor agrees to follow and comply with a set of policies, practices and requirements furnished to Licensee by Licensor necessary to implement a first class Program in the Territory. Licensee shall be responsible for all fees and expenses in association with the operation of the Program in the Territory. Licensee shall create an email address and social media pages exclusive to the Program in the Territory. Licensee agrees to place the official Licensor logo as the official heading and major element of Licensee's marketing pages and in the heading on all advertising, promotion, publicity materials and signage for the Program so it is clearly and prominently displayed. Licensee agrees to send samples of advertising and promotional materials with respect to Licensee's Program to Licensor for prior written approval by Licensor prior to print and distribution, and Licensee shall ensure that such advertising and promotional materials contain the official logo and are being used in accordance with this Agreement. Licensee agrees to purchase through Licensor products to be sold through Licensee's Program that contain Licensor's logo as a significant feature. Licensee shall, on a monthly basis, furnish Licensor with a written report detailing: (i) the number of Program locations being operated by Licensee in the Territory with the number of children at each such location; (ii) the number of Program locations being opened by Licensee in the Territory with the number of children at each such location; (iii) the number of Program locations being terminated by Licensee in the Territory with the number of children at each such location; and (iv) Licensee's marketing plans.
6. License Fees and Royalties. In consideration of the grant of rights contained herein, Licensee will pay to Licensor the following:

(a) The monthly license fee of US \$169.99 after the first month of execution of this Agreement. Payment of such license fee for subsequent years of this Agreement is due within the five (5) days of each month until the end of the then-current Term.

(b) In addition, Licensee will pay to Licensor royalties equal to ten percent (10%) of one hundred percent (100%) of Gross Sales Revenues received by Licensee from all marketing, sales, distribution and exploitation of any materials sold with the name "KID-FIT" on them. "Gross Sales Revenues" shall mean all gross revenues actually received by Licensee or any affiliate of Licensee (as such term may be defined under federal securities laws) in respect of all marketing, sales, distribution and exploitation of tangible good from the Program, excluding sales or any other taxes.

7. Accounting. Royalties hereunder shall be paid on a calendar quarterly basis accompanied by a detailed, itemized royalty statement setting forth the calculation of the amount of royalty shown thereby to be due to Licensor for such quarter, and shall be due thirty (30) days after the quarter in which royalties have been earned. In addition to providing such royalty statements, Licensee shall provide to Licensor, upon Licensor's request, with back-up documentation. Licensor, upon ten (10) business days' prior written notice to Licensee, shall have the right to inspect and copy, at Licensee's offices during normal business hours, the financial books and records of Licensee, at Licensor's expense, insofar as such books and records relate directly to such royalty calculation hereunder. If the inspection reveals a shortfall in the amount due to Licensor that is in excess of five percent (5%) of its entitlement, then Licensee shall also pay Licensor's out-of-pocket fees and costs in connection with the audit in addition to such shortfall.
8. Restrictions. During the Term, Licensee covenants and agrees: (i) not to compete with Licensor by creating, organizing or operating a physical education program for children other than the Program in the Territory; (ii) not to use "KID-FIT" as part of Licensee's corporate, fictitious business or other entity name; (iii) not to apply or register for a trademark or copyright for "KID-FIT," and not to apply or register for a domain name for "KID-FIT" except as otherwise agreed upon in writing by Licensor. To the extent Licensor agrees to permit Licensee to use a domain name in the Territory containing the words "KID-FIT," Licensee agrees to execute documentation without payment of any kind by Licensor in advance to effect an assignment and transfer to Licensor of such domain name upon the termination of this Agreement. Licensor shall have the right to terminate this Agreement upon written notice based upon any breach of this provision by Licensee (with the termination occurring immediately without a cure period), and all rights granted hereunder to Licensee shall cease and revert to Licensor and Licensee shall no longer be authorized to use the Materials in any manner.
9. Termination. Licensee agrees to conduct the Program in the Territory with the highest standards of integrity, responsibility and professionalism. In the event that Licensor determines, in Licensor's sole discretion, that (i) Licensee has failed to so organize, operate and/or promote the Program in the Territory in such manner, or (ii) such highest standards are not continually the goal of Licensee, or (iii) Licensee has not operated in the best interests of the continuation and strengthening of Licensor's "brand," or (iv) Licensee is

