

**CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM  
DATED: MAY 30, 2024**

**KIDOKINETICS FRANCHISE LLC**

**Offering a Maximum of 1,000 (subject to change) Membership Units for \$1,000,000.00**

**Managers:**

Terri Braun  
David Pazgan

This Confidential Private Placement Memorandum (the “Memorandum”) relates to the sale (the “Offering”) of a maximum of 1,000 Class B membership units (“Units”) in Kidokinetics Franchise LLC, a Florida limited liability company (the “Company”). Each Unit has an Offering price of \$1,000.00, for potential total gross Offering proceeds of \$1,000,000.00 (the “Maximum Offering Amount”). There is no minimum Offering amount, and Offering proceeds will be available immediately for the Company’s use. The minimum number of Units to be purchased by each Member is 10, representing a \$10,000.00 investment, unless the minimum is waived by the Company’s managers, David Pazgan, an individual and Terri Braun, an individual (the “Managers”), who shall manage all of the Company’s business, investments, and affairs.

Units will be offered on a “best-efforts” basis through the Company’s management, for which no commissions or other compensation will be paid. This Offering is limited to Accredited Investors. This Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier, or as otherwise determined in the discretion of the Managers.

	Offering Price	Proceeds to Company <sup>(1)</sup>
Per Unit	\$1,000.00	\$1,000.00
Minimum investment, 10 Units	\$10,000.00	\$10,000.00
Maximum Offering Amount <sup>(2)</sup>	\$1,000,000.00	\$1,000,000.00

<sup>(1)</sup> The Company expects to incur expenses relating to this Offering including legal, marketing, and printing expenses, and fees or expenses owed the Managers, the Members, Affiliates of the Managers and the Members, and third parties, as described in this Memorandum. The proceeds listed do not include deductions for such amounts.

<sup>(2)</sup> While the Company may raise up to a maximum amount of \$1,000,000.00, it is targeting a raise of \$600,000.00, and is not obligated to raise up to the Maximum Offering Amount.

Each investor will be charged platform fees by the Company. These include a one-time platform fee of \$500.00 and an annual platform maintenance fee of \$100.00 while the investor is a Member of the Company. The one-time fee of \$500.00 and first annual fee of \$100.00 will be payable at the time of subscription and investors will not be issued Units for these amounts. For example purposes only, if an investor were to invest \$10,600.00, \$600.00 would be allocated toward the platform fees (one-time fee and first annual maintenance fee) and \$10,000.00 would be allocated toward the subscription amount. The investor would be issued Units for the \$10,000.00 only. All subsequent payments of the \$100.00 annual platform maintenance fee after the first year will be deducted from distributions paid to investors and these fees will accrue until paid.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE “SEC”) OR ANY STATE OR OTHER REGULATORY AUTHORITY, NOR HAS THE SEC OR ANY STATE OR OTHER REGULATORY AUTHORITY PASSED ON THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM OR ENDORSED THE MERITS OF THIS OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”) AND ARE BEING OFFERED IN RELIANCE ON EXEMPTIONS FROM REGISTRATION PROVIDED IN SECTION 4(A)(2) OF THE SECURITIES ACT, RULE 506(C) OF REGULATION D PROMULGATED THEREUNDER, AND PREEMPTION FROM THE REGISTRATION OR QUALIFICATION REQUIREMENTS (OTHER THAN NOTICE FILING AND FEE PROVISIONS) OF APPLICABLE STATE LAWS UNDER THE NATIONAL SECURITIES MARKETS IMPROVEMENT ACT OF 1996 OR APPLICABLE EXEMPTIONS FROM SUCH REGISTRATION PROVISIONS.

THIS MEMORANDUM DOES NOT CONSTITUTE AN OFFER OR SOLICITATION TO ANYONE IN ANY JURISDICTION IN WHICH SUCH AN OFFER OR SOLICITATION IS NOT AUTHORIZED. THESE ARE SPECULATIVE SECURITIES AND INVOLVE A HIGH DEGREE OF RISK, INCLUDING THOSE RISKS CONCERNING ILLIQUIDITY, RESTRICTIONS ON TRANSFER, LEVERAGE, GOVERNMENTAL REGULATIONS, AND UNCONTROLLABLE MARKET CONDITIONS. SEE “RISK FACTORS” ON PAGE 6.

PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THE CONTENTS OF THIS MEMORANDUM OR ANY PRIOR OR SUBSEQUENT COMMUNICATIONS FROM THE COMPANY OR ANY OF ITS EMPLOYEES, AGENTS, OR OTHER REPRESENTATIVES AS LEGAL, BUSINESS, OR TAX ADVICE. EACH PROSPECTIVE INVESTOR SHOULD CONSULT THEIR OWN COUNSEL, BUSINESS ADVISER, AND TAX ADVISER AS TO LEGAL, BUSINESS, AND TAX MATTERS RELATING TO THE OFFERING MADE PURSUANT TO THIS MEMORANDUM.

**PROSPECTIVE INVESTORS SHOULD CAREFULLY CONSIDER THE FOLLOWING:**

This Memorandum, the Exhibits and the Subscription Documents: (a) are the only materials that have been authorized for use in connection with the Offering to sell Units; (b) reflect the only information anyone has been authorized to give in connection with the Offering to sell Units; and (c) are the only representations upon which anyone may rely in connection with the purchase of Units. See “Additional Information” on page 36.

No person has been authorized to give any information other than that contained in this Memorandum, or to make any representations, other than as expressly contained herein, in connection with the Offering made hereby, and, if given or made, such other information or representations, other than as expressly contained herein, must not be relied upon as having been authorized by the Company. The Company disclaims any and all liabilities for representations or warranties, expressed or implied, or any other written or oral communication transmitted or made available to the recipient, except as made or communicated by the Company.

Offering literature in any form whatsoever employed in connection with the Offering shall be subject to, and shall be superseded by, this Memorandum (including any exhibits, amendments, and supplements hereto). In the event of any conflict or perceived conflict between this Memorandum and any other Offering literature, unless otherwise stated, this Memorandum shall control.

The Company is offering to sell Units in reliance on exemptions from federal registration requirements and exemption or preemption from state registration requirements. Those exemptions do not change the stringent requirement that every prospective investor in every investment not purchase under any misrepresentation or omission of any material fact. In preparing this Memorandum, the Company has made reasonable efforts to present all information that the Company considers material, based upon the information available to the Company. However, every prospective investor is urged to investigate further any matter that is not set forth in this Memorandum or any fact included in this Memorandum that the prospective investor considers material but does not clearly understand.

The information contained in this Memorandum is confidential and proprietary to the Company and is being submitted to prospective investors solely for such prospective investors' confidential use with the express understanding that, without the prior written permission of the Company, such persons will not release this document or discuss the information contained herein or make reproductions of or use this Memorandum for any purpose other than evaluating a potential purchase of Units.

This Memorandum does not purport to be all-inclusive or to contain all the information that a prospective investor may desire in investigating the Company. This Memorandum contains all of the information the Company deemed material to the evaluation of the Company and the Offering. Each prospective investor must conduct and rely on its own evaluation of the Company and the terms of the Offering, including the merits and risks involved, in making their investment decision. See "Risk Factors" on page 6.

Upon written request by any prospective investor or their representative, the Company will, prior to the completion of the Offering, answer questions concerning the terms and conditions of the Offering and will provide additional information which may be requested, to the extent it possesses such information or can obtain access thereto without unreasonable effort or expense, for purposes of verifying the accuracy of the information set forth herein.

### **Forward-Looking Statements**

This Memorandum contains statements about operating and financial plans, terms, and performance of the Company and other statements that may be deemed projections of future results. Forward-looking statements may be identified by the use of words such as "expect," "anticipate," "intend," "plan," "assume," "will," "may" and similar expressions. The forward-looking statements are based on various assumptions, and these assumptions may prove to be incorrect. Accordingly, such forward-looking statements might not accurately predict future events or the actual performance of an investment in Units. In addition, each prospective investor must disregard any projections and representations, written or oral, which do not conform to those contained in this Memorandum.

While the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, levels of activity, performance, or achievements. Moreover, neither the Company nor any other person assumes any responsibility for the accuracy or completeness of these statements or undertakes any obligation to revise these forward-looking statements to reflect events or circumstances after the date on the first page of this Memorandum or to reflect the occurrence of an unanticipated event.