organizing, operating, marketing and/or promoting the Program outside the Territory, then Licensor shall have the right to terminate this Agreement immediately upon written notice to Licensee (with the termination occurring immediately without a cure period). In such instance, all rights granted hereunder to Licensee shall cease and revert to Licensor and Licensee shall no longer be authorized to use the Materials in any manner. In the event Licensee is adjudicated as insolvent, declares bankruptcy, dissolves or in other manner ceases to exist, or if Licensee breaches this Agreement in any manner and, except as otherwise provided herein, fails to cure such breach within ten (10) days following written notice thereof, Licensor shall have the right to terminate this Agreement upon written notice, and all rights granted hereunder to Licensee shall cease and revert to Licensor. Notwithstanding the foregoing, if the nature of the breach is such that it cannot be cured, Licensor need not provide Licensee with the foregoing ten (10) day opportunity to cure, but may instead immediately terminate the Agreement by providing Licensee with written notice of termination. In the event Licensee elects not to operate the Program in the Territory with respect to any year of the Term, Licensee must give Licensor notice of such election. In the event of such election by Licensee or if Licensor deems in Licensor's sole discretion that Licensee is no longer operating the Program in the Territory, Licensor shall have the right to terminate this Agreement immediately upon written notice to Licensee, and all rights granted hereunder to Licensee shall cease and revert to Licensor and Licensee shall no longer be authorized to use the Materials in any manner.

10. Confidentiality. Licensee agrees to hold in perpetuity all proprietary information and materials received from Licensor or its affiliates or learned during the Term, whether orally or in written form or otherwise, relating to Licensor's or its affiliates' business being conducted by Licensor or its affiliates ("Proprietary Information") in strictest confidence and not to use, for its own benefit, directly or indirectly, or for any third party, or to disclose the Proprietary Information to any third party except as required by law, pursuant to court order or legal process or to exercise the rights granted hereunder. Licensee acknowledges that any non-permissible disclosure or use of the Proprietary Information could materially prejudice Licensor or its affiliates in the conduct of its business and result in substantial losses and damages. Licensee agrees to keep the terms and conditions contained in this Agreement confidential, and agrees not to disclose said terms and conditions to any third parties other than Licensee's professional representatives unless otherwise required by law.
11. Insurance. Licensee agrees to purchase and maintain comprehensive general liability insurance, including, without limitation, bodily injury and property damage coverage, advertising liability insurance and product liability insurance with sufficient liability coverage from a reputable insurance company with respect to the Program, and to cause Licensor to be named as an additional insured on all of such policy. Licensee shall pay all premiums and deductibles relating to all of such policy, and cause Licensor to be named as an additional insured on such policy for a period of one (1) year following the termination of this Agreement. Licensee agrees to furnish Licensor with a certificate of insurance within thirty (30) days of the date hereof evidencing same.
12. Indemnification. Licensee agrees to indemnify, defend and hold harmless Licensor and its officers, directors, shareholders, members, managers, employees, consultants, attorneys,

accountants, business managers, agents, representatives, distributors, vendors, affiliates, successors and assigns from and against any and all losses, costs, damages, claims, suits, actions, judgments, liabilities, agreements and expenses whatsoever (including, without limitation, attorneys' fees, court costs and reasonable investigation expenses) arising out of or in connection with (i) the Program; (ii) the advertising, promotion, marketing, publicity, organization or operation of the Program; (iii) any bodily injury, death or other loss or liability claims of any third party relating to the Program; (iv) the use of the Materials; (v) any breach by Licensee of this Agreement; (vi) any claims by any government or regulatory agency, authority or board relating to any action or omission of Licensee in connection with the Program; or (vii) any action or omission of Licensee in connection with the conduct of Licensee's business.

13. LIMITATION OF LIABILITY. Licensee hereby forever releases and discharges Licensor and its officers, directors, shareholders, members, managers, employees, consultants, attorneys, accountants, business managers, agents, representatives, distributors, vendors, affiliates, successors and assigns, from and against any and all obligations, losses, damages, debts, agreements, liabilities, demands, costs, expenses, claims and causes of action in any way arising from, concerning or pertaining to the Program and the advertising, promotion, marketing, publicity, organization, operation and/or exploitation relating thereto. IN NO EVENT SHALL LICENSOR HAVE ANY LIABILITY TO LICENSEE, LICENSEE'S AFFILIATES, OR ANY THIRD PARTY, FOR ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR SPECULATIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR USE, BUSINESS INTERRUPTION, OR LOSS OF GOODWILL, IRRESPECTIVE OF WHETHER LICENSEE HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. Licensee agrees that Licensor's total liability, if any, to Licensee under this Agreement shall be limited to the total amount of compensation paid by Licensee to Licensor hereunder.