EXCEPT AS OTHERWISE INDICATED, THIS MEMORANDUM SPEAKS AS OF THE DATE HEREOF. NEITHER THE DELIVERY OF THIS MEMORANDUM NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMPANY AFTER THE DATE HEREOF. IF A MATERIAL CHANGE SHOULD OCCUR, THE COMPANY WILL SUPPLEMENT THIS MEMORANDUM WITH THE RELEVANT INFORMATION REGARDING SUCH MATERIAL

CHANGE. ALL SUPPLEMENTS TO THIS MEMORANDUM (WHICH WILL BE DESIGNATED AS SUCH ON THE FACE THEREOF) SHALL BE DEEMED TO BE INCORPORATED INTO AND MADE PART OF THIS MEMORANDUM.

#### **NASAA UNIFORM LEGEND**

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FORGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE MADE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

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## INVESTOR SUITABILITY CRITERIA

### Accredited Investors

The investor suitability requirements stated below represent the minimum suitability requirements established by the Company for purchasers of Units; however, the satisfaction of these requirements by a prospective investor will not necessarily mean that Units are a suitable investment for such prospective investor or that the Company will accept the prospective investor as a Member. Furthermore, the Company may modify its investor suitability requirements, and such modifications may raise the suitability standards for prospective investors. The Units may be sold to prospective investors who the Company, after taking reasonable steps, verifies are an “Accredited Investor,” as defined under Rule 501 of Regulation D under the Securities Act and who invest a minimum of \$10,000.00 in Units, although the Company retains the right to waive such minimum.

In addition to the foregoing, each prospective investor must represent in writing that they meet, among other things, all of the following requirements:

- The prospective investor has received, reviewed, and understands this Memorandum and all Exhibits hereto;
- The prospective investor is basing their decision to invest in Units on this Memorandum and all Exhibits hereto, and on the advice of their legal counsel, accountants, and financial advisors;
- The prospective investor understands that an investment in Units involves substantial risks;
- The prospective investor’s overall commitment to non-liquid investments is, and after their investment in Units will be, reasonable in relation to their Net Worth and current needs;
- The prospective investor has adequate means of providing for their financial requirements, both current and anticipated, and has no need for liquidity in this investment;
- The prospective investor can bear the economic risk of losing their entire investment in Units;
- The prospective investor has such knowledge and experience in business and financial matters as to be capable of evaluating the merits and risks of an investment in Units;
- The prospective investor is acquiring Units for their own account and for investment purposes only and has no contract, undertaking, agreement, or arrangement to sell or otherwise transfer or dispose of any Units;
- The prospective investor has had an opportunity to ask questions of and receive answers from the Company, or a person or persons acting on its behalf, concerning the Company and the terms and conditions of this investment, and all such questions have been answered to their full satisfaction;
- Except as set forth in the Subscription Documents, no representations or warranties have been made to the prospective investor by the Company or any partner, agent, employee, or Affiliate thereof, and in entering into this transaction the prospective investor is not relying upon any information, other than that contained in the Memorandum, including its Exhibits; and
- The prospective investor understands that the Units constitute “restricted securities” as that term is defined in Rule 144 of the Securities Act.

Representations with respect to the foregoing and certain other matters will be made by each prospective investor for Units in the Subscription Agreement and related documents (“Subscription Documents”) attached as Exhibit 3 hereto.

A prospective investor who meets one of the following tests will qualify as an Accredited Investor:

- the prospective investor is a natural person who had individual income in excess of \$200,000 in each of the two most recent years, or joint income with that person’s spouse or spousal equivalent in excess of \$300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current year;
- the prospective investor is a natural person whose individual Net Worth (defined herein), or joint Net Worth with that person’s spouse or spousal equivalent, exceeds \$1,000,000 at the time of purchase of Units;
- the prospective investor is a trust with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring Units, whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he/she is capable of evaluating the merits and risks of an investment in Units;
- the prospective investor is a 501(c)(3), corporation, business trust, partnership, or limited liability company with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring Units;
- the prospective investor is an entity not formed for the specific purpose of acquiring the securities offered, owning investments in excess of \$5,000,000;
- the prospective investor is an employee benefit plan within the meaning of ERISA, in which the investment decision is made by a plan fiduciary (as defined in Section 3(21) of ERISA) which is either a bank, savings and loan association, insurance company, or registered investment adviser; or the employee benefit plan has total assets in excess of \$5,000,000; or is a self-directed plan in which investment decisions are made solely by persons who are Accredited Investors;
- the prospective investor is an entity (including an Individual Retirement Account trust) in which all of the equity owners are Accredited Investors as defined above;
- the prospective investor is a natural person holding in good standing a Series 7, 65, or 82 license or one or more professional certifications or designations or credentials from an accredited educational institution that the SEC has designated as qualifying an individual for accredited investor status;<sup>1</sup>
- the prospective investor is a “family office” as defined in the Investment Advisers Act of 1940 and (i) with assets under management in excess of \$5,000,000, (ii) that is not formed for the specific purpose of acquiring the securities offered, and (iii) whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment; or

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<sup>1</sup> The professional certifications or designations or credentials currently recognized by the SEC as satisfying the above criteria will be posted on its website.



- the prospective investor is a “family client” of a family office whose prospective investment is directed by the family office.

For purposes of determining Accredited Investor status, “Net Worth” is computed as the difference between total assets and total liabilities while excluding any positive equity in the prospective investor’s primary residence but, if the net effect of the mortgage results in negative equity, the prospective investor should include any negative effects in calculating his/her Net Worth. The prospective investor should also subtract from their Net Worth any additional indebtedness secured by his/her primary residence incurred within the 60 days prior to his/her purchase of the Units (other than debt incurred as a result of the acquisition of the primary residence). In determining income, prospective investors should add to their adjusted gross income any amounts attributable to tax-exempt income received, losses claimed as a limited partner or member in any limited partnership or limited liability company, deductions claimed for depletion, contributions to an IRA or Keogh retirement plan, alimony payments, and any amount by which income from long-term capital gains has been reduced in arriving at adjusted gross income. In the case of fiduciary accounts, the Net Worth and/or income suitability requirements may be satisfied by the beneficiary of the account, or by the fiduciary if the fiduciary directly or indirectly provides funds for the purchase of Units.

The Company must take “reasonable steps” to verify the Accredited Investor status of purchasers. Such steps may include (i) verification based on income, by reviewing copies of any Internal Revenue Service form that reports income, such as Form W-2, Form 1099, Schedule K-1 of Form 1065, and a filed Form 1040; (ii) verification on net worth, by reviewing specific types of documentation dated within the prior three months, such as bank statements, brokerage statements, certificates of deposit, tax assessments and a credit report from at least one of the nationwide consumer reporting agencies, and obtaining a written representation from the investor; or (iii) a written confirmation from a registered broker-dealer, an SEC-registered investment adviser, a licensed attorney, or a certified public accountant stating that such person or entity has taken reasonable steps to verify that the purchaser is an Accredited Investor and has determined that such purchaser is an Accredited Investor. Investors must be prepared to provide such information to the Company or approved third-party.

Being permitted to invest in the Offering does not necessarily mean that the purchase of its Units is a suitable investment. The purchase of Units should never be a complete investment program for any person and should represent only a small portion of any person’s or entity’s complete investment portfolio. Persons and entities should not purchase Units unless they are able to bear the risk of loss of their entire investment.

## MEMORANDUM SUMMARY

This summary highlights information contained elsewhere in this Memorandum. It is not complete and may not contain all of the information that prospective investors should consider before investing in Units. Each prospective investor is urged to read this Memorandum and the additional information it refers to directly in its entirety.

**THE COMPANY** Kidokinetics Franchise Corp., a Florida corporation was formed on July 29, 2005 and converted into Kidokinetics Franchise LLC, a Florida limited liability company on March 9, 2021 to offer franchise opportunities for Kidokinetics businesses which provide physical fitness programs for young children through an introduction to sports and a variety of other related activities and services.

**Management:** All of the business, investments, and affairs of the Company will be directed by David Pazgan and Terri Braun, the Managers of the Company.

**Mailing Address:** Kidokinetics Franchise LLC  
c/o Terri Braun  
10428 West SR 84, Unit 1  
Davie, FL 33324

<b>Units Outstanding:</b>	<b>Name of Person or Group</b>	<b>Number</b>
	Outstanding Class A Units	8,975
	Outstanding Class B Units	1,024.94
	Unissued, Offered Class B Units:	1,000

The Company anticipates selling the above unissued Class B Units to fund its activities. The Managers and their Affiliates or designees may purchase such Units on the same terms as those offered to prospective investors. Class A Units are reserved for the Managers, their Affiliates or designees, and other Persons designated by the Managers.

## THE OFFERING

**Securities Offered:** This Offering is for the sale of a maximum of 1,000 Class B Units. The Units will be offered pursuant to this Memorandum for \$1,000.00 per Unit, for a total of up to \$1,000,000.00 if all offered Units are sold. There is no minimum Offering amount, and Offering proceeds will be available immediately for the Company's use. This Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier, or as otherwise determined in the discretion of the Managers.

**Investor Suitability:** This Offering is restricted to Accredited investors, as determined in accordance with Regulation D under the Securities Act. Prospective investors should not purchase Units unless they have substantial financial means, have no need for liquidity in the investment, and can afford to bear the loss of their entire investment.

**Use of Proceeds:** See "Estimated Use of Proceeds" on page 17 for a complete description of the Company's expected allocations of the proceeds from this Offering.

**Exit Strategies:** The Company expects to be self-liquidating through the sale and distribution of all the assets of the Company. The Company's management targeting an exit in approximately five years; however, actual results may vary materially. Prospective investors should be prepared to leave their investment in the Company indefinitely until such an exit event occurs.

**Distribution of Cash:** Please see the section titled "Distributions and Allocations" on page 22 for a summary on how distributions are allocated to Units. For complete distribution procedures, please see the Company's Third Amended and Restated Operating Agreement, dated May 14, 2024 (the "Operating Agreement") contained in Exhibit 2.

**Allocation of Profits and Losses:** During the Company term and upon its liquidation, the Company shall allocate all Profits first to each Member in proportion to its cumulative distributions, not including return of capital, until all such distributions have been so allocated as

Profits. The balance, if any, will then be allocated to the Members in proportion to their Membership interests.

Losses will be allocated first to the Members in proportion to and to the extent of their Profits, if any, previously allocated in reverse order in which Profit was allocated. Second, the balance, if any, will be allocated to the Members in proportion to their Membership interests.

See “Allocation of Profits and Losses” in the Operating Agreement for a complete description of the procedure for the allocation Profits and Losses.

**Use of Financing:** The Company may seek debt financing to cover operational expenses in the discretion of the Managers. Such debt may be obtained from banks, insurance companies, private lenders, or other commercial sources of funds.

Such debt could be on a full, partial, or non-recourse basis, be at a fixed or floating interest rate, and/or make use of interest-rate swap or hedging agreements. Any debt financing obtained by the Company will be the Company’s sole responsibility and not an obligation of any Member (other than, if required by a lender, the Managers, key principal(s), or one or more Affiliates).

Any debt is expected to be paid through the revenues from the operation of the Company and reserves set aside through this Offering. See “Risk Factors” on page 6.

**Fees:** The Managers and their Affiliates and third-parties will receive reasonable, but possibly substantial, fees and compensation in connection with this Offering and the management and operations of the Company’s assets, and reimbursement for expenses incurred on behalf of the Company. These expected fees and compensation will be paid out of capital contributions, revenues, reserves, and as further described in the section titled “Management Compensation and Fees” on page 19.

**Conflicts of Interest:** The Managers and their Affiliates may engage in and possess interests in other business ventures of any and every type or description, independently or with others, whether similar or dissimilar to the Company’s business. Neither the Company nor any investor shall have any right, title, or interest in or to such independent ventures. The Managers and their Affiliates may conduct similar investment offerings through any such independent venture without liability to the Company for so doing. The Managers and their Affiliates are under no obligation to present any investment opportunity to the Company even if such opportunity is of a character that if presented to the Company, could be acquired by the Company for its own account.

**Operating Agreement:** The Company will be governed by the Operating Agreement. It contains detailed provisions respecting the Company’s governance, accounting and financial matters, restrictions on the transfer of Units, and other important information.

**Transfer Restrictions:** Units constitute “restricted securities,” as that term is defined in Rule 144, promulgated under the Securities Act, and cannot be resold unless such resale is registered under the Securities Act and applicable state securities laws or is

exempt from such registration provisions. Even if Units purchased in this Offering are eligible for resale, there is no trading market for such Units, and none is likely to develop.

**Offering Period:** The Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier. However, the Managers may choose to close this Offering earlier, at any time, for any reason.

**Method of Distribution:** Units will be offered through the Company's management on a "best-efforts" basis. Such management will not receive commissions or other compensation for such efforts.

**How to Purchase Units:** In order to purchase Units, prospective investors must deliver signed copies of the separately bound Subscription Documents to Kidokinetics Franchise LLC.

The Company will promptly confirm in writing either the intent to accept or reject, in whole or in part, each subscription. On acceptance, the subscription agreement automatically becomes a binding, bilateral agreement for the purchase of the number of Units accepted. Subscription Documents may be completed at <http://www.kidokinetics.franshares.com>.

## RISK FACTORS

PROSPECTIVE INVESTORS SHOULD BE AWARE THAT PURCHASING UNITS IS A SPECULATIVE INVESTMENT AND INVOLVES A HIGH DEGREE OF RISK. PROSPECTIVE INVESTORS SHOULD CAREFULLY READ THIS MEMORANDUM AND ALL EXHIBITS PRIOR TO MAKING AN INVESTMENT AND SHOULD BE ABLE TO BEAR THE COMPLETE LOSS OF THEIR INVESTMENT.

In addition to the negative implications of all information and financial data included or referred to directly in this Memorandum, prospective investors should consider the following risk factors before making an investment in Units. This Memorandum contains forward-looking statements and information concerning the Company, its investment plans, and other future events. These statements should be read together with the discussion of risk factors set forth below because those risk factors could cause actual results to differ materially from such forward-looking statements. The cautionary statements set forth under this section and elsewhere in this Memorandum identify important factors with respect to forward-looking statements.

### Investment and Offering Risks

*The purchase of Units is not a diversified investment.* Because the Company intends to invest in a single asset class, an investment in the Company is not a diversified investment. The poor performance of the asset or asset class could adversely affect the profitability of the Company.

*An inability to raise substantial funds in this Offering would have substantial effect on the Company's financing strategy.* Units will be offered and sold on a "best efforts" basis. No investor has made a firm commitment or obligation to purchase any Units. As a result, the proceeds raised in this Offering may be substantially less than the amount the Company would need to meet its investment objectives. The Company may proceed with alternative financing (potentially on different terms than offered herein) in order to meet its operational goals. It is not certain the Company would be able to successfully negotiate any such alternative financing, which could materially and negatively impact its investment objectives.

*The Company cannot assure that the Offering price of Units is an accurate reflection of their value.* The Offering price of Units has been determined by the Company taking into account its Offering expenses, prospects, the number of securities to be offered, and the general condition of the securities market, all as assessed by its management. Such prices are not directly correlated to the Company's assets, earnings, net tangible book value, or any other traditional criteria of value.

*There is no guarantee of a return on an investor's investment.* The Company's business objectives must be considered highly speculative. There is no assurance that an investor will realize a return on their investment or that they will not lose their entire investment. For this reason, each investor should read this Memorandum and all exhibits carefully and should consult with their attorney and business advisor prior to making any investment decision.

*The securities acquired in this offering may be significantly diluted as a consequence of other equity financings.* The Company's equity securities could be subject to dilution via the sale of additional Class B Units or the creation and sale of additional classes of Units, which may have priority over the securities offered in this Offering. Whether such securities will ultimately be sold by the Company is uncertain at this time, and as a consequence holders of the securities offered herein could be subject to dilution in an unpredictable amount. Such dilution may reduce an investor's economic interests in the Company.

*The purchase of Units is a speculative investment.* The Company's business objectives must be considered highly speculative. No assurance can be given that prospective investors will realize their investment objectives or will realize a substantial return (if any) on their investment or that they will not lose their entire investment in the Company. For this reason, each prospective investor should carefully read this Memorandum and all Exhibits hereto in their entirety. EACH PROSPECTIVE INVESTOR SHOULD CONSULT WITH THEIR ATTORNEYS, ACCOUNTANTS, AND BUSINESS ADVISERS PRIOR TO MAKING AN INVESTMENT.

*Restrictions on transferability of securities will limit the ability of purchasers to transfer their Units.* Units offered hereby will be "restricted securities" within the meaning of the Securities Act and, consequently, will be subject to the restrictions on transfer set forth in the Securities Act, the Securities Exchange Act, and the rules and regulations promulgated thereunder. In addition, such securities are subject to restrictions on transfer under applicable state securities laws under which such securities are sold in reliance on certain exemptions or under the provisions of certain qualifications. As restricted securities, the Units may not be sold in the absence of registration or the availability of an exemption from such registration requirements. In addition, Members may not withdraw capital from the Company. It is not contemplated that registration of Units under the Securities Act or other securities laws will be effected. There is no public market for Units, and one is not expected to develop.

*Units are expected to be offered under a private offering exemption, and if it were later determined that such exemption was not available, purchasers would be entitled to rescind their purchase agreements.* Units are being offered to prospective investors pursuant to the so-called limited or private offering exemption from registration under Section 4(a)(2) and Rule 506(c) of Regulation D under the Securities Act. Unless the sale of Units should qualify for such exemption, either pursuant to Regulation D promulgated thereunder or otherwise, the investors might have the right to rescind their purchase of Units. Since compliance with these exemptions is highly technical, it is possible that if an investor were to seek rescission, such investor would succeed. A similar situation prevails under state law in those states where Units may be offered without registration. If a number of investors were to be successful in seeking rescission, the Company would face severe financial demands that could adversely affect the Company and, thus, the non-rescinding investors. Inasmuch as the basis for relying on exemptions is factual, depending on the Company's conduct and the conduct of persons contacting prospective investors and making the Offering, the Company will not receive a legal opinion to the effect that this Offering is exempt from registration under any federal or

state law. Instead, the Company will rely on the operative facts as documented as the Company's basis for such exemptions.

*This Offering has not been registered with the SEC or any state securities authorities.* This Offering will not be registered or qualified with the SEC under the Securities Act or with the securities agency of any state, and Units are being offered in reliance upon an exemption from the registration provisions of the Securities Act and state securities laws applicable only to offers and sales to investors for Units meeting the suitability requirements set forth in this Memorandum. Since this is a nonpublic Offering and, as such, is not registered under federal or state securities laws, prospective investors for Units will not have the benefit of review by the SEC or any state securities regulatory authority. The terms and conditions of the Offering may not comply with the guidelines and regulations established for offerings that are required to be registered and qualified with those agencies.

## **Operational Risks**

*The Company will experience those risks associated with an investment in and ownership of membership units in a limited liability company.* There are significant restrictions placed on the Company via the Operating Agreement, including, but not limited to, restrictions on transfer of Units, voting, distributions, withdrawal, management, dissolution, and dispute resolution.

*The Managers have significant flexibility with regard to the Company's operations and investments.* The Company's agreements and arrangements with its Managers and the Managers' Affiliates have been established by the Managers and may not be on an arm's-length basis. The Managers have considerable discretion with respect to all decisions relating to the terms and timing of transactions.

*There may be significant conflicts of interest between the Managers and their Affiliates and the Company.* The Managers and their Affiliates may engage in activities other than the ownership, service, and management of the Company, some of which may compete directly with the Company. In addition, affiliates of the Managers are entitled to compensation for consulting services pursuant to the Company's Operating Agreement. This compensation was not negotiated in arm's length transactions. Our Managers will try to balance the Company's interests with their interests and their affiliates' interests, to the extent they compete. However, to the extent that such parties take actions that are more favorable to other entities than the Company, these actions could have a negative impact on the Company's financial performance and, consequently, on distributions to investors and the value of the Units. We have not adopted, and do not intend to adopt in the future, either a conflicts of interest policy or a conflicts resolution policy.

*The liability of the management is limited.* As a result of certain exculpation and indemnification provisions in the Operating Agreement, the Managers and their officers, employees, agents, attorneys, and certain other parties may not be liable to the Company or its Members for errors of judgment or other acts or omissions not constituting fraud, intentional misconduct, criminal act, or gross negligence. A successful claim for such indemnification would deplete the assets of the Company by the amount paid.

*Any inability to protect our intellectual property rights could reduce the value of our franchises and brand, which could adversely affect our financial condition, results of operations and business.* Our business is dependent upon our trademarks and other intellectual property rights. The efforts we have taken to protect our proprietary rights may not be sufficient or effective. Any significant impairment of our intellectual property rights could harm our business reputation or our ability to compete. In addition, protecting our intellectual property rights is costly and time consuming. There is a risk that we may have insufficient resources to counter adequately such infringements through negotiation or the use of legal remedies. It may not be practicable or cost effective for us to fully protect our intellectual property rights in some jurisdictions. If we are unable to successfully identify and stop unauthorized use of our intellectual property,

we could lose potential revenue, experience diminished brand reputation, and experience increased operational and enforcement costs, which could adversely affect our financial condition, results of operations and business.

*Cash Distributions will be made in the discretion of the Managers.* We presently do not anticipate that we will pay any cash distributions in the foreseeable future. The payment of cash distributions, if any, would be contingent upon our revenues and earnings, if any, capital requirements, and general financial condition. The payment of any cash distributions will be within the discretion of the Managers. We presently intend to retain all earnings to implement our business plan; accordingly, we do not anticipate the declaration of any cash distributions in the foreseeable future.

*We depend heavily on key personnel, and turnover of key senior management could harm our business.* The Company's future business and results of operations depend in significant part upon the continued contributions of our senior management personnel. If we lose their services or if they fail to perform in their current positions, or if we are not able to attract and retain skilled personnel as needed, our business could suffer. Significant turnover in our senior management could significantly deplete our institutional knowledge held by our existing senior management team. We depend on the skills and abilities of these key personnel in managing the product acquisition, marketing and sales aspects of our business, any part of which could be harmed by turnover in the future. We do not have any key person insurance.

*Information technology failures and data security breaches could harm our business.* We will use information technology and other computer resources to carry out important operational and marketing activities as well as maintain our business records, including information provided by our customers. Many of these resources are provided to us and/or maintained on our behalf by third-party service providers pursuant to agreements that specify certain security and service level standards. Our ability to conduct our business may be impaired if these resources are compromised, degraded, damaged or fail, whether due to a virus or other harmful circumstance, intentional breach or disruption of our information technology resources by a third party, natural disaster, hardware or software corruption, failure or error (including a failure of security controls incorporated into or applied to such hardware or software), telecommunications system failure, service provider error or failure, intentional or unintentional personnel actions (including the failure to follow our security protocols), or lost connectivity to our networked resources. A significant and extended disruption in the functioning of these resources could impair our operations, damage our reputation, and cause us to lose customers, sales, and revenue. In addition, breaches of our data security systems, including by cyber-attacks, could result in the unintended public disclosure or the misappropriation of our proprietary information or personal and confidential information, about our employees, consumers who view our homes, home buyers, and business partners, requiring us to incur significant expense to address and resolve these kinds of issues. The release of confidential information may lead to identity theft and related fraud, litigation, or other proceedings against us by affected individuals and/or business partners and/or by regulators, and the outcome of such proceedings, which could include penalties or fines, could have a material and adverse effect on our reputation, business, financial condition, and results of operations. Depending on its nature, a particular breach, or series of breaches of our systems may result in the unauthorized use, appropriation, or loss of confidential or proprietary information on a one-time or continuing basis, which may not be detected for a period of time. In addition, the costs of maintaining adequate protection against such threats, as they develop in the future (or as legal requirements related to data security increase) could be material.

*Current global financial conditions have been characterized by increased volatility which could negatively impact our business, prospects, liquidity, and financial condition.* Current global financial conditions and recent market events have been characterized by increased volatility and the resulting tightening of the credit and capital markets has reduced the amount of available liquidity and overall economic activity. We cannot guaranty that debt or equity financing, the ability to borrow funds or cash generated by operations

will be available or sufficient to meet or satisfy our initiatives, objectives, or requirements. Our inability to access sufficient amounts of capital on terms acceptable to us for our operations will negatively impact our business, prospects, liquidity, and financial condition.

*Maintenance of an Investment Company Act exemption imposes limits on the Company's operations, and if the Company were to become subject to the Investment Company Act, it likely could not continue its business.* The Company intends to conduct its operations so that it is not required to register as an investment company under the Investment Company Act of 1940 (the "Investment Company Act"). The Company intends to make investments that satisfy requirements that will exempt it from registration under the Investment Company Act and intends to monitor its compliance with applicable exemptions under the Investment Company Act on an ongoing basis. If it fails to comply with an exemption, it could, among other things, be required to register as an investment company or substantially change its operations and investment strategies in order to avoid being required to register as an investment company, either of which would have a material, adverse effect on the Company. If the Company is required to register as an investment company, it would become subject to substantial regulations and restrictions with respect to its capital structure, management, operations, transactions with affiliated persons, portfolio composition, and other matters. This could potentially force it to discontinue its business. The Company will face similar investment company concerns under the various blue-sky laws.

*Any projected results of operations included in this Memorandum are forward-looking statements that involve significant risks and uncertainty.* All materials or documents supplied by the Company should be considered speculative and are qualified in their entirety by the assumptions, information, and risks disclosed in this Memorandum. The assumptions and facts upon which such projections are based are subject to variations that may arise as future events actually occur, many of which are outside the Company's and the Managers' control. Any projections included herein are based on assumptions made regarding future events. There is no assurance that actual events will correspond with these assumptions. Actual results for any period may or may not equal currently estimated, approximate projections and may differ significantly. Therefore, prospective investors should consult with their tax and business advisers about the validity and reasonableness of the factual, accounting, and tax assumptions contained in this Memorandum and the Exhibits to this Memorandum. Neither the Company nor any other person or entity has been authorized to make any representation or warranty as to the future profitability of the Company or of an investment in Units.

*The borrowing of funds increases the risks of adverse effects on the Company's financial condition.* The Company may incur certain indebtedness. Payments of principal and interest will reduce cash available for distribution and/or reserve funds set aside for contingencies. If variable rate debt is incurred, increases in interest rates would increase interest costs, which would reduce the Company's returns.

*The investors are not represented by independent counsel.* The prospective Investors as a group have not been represented by independent counsel in connection with the formation of the Company or this Offering. The Company Agreement and amendments thereto have been prepared by counsel for the Manager and such counsel owes no duties of any kind to any Members of the Company.

*The Company will generally be subject to the risks associated with the franchises and their operation of sports fitness programs for children.*

Operating children's sports and fitness programs can be immensely rewarding, but it also comes with certain risks. Some of the key risks related to operating children's sports and fitness programs include, but are not limited to:



Lack of Supervision: The lack of supervision in sports and fitness programs for children poses significant risks to their safety and well-being. Without proper supervision, children are more vulnerable to accidents, injuries, and emergencies. They may engage in risky behavior, misuse equipment, or wander into unsafe areas. In the event of an injury or emergency, the absence of supervision can delay or prevent timely assistance and medical care. Additionally, the lack of supervision increases the risk of inappropriate behavior, bullying, or abuse among participants. To ensure the safety of children in sports and fitness programs, it is essential to maintain appropriate adult-to-child ratios, provide adequate training to staff and volunteers, and implement clear safety rules and guidelines. Supervision is crucial for creating a safe and supportive environment where children can enjoy physical activity and develop their skills with confidence.

Health Issues: Participation in sports and fitness programs offers numerous benefits for children, but it also comes with certain health risks. One of the primary concerns is the risk of injuries such as sprains, strains, fractures, and concussions. Overuse injuries are also common, resulting from repetitive motions or excessive training. Additionally, children may experience heat-related illnesses, dehydration, and exhaustion, particularly during intense physical activities or in hot weather. Moreover, children with pre-existing health conditions, such as asthma or allergies, may be at increased risk of experiencing medical emergencies during sports and fitness programs.

Safety Hazards: Safety hazard risks for children participating in sports and fitness programs can vary depending on the nature of the activities and the environment in which they take place. If the Company does not provide adequate guidance to its franchisors how to mitigate these risks or a franchisor fails to do so, it can lead to injury for the participants. Some of these safety hazards include:

Facility Hazards:

- Uneven playing surfaces
- Slippery floors
- Poorly maintained equipment and facilities
- Inadequate lighting
- Lack of proper signage for hazards

Equipment Hazards:

- Defective or poorly maintained sports equipment
- Improperly fitting protective gear (e.g., helmets, pads)
- Inappropriate equipment for the child's age or skill level
- Environmental Hazards:
  - Extreme weather conditions (heat, cold, rain, lightning)
  - Exposure to UV radiation from the sun
  - Allergens in the environment (e.g., pollen, insect stings)

Safety Hazards during Activities:

- Contact with other participants leading to collisions or falls
- Overexertion and dehydration
- Inadequate supervision leading to risky behavior
- Lack of emergency response plan in case of accidents or injuries.

Misconduct and Abuse: Misconduct and abuse pose significant risks to children participating in sports and fitness programs. Without proper safeguards in place, children may be vulnerable to various forms of misconduct, including verbal, physical, or sexual abuse, as well as bullying and harassment. Coaches, volunteers, or other participants may engage in inappropriate behavior that can cause emotional, physical,

or psychological harm to children. It is essential for sports and fitness programs to implement thorough background checks for all staff and volunteers, provide training on appropriate conduct and child protection protocols, and establish clear codes of conduct and reporting procedures. Creating a safe and supportive environment where children feel comfortable reporting any instances of misconduct or abuse is crucial for ensuring their safety and well-being while participating in sports and fitness programs. Failure to do so could lead to legal liability for the franchisors and possibly the Company and could cause significant harm to the brand.

**Weather-related Risks:** Outdoor activities can be affected by adverse weather conditions such as extreme heat, cold, rain, or lightning. It's essential to have appropriate policies in place to ensure the safety of participants during inclement weather.

**Overtraining and Burnout:** Pushing children too hard or focusing excessively on competition can lead to overtraining, burnout, and physical or emotional stress. It's important to prioritize the well-being of the children and promote a balanced approach to sports and fitness.

**Communicable Diseases:** Children in close contact during sports activities can spread communicable diseases. Implementing proper hygiene practices and having protocols for dealing with outbreaks can help reduce this risk.

**Legal and Regulatory Compliance:** Failure to comply with legal and regulatory requirements, such as child protection laws, safety standards, and insurance requirements, can result in legal consequences and damage to the Company's brand and reputation, which could seriously affect its ability to expand its business operations.

## **Franchise Related Risks**

*Maintaining a strong brand reputation is essential for the success of a franchisor business. However, several factors can pose risks to the brand's reputation. One significant risk is the inconsistent performance or behavior of franchisees. Poor service, product quality issues, or ethical misconduct by individual franchisees can quickly tarnish the brand's image, leading to a loss of customer trust and loyalty. Moreover, any negative publicity, such as lawsuits, scandals, or social media backlash involving franchisees, can also have a detrimental impact on the brand's reputation. Therefore, the Company must implement stringent quality control measures, provide comprehensive training, and support to franchisees, and have effective communication channels in place to address any issues promptly. Additionally, regular monitoring, feedback mechanisms, and proactive reputation management strategies are crucial to mitigate these risks and uphold the brand's integrity and credibility in the market. Failure to do so could lead to losses for the Company and its Members.*

*Legal and regulatory compliance is a critical aspect of operating a franchisor business, and failure to comply with relevant laws and regulations can pose significant risks to the Company. Franchisors must adhere to various legal requirements, including franchise disclosure laws, intellectual property laws, and other business regulations. One major risk is non-compliance with franchise disclosure laws. Franchisors are typically required to provide prospective franchisees with a Franchise Disclosure Document (FDD) containing important information about the franchise opportunity. Failure to provide an accurate and complete FDD, or failure to update the FDD as required by law, can lead to legal action, fines, and damage to the franchisor's reputation. Intellectual property (IP) protection is another crucial area of compliance for franchisors. Protecting trademarks, copyrights, and other intellectual property assets is essential for maintaining the integrity and value of the brand. Franchisors must ensure that franchisees adhere to brand standards and use intellectual property only as authorized. Additionally, franchisors must comply with various other legal and regulatory requirements, including employment laws, consumer protection laws,*

advertising regulations, and tax laws. Failure to comply with these laws can result in legal action, fines, and other penalties.

*Franchisee performance is a significant risk factor for the Company, as the success of the Company depends heavily on the performance of its franchisees.* Poorly performing franchisees can damage the brand's reputation, lead to financial losses, and hinder the overall growth and success of the franchise network. One major risk is the inability of franchisees to adhere to the Company's standards and operating procedures. Variations in product quality, customer service, and overall brand experience can lead to customer dissatisfaction and erode trust in the brand. Franchisees who fail to maintain consistent standards can also create negative publicity and damage the franchisor's reputation. Another risk is the financial performance of franchisees. Franchisees who struggle to generate sufficient revenue may be unable to meet their financial obligations to the Company, such as royalty payments and advertising fees. This can impact the Company's revenue stream and profitability, particularly if a significant number of franchisees are underperforming. Franchisees may struggle with operational inefficiencies, leading to increased costs, reduced profitability, and a negative customer experience. Inefficient inventory management, staffing issues, and inadequate training can all contribute to operational challenges. In addition, franchisees operate in diverse local markets, each with its own unique challenges. Economic downturns, changes in consumer preferences, and local competition can all impact the performance of individual franchise units.

*The Company faces several risks related to its relationships with franchisees, which can significantly impact the success and stability of the franchise network.* One key risk is the potential for conflicts and disputes between the Company and franchisees. Disagreements over territory, marketing strategies, operating standards, and other issues can strain the relationship and lead to legal disputes, damage to the brand's reputation, and financial losses for both parties. Moreover, the Company relies on franchisees to represent its brand and deliver a consistent customer experience. If franchisees fail to meet the Company's standards for quality, service, and professionalism, it can undermine the brand's reputation and erode customer trust. The Company must establish clear communication channels, provide ongoing support and training, and implement systems to monitor and enforce compliance with brand standards to mitigate this risk. Another risk is the financial health of franchisees.

*The Company faces significant risks related to market competition, which can impact their ability to attract customers, grow their business, and maintain profitability.* One key risk is the presence of competing franchisors offering similar products or services. Intense competition can lead to price wars, reduced profit margins, and increased marketing expenses if the Company is forced to vie for market share. The Company must differentiate its brand, products, or services to stand out in a crowded market and attract customers, which can lead to additional operating costs. Moreover, changes in consumer preferences, market trends, and emerging competitors can pose additional risks for the Company. Technological advancements, shifts in consumer behavior, and new market entrants can disrupt established business models and threaten the competitiveness of the Company's existing franchise network. The Company must continuously monitor the market, anticipate changes, and adapt their strategies accordingly to stay ahead of the competition. Additionally, as the Company expands into new markets or geographic regions, it may face additional competition and market-specific risks. Cultural differences, regulatory requirements, and local competitors can present unique challenges for the Company as it seeks to establish a presence in unfamiliar territories. The Company must conduct thorough market research, tailor their strategies to local preferences and conditions, and provide comprehensive support and training to franchisees to ensure success in new markets.

*Economic conditions play a significant role in the success of the Company, and fluctuations in the economy can pose various risks.* Economic downturns, recessions, and fluctuations in consumer spending can all impact the demand for the products or services offered by the Company and its franchises. During periods of economic uncertainty, consumers may reduce discretionary spending, leading to decreased sales and

revenue for the Company and its franchisees. Moreover, changes in interest rates, inflation, and currency exchange rates can affect operating costs, borrowing costs, and profitability for the Company. Rising costs can put pressure on profit margins. Additionally, economic conditions can impact the availability of financing for franchisees looking to start or expand their businesses. Tightened credit markets and reduced access to capital can hinder franchise growth and expansion, limiting the franchisor's ability to grow its network and increase revenue. Furthermore, changes in government regulations, tax laws, and trade policies can impact operating costs, compliance requirements, and profitability for the Company and its franchisees. The Company must stay informed about changes in regulatory and tax environments and be prepared to adjust its strategies and operations accordingly.

*Supply chain risks can significantly impact the Company, affecting its ability to deliver products and services to customers through their franchise network.* The Company relies on suppliers to provide them and their franchisees with the necessary products to operation their businesses. Dependency on a limited number of suppliers increases the risk of supply chain disruptions if one or more suppliers experience production delays, quality issues, or other problems. Natural disasters, political instability, labor strikes, and other unexpected events can disrupt the supply chain, leading to shortages, delays, and increased costs. The Company must have contingency plans in place to mitigate the impact of supply chain disruptions and ensure business continuity. In addition, transportation delays, congestion, and rising transportation costs can impact the timely delivery of products to franchise locations. Inaccurate demand forecasting, overstocking, and understocking can lead to excess inventory, increased carrying costs, and potential product wastage.

*The Company faces various technology-related risks that can impact its business operations and franchise network.* One significant risk is cybersecurity threats, including data breaches, malware, and ransomware attacks. The Company collects and store sensitive information about their franchise network, including customer data, financial records, and intellectual property. A cyber-attack can compromise this information, leading to financial losses, legal liabilities, and damage to the brand's reputation. Therefore, the Company must invest in robust cybersecurity measures, such as firewalls, encryption, and intrusion detection systems, to protect their IT systems and data from unauthorized access and cyber threats. Another technology risk for the Company is data privacy compliance. The Company must comply with data privacy regulations. Failure to adequately protect customer data and comply with data privacy laws can result in regulatory fines, legal penalties, and damage to the brand's reputation. The Company must implement data privacy controls, such as data encryption, access controls, and data breach response plans, to safeguard customer data and ensure compliance with data privacy regulations. Furthermore, technology failures and downtime can disrupt business operations and impact the Company's franchise network. The Company relies on IT systems and infrastructure to support its business operations, including franchisee management, supply chain management, and marketing activities. IT system failures, downtime, or disruptions can lead to lost sales, customer dissatisfaction, and damage to the brand's reputation.

*Financial risks are a significant concern for the Company, impacting its profitability, growth, and overall stability.* One major financial risk is the potential for underestimating costs and overestimating revenue potential as the Company grows. The Company may incur significant expenses in supporting its franchise network, including marketing, training, and operational support for franchisees. If costs are underestimated or revenue projections are overly optimistic, the Company may face financial difficulties and struggle to achieve profitability as it grows its network. Additionally, cash flow problems can pose a significant risk for the Company, particularly if it relies heavily on royalty payments and other fees from franchisees for revenue. Fluctuations in franchisee performance, economic conditions, or market competition can impact franchisee revenue and cash flow, making it challenging for the Company to maintain financial stability and meet its own financial obligations. Moreover, the Company may face challenges in securing financing for expansion and growth. Lenders may be reluctant to provide financing to the Company. The Company must

carefully manage its financial resources, maintain strong relationships with lenders, and demonstrate a track record of financial stability and profitability to secure financing for expansion and growth.

*Litigation risks pose significant challenges for the Company, potentially resulting in financial losses, damage to their reputation, and disruptions to their business operations.* The Company may face various types of litigation, including disputes with franchisees, customers, employees, or third parties. One major litigation risk for the Company is disputes with franchisees. Franchisees may allege breach of contract, fraud, misrepresentation, or violations of franchise laws or regulations. Disputes may arise over territory rights, advertising requirements, operational standards, or other issues. Franchisors must carefully manage their relationships with franchisees, communicate effectively, and enforce their franchise agreements to minimize the risk of litigation. Moreover, the Company may face lawsuits from customers alleging product defects, foodborne illnesses, injuries, or other damages. Franchisors may be held liable for the actions of their franchisees, particularly if they are found to have control over the franchisee's operations or have failed to enforce brand standards. Franchisors must implement rigorous quality control measures, provide comprehensive training, and support to franchisees, and maintain appropriate insurance coverage to mitigate the risk of customer litigation. Additionally, the Company may face employment-related lawsuits from current or former employees alleging discrimination, harassment, wrongful termination, wage and hour violations, or other employment-related claims. The Company must comply with applicable employment laws and regulations, provide proper training, and support to franchisees, and implement effective human resources policies and procedures to minimize the risk of employment-related litigation.

Furthermore, the Company may face significant legal risks if a franchisee is found to have committed child abuse. While the Company's franchise agreement establishes a legal separation between the Company and its franchisees, there are situations where the Company could be held liable for the actions of its franchisees, particularly if the Company failed to implement adequate safeguards or ignored warning signs of abuse. One legal risk is potential liability for negligent supervision. If the Company had knowledge or should have had knowledge of the franchisee's actions and failed to take appropriate steps to prevent harm, it could be held liable for negligent supervision. This could include failure to conduct thorough background checks on franchisees, failure to monitor franchisee operations, or failure to respond to complaints or reports of abuse. Additionally, the Company could face liability under vicarious liability principles. If it can be shown that the franchisee was acting within the scope of its authority as a franchisee when the abuse occurred, the Company could be held vicariously liable for the actions of the franchisee. This could include situations where the abuse occurred on the premises of the franchised business or during the course of business operations.

*Reputational risks are a significant concern for the Company, as its brand reputation is essential to the success and sustainability of its franchise network.* Negative publicity, scandals, or ethical issues can damage the Company's reputation, erode customer trust, and impact the entire franchise network. One major reputational risk for the Company is the behavior and performance of franchisees. Poor service, product quality issues, or ethical misconduct by individual franchisees can tarnish the brand's image and lead to customer dissatisfaction. The Company must enforce brand standards, provide comprehensive training, and support to franchisees, and implement systems to monitor and enforce compliance with brand standards to mitigate this risk. Moreover, any negative publicity, such as lawsuits, scandals, or social media backlash involving franchisees, can also have a detrimental impact on the Company's reputations.

## **Federal Income Tax Risks**

*Possible changes in federal/local tax laws or the application of existing federal/local tax laws may result in significant variability in our results of operations and tax liability for the investor.* The Internal Revenue Code of 1986, as amended, is subject to change by Congress, and interpretations may be modified or affected by judicial decisions, by the Treasury Department through changes in regulations and by the

Internal Revenue Service through its audit policy, announcements, and published and private rulings. Although significant changes to the tax laws historically have been given prospective application, no assurance can be given that any changes made in the tax law affecting an investment in any Units of our Company would be limited to prospective effect. Accordingly, the ultimate effect on an investor's tax situation may be governed by laws, regulations or interpretations of laws or regulations which have not yet been proposed, passed, or made, as the case may be.

*An investment in the Company raises significant tax issues, and the tax treatment of an investment in the Company may vary significantly from investor to investor. Please carefully review the below risks, among others, and consult your own tax adviser about the specific tax consequences to you before investing.*

- The tax allocation of the Company's income and loss may be challenged by the Internal Revenue Service.
- An audit of the Company's return by the Internal Revenue Service may lead to adjustments to the Members' tax returns and an audit of the Members' tax returns.
- Under the Bipartisan Budget Act of 2015, which took effect in January of 2018, the Company must designate a Partnership Representative for each tax year. Federal law gives the Partnership Representative significant discretion in the event of an audit by the Internal Revenue Service, including the sole authority to make elections that bind the Company and all of the Members. While it is the intent of the Company that the Partnership Representative do what is in the best interests of the Company, actions taken by the Partnership Representative may have a negative effect on one or more current or former Members.
- Any tax benefits from ownership of Units will not be available unless the Company and the Company's Members have a profit motive.

*The Company has not requested an IRS ruling as to its partnership tax status. The Company is electing to be taxed as a partnership. Partnerships are generally pass-through entities for tax purposes, meaning that the income and deductions pass through to the individual partners rather than being taxed at the entity level. If the Company's tax status as a partnership is reclassified as a corporation by the IRS, it can have several implications and risks for both the Company and its members including, but not limited to, the following:*

- **Double Taxation:** Corporations are subject to double taxation, meaning that the corporate income is taxed at the entity level, and then any distributions or dividends to shareholders are taxed again at the individual level. This is different from partnerships, which are pass-through entities, and income is only taxed at the individual partner level.
- **Loss of Pass-Through Benefits:** Partnerships enjoy pass-through taxation, where profits and losses flow through to the individual partners. If reclassified as a corporation, the entity loses this pass-through treatment, and income is taxed at both the corporate and individual levels.
- **Change in Tax Rates:** Corporate tax rates may be different from individual tax rates. Reclassification could result in partners facing higher or lower tax rates on their share of the income.
- **Additional Compliance Requirements:** Corporations have different reporting and compliance requirements than partnerships. This includes filing corporate tax returns and adhering to corporate governance and regulatory standards.

- **Changes in Deductibility:** Some deductions and credits available to partnerships may not be available to corporations, and vice versa. The reclassification could impact the ability to claim certain tax benefits.
- **Impact on Members' Basis:** The tax basis of a partner's interest in the partnership affects the taxation of distributions and sales of partnership interests. Reclassification may alter the members' basis calculations.

EACH RISK DESCRIBED ABOVE MAY AFFECT THE MANAGEMENT, INVESTMENT, OR OTHER TRANSACTIONS RELATED TO THE COMPANY. FOR ALL OF THE FOREGOING REASONS AND OTHERS SET FORTH HEREIN, AN INVESTMENT IN UNITS INVOLVES A HIGH DEGREE OF RISK. ANY PERSON OR ENTITY CONSIDERING AN INVESTMENT IN UNITS OFFERED HEREBY SHOULD BE AWARE OF THESE AND OTHER RISK FACTORS SET FORTH IN THIS MEMORANDUM.

### **ESTIMATED USE OF PROCEEDS**

The proceeds of this Offering will be used for working capital for Company operations on an as-needed basis.

### **INVESTMENT OBJECTIVES**

#### **The Investment**

The Company is raising funds in this Offering to expand the operations of the Company. The Company has the following additional objectives:

Provide cash for distribution to the Members. An investment objective of the Company is to generate Distributable Cash from operations of the Company.

Provide the Members the opportunity to take part in the investment process with minimal involvement in management. An investment objective of the Company is to provide an opportunity for the Members to participate in the investment process, which an individual Member may not desire or be able to accomplish on their own. The Managers will additionally manage the Company so that the Members will have minimal involvement in the management of the Company.

Provide the Members with limited liability. An investment objective of the Company is to provide the Members with limited liability. The Company is structured so that the Members will have the limited liability afforded to them as designated by the Act.

#### **The Business**

Kidokinetics Franchise Corp., a Florida corporation was formed on July 29, 2005 and converted into Kidokinetics Franchise LLC, a Florida limited liability company on March 9, 2021 to offer franchise opportunities for Kidokinetics businesses which provide physical fitness programs for young children through an introduction to sports and a variety of other related activities and services.

The Kidokinetics business focuses on children ages 18 months and up and accommodates children who are not fully mentally or physically able. The Kidokinetics business is a mobile business that provides sports fitness programs to children at schools, parks, community centers, summer camps, hotels, gyms, health centers and similar establishments within a designated territory. The operating system includes recognizable

design, décor color scheme, uniform standards, specifications, rules and procedures of operation, techniques, philosophies, quality and uniformity of products and services offered. Franchisees must sign our standard franchise agreement (which can be found in Exhibit 4) for each Kidokinetics business. The Company also allow franchisees, in our discretion, to purchase up to four franchises concurrently. Franchisees receive one territory for each franchise agreement they sign. Franchisees that elect to purchase multiple franchises at the same time will sign separate franchise agreements for each Kidokinetics business at the time of purchase.

The total investment necessary to begin operation of a single Kidokinetics business ranges from \$110,500 to \$44,700. This includes \$85,500 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of two Kidokinetics businesses ranges from \$162,500 and \$204,200. This includes \$117,500 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of three Kidokinetics business ranges from \$209,500 and \$258,700. This includes \$154,500 to \$169,500 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of four Kidokinetics business ranges from \$284,500 and \$313,200. This includes \$191,500 to \$214,000 that must be paid to the franchisor or its affiliate(s).

The Company conducts an initial training program that franchisee or its majority shareholder must attend and complete to our satisfaction. The training is also available for up to one additional assistant. Training will take place at Company headquarters, or at another location we designate, and will be held whenever necessary to train new franchisees. The initial training program covers the business and administrative aspects of the operation of a Kidokinetics business, including sales and marketing methods; financial controls; maintenance of quality standards; customer service techniques, record keeping and reporting procedures, other operational issues, and on-the-job training. All franchisees must complete initial training to the Company’s satisfaction within 60 days of signing the franchise agreement. There is no charge for initial training, however, franchises must pay for all travel costs and living expenses while training. Franchises are obligated to train their own employees and other management personnel. This initial training is in addition to the onsite opening assistance the Company provides franchises. Below is a summary of the training the Company provides:

Subject	Hours of In-Person Training	Hours of Virtual Training	Hours of On-The-Job Training	Location
Business Operations Training	1	4.25		Davie, Florida and Virtual
Sales, Marketing and Enrollment	0	9.5		Virtual
Technology Training: CRM, Kidolink, QuickBooks, Canva	0	5.5		Virtual
Programming, Coaching, Sport-Specific Training, and Equipment	23.5	4.5		Davie, Florida or Franchisee’s Location
Strategic Planning		0	1	Davie, Florida or Franchisee’s Location
<b>TOTAL</b>	<b>24.5</b>	<b>23.75</b>		



The Company also provides and requires enhanced business coaching and training services for new Kidokinetics business franchise owners which includes two days of in-person business coaching and training services within their territory. The Company charges a \$7,500.00 fee for this service. If a franchisee purchases an additional Kidokinetics business, they are not required to buy the enhanced business coaching and training services, but may choose to do so if they want the training in their area. This fee is due upon signing the franchise agreement.

As of the date of this Memorandum, the Company has seventy-five franchises in various locations throughout the country with eight franchises transferred, terminated, cancelled, not renewed, or otherwise ceased to do business.

For additional information about the the franchise opportunities the Company is offering, see the Investment Summary attached as Exhibit 6 and the Franchise Disclosure Document attached as Exhibit 4.

### **Capitalization**

The Company intends to fund and expand current operations with funds from the sale of Units, including both funds raised through this Offering and separately purchased by the Managers and their Affiliates and/or designees.

### **Exit Strategy**

The Company expects to be self-liquidating through the sale and distribution of all the assets of the Company. The Company's management targeting an exit in approximately five years; however, actual results may vary materially and this will depend on market conditions and other factors outside of the Company's and Managers' control. Prospective investors should be prepared to leave their investment in the Company indefinitely until such an exit event occurs.

### **Investor Reporting**

The Company will use commercially reasonable efforts to furnish to each Member reports as follows: (i) a discussion of the Company's performance within 30 days after the end of each calendar year and (ii) all information relative to the Company necessary for the preparation of the Members' federal and state income tax returns by March 15<sup>th</sup> of each calendar year.

## **MANAGEMENT COMPENSATION AND FEES**

The Managers and other members of the Company's management, along with their Affiliates, may receive substantial fees and compensation in connection with the management of the Company, the Company's assets, investments, and operations, and reimbursement for expenses incurred on behalf of the Company as further described below. The Managers reserve the right to assign any fee, income, or compensation due. The maximum amount of fees the Managers, the other members of the Company's management, or their Affiliates may receive cannot be determined at this time. The compensation arrangements described herein have been established by the Managers and are not the result of arm's-length negotiations. The following fees may be paid from capital contributions, revenues, or reserves.

The Managers, their designated Affiliates, and/or third parties will receive the following fees, in addition to distributions of Distributable Cash, as set forth herein:

Reimbursement of Expenses; Fees for Professional Services: The Company will reimburse the Managers or their Affiliates reasonable expenses paid or incurred in connection with the Company's operations. Such

reimbursements may be paid from capital contributions, operating revenue, or reserves. In addition, the Managers or their Affiliates will be reimbursed the fair value for provision of additional services to the Company at reasonable commercial rates on either an hourly or per-service basis.

## RELATED TRANSACTIONS AND CONFLICTS OF INTEREST

### Related Party Transactions

Our Managers have been issued Units in the Company and are therefore Members of the Company as a result thereof. In addition, the Company Operating Agreement authorizes payment of consulting fees to affiliates of our Managers. Kidokinetics Inc. (beneficially owned by Terri Braun) and Cerulean Strategic Group LLC (beneficially owned by David Pazgan) are each entitled to \$12,000.00 per month for consulting services.

### Conflicts of Interest

The proposed method of operation of the Company creates certain inherent conflicts of interest among the Company, the Managers, the Members, and their Affiliates. The Managers, the Members, and their Affiliates may act, and are acting, as managers of other limited liability companies, as general partners of partnerships, or in a managerial capacity in other businesses. The Managers and their Affiliates have existing responsibilities and, in the future, may have additional responsibilities to provide management and services to a number of other entities, including to multiple properties. Prospective investors should carefully consider these important conflicts of interest and those described with the risk factors before investing in the Company. See “Risk Factors” on page 6. Additional conflicts of interest may be, but are not limited to, the following:

*The Managers and their Affiliates may be involved with similar investments or businesses.* The Managers and their Affiliates may act as managers or be a members in other business entities engaged in making similar investments to those contemplated to be made by the Company. The Managers and their Affiliates who will raise investment funds for the Company may act in the same capacity for other investors, companies, partnerships, or entities that may compete with the Company. To the extent its time is required on these business and management activities, they may not be available to be involved in the day-to-day monitoring of the Company's operations.

*The Managers, certain Members, and their Affiliates will receive compensation from the Company.* Payments to the Managers, the Members, and their Affiliates for services rendered to the Company have not been and will not be determined by arm's length negotiations. See “Management Compensation and Fees” on page 19. Additionally, the existence of the Managers' or their Affiliates' interest in Distributable Cash (i.e., right to participate in net proceeds from investments) may create an incentive for the Managers to make more risky business decisions than they would otherwise make in the absence of such carried interest. However, the Managers will evaluate such proposals consistent with the criteria and standards set forth herein. See “Investment Objectives” on page 17.

*The Managers and their Affiliates may not have had the benefit of separate counsel.* Attorneys, accountants, and/or other professionals representing the Company may also serve as counsel or agent to the Managers and certain of their Affiliates, and it is anticipated that such multiple representation may continue in the future. As a result, conflicts may arise, and if those conflicts cannot be resolved or the consent of the respective parties cannot be obtained to the continuation of the multiple representations after full disclosure of any such conflict, such counsel will withdraw from representing one or more of the conflicting interests with respect to the specific matter involved.

## FINANCIAL STATEMENTS

The Company has provided financial statements for prospective investors to review which are attached as Exhibit 5.

### MANAGEMENT AND CERTAIN SECURITY HOLDERS

#### **Terri Braun and David Pazgan**

David Pazgan, an individual and Terri Braun, an individual, are the Managers of the Company. The Managers shall manage all business and affairs of the Company. The Managers shall direct, manage, and control the Company to the best of their ability and shall have full and complete authority, power, and discretion to make any and all decisions and do any and all things the Managers deem to be reasonably required to accomplish the investment objectives of the Company. The Members will have little or no control over the Company's day-to-day operations and will be able to vote only on limited matters. The Managers will make all other decisions.

#### **Terri Braun**

Ms. Braun is our President and founder and has been since we were formed in July of 2005 in Davie, Florida. In addition, Ms. Braun has been the President of our Kidokinetics, Inc. and a sports teacher at the Kidokinetics business it operates in Davie, Florida since October of 2000.

#### **David Pazgan**

Mr. Pazgan is our Chief Executive Officer and has been since May 2021 in Isabela, Puerto Rico. Prior to that, Mr. Pazgan was our Director of Franchise Development from August 2020 to May 2021 in Isabela, Puerto Rico. Mr. Pazgan also owns and operates three Kidokinetics franchises in Tampa, Florida through Tampa Kidos LLC, and its parent, DJE Management Consulting, LLC in Medina, Ohio and has done so since November 2021. Before joining our team, Mr. Pazgan served as President for 101 Mobility, LLC based out of Wilmington, North Carolina, from October 2008 through January 2020. Mr. Pazgan also owns a Shelf Genie franchise through DJE Management Consulting, LLC based out of Medina, Ohio and has done so since February 2019. Mr. Pazgan also provides consulting services through Cerulean Strategic Group LLC in Isabela, Puerto Rico and has done so since January 2020.

#### **Sponsor / Key Principal Units**

The Managers and their Affiliates or designees have been issued a total of 100 Class A Units. As of the date of this Memorandum, this represents 100% of the ownership of the Company. The Managers and their Affiliates or designees may purchase additional Class B Units in parity with other Members.

#### **Employees and Consultants**

##### Deana Landers

Ms. Landers is our Vice President of Franchise Operations and has been since December 2022 in Davie, Florida. Prior to that, Ms. Landers was our Franchise Support Coordinator from May 2021 to December 2022 in Davie, Florida. From August 2020 to May 2021, Ms. Landers was a stay-at-home mother. From October 2016 to August 2020, Ms. Landers served as the Director of Operations for New Rules Collective in Tallahassee, Florida. Ms. Lander also served as the Senior Executive Director of Engage Church in

Tallahassee, Florida from October 2012 to August 2020. Ms. Landers was an executive assistant to Adrian Crawford in Tallahassee, Florida from January 2012 to August 2020.

#### Chad Wilson

Mr. Wilson is our Vice President of Technology in Medina, Ohio and has been since December 2023. Mr. Wilson is also the Founder/President of Engage Virtual Range in Medina, Ohio and has been since January 2018.

#### Samantha Scherer

Ms. Scherer is our Director of Business Development in Seattle, Washington and has been since April 2023. Prior to that, Ms. Scherer was a Marketing Account Manager at Mittenthal & Associates in Seattle, Washington from November 2020 to April 2023. She was not employed from October 2020 to November 2020. From November 2019 to October 2020, Ms. Scherer was an Account Manager for Sprint/T-Mobile in Seattle, Washington. Prior to that, Ms. Scherer was a Regional Manager at C&C Communications from August 2014 to October 2019 in Seattle, Washington.

The Company will engage counselors and consultants to provide accounting, tax return preparation, legal, and related services from time to time, as required, and the Company will bear the related costs.

### **LEGAL PROCEEDINGS**

Neither the Company nor the Managers are party to any legal proceedings nor have any legal proceedings been, to the best of the Company or Managers' knowledge, threatened