14. Independent Contractor. Neither party nor any of its officers, employees, managers, agents or representatives is a partner, employee or agent of the other party for any purpose whatsoever. Rather, each party is and shall at all times remain a separate legal entity from the other and each shall be an independent contractor responsible only for such party's own actions. Accordingly, nothing contained in this Agreement shall be construed as establishing an employer/employee, partnership or joint venture relationship between Licensor and Licensee. Neither party has, nor shall it hold itself out as having, any right, power or authority to create any contract or obligation, either express or implied, on behalf of, in the name of, or binding upon the other party, unless such other party shall consent thereto in writing in advance. Licensee shall have sole control of the manner and means of performing its obligations under this Agreement. Licensee shall have the right to appoint and shall be solely responsible for its own employees, agents and representatives, who shall be at such party's own risk, expense and supervision and shall not have any claim against Licensor for compensation or reimbursement. Licensee will be responsible for all expenses and disbursements it incurs in connection with its performance under this Agreement, including any taxes it may incur.

15. Governing Law; Jurisdiction; Legal Counsel. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to choice or conflicts of law principles. Any and all suits or actions for any breach of this Agreement, or otherwise arising out of this Agreement, shall be filed and prosecuted in any court of competent jurisdiction in Los Angeles, California. The parties hereto hereby consent and submit to the jurisdiction of the courts in Los Angeles, California, and hereby agree that service of process on any party may be effected by prepaid overnight courier or certified mail, return receipt requested, postage prepaid. Each of the parties waives any objection which it may have based on improper venue or forum non conveniens to the conduct of any such suit or action in any such court. If any action, suit or other proceeding is instituted to remedy, prevent or obtain relief from a default in the performance by any party of such party's obligations under this Agreement or otherwise, the prevailing party shall recover all of such party's attorneys' fees and costs incurred in each and every such action, suit or other proceeding, including any and all appeals or petitions therefrom. **Each of the parties acknowledges that such party had the right and opportunity to seek independent legal counsel of such party's own choosing in connection with the execution of this Agreement, and each of the parties represents that such party has either done so or that such party has voluntarily declined to do so, free from coercion, duress or fraud.**
16. Counterparts; Notices; Survival. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile or electronic scanned copy, and signatures on a facsimile or scanned copy hereof shall be deemed authorized original signatures. All notices, requests, demands and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed received (i) on the same day if delivered in person, by same-day courier or by facsimile transmission; provided that if sent by facsimile transmission, a copy is also sent by certified mail, return receipt requested, postage prepaid, (ii) on the next business day if delivered by overnight mail or courier, or (iii) three (3) business days after the date of deposit in the mails if being sent by certified mail, return receipt requested, postage prepaid, to the parties at their addresses as set forth at the beginning of this Agreement. Any of the parties to this Agreement may from time to time change such party's address for receiving notice by giving written notice thereof in the manner set forth above. The respective rights and obligations of the parties hereunder shall survive any expiration or termination of this Agreement to the extent necessary to the intended preservation of such rights and obligations, including, without limitation, the insurance, indemnity, payment and confidentiality provisions contained herein.
17. Assignments. Licensee shall not have the right to assign, license, sublicense or otherwise transfer this Agreement or any of Licensee's rights or obligations to any third party without the prior written consent of Licensor. Any such attempted assignment or transfer by Licensee without the prior written consent of Licensor shall be void and of no force or effect. Licensor shall have the right to assign this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective officers, directors, shareholders, managers, members, employees, agents, affiliates, spouse,

heirs, beneficiaries, executors, estate, trustees, administrators, personal representatives, successors and permitted assigns. The rule that an agreement is to be construed against the party drafting the agreement is hereby waived by the parties hereto, and shall have no applicability in construing this Agreement or the terms of this Agreement.

18. Additional Documents; Cooperation. Licensee agrees to provide or execute any and all additional documents or instruments generally as reasonably requested by the Licensor, to obtain all required licenses, permits and approvals necessary to implement the transactions contemplated herein, to cooperate with Licensor and to do any and all things necessary or desirable to effectuate the purposes of this Agreement.
19. Entire Agreement; Severability; Amendments; Headings. This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes any prior understandings or agreements between the parties hereto. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter hereof which are not fully expressed herein. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. This Agreement cannot be modified, altered or otherwise amended except by an agreement in writing signed by all of the parties hereto. Any Paragraph headings contained in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

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

The KID-FIT Preschool Health and Fitness Org. _____

By: 

Michele Silence,
President

By: _____

Name: _____

Title: _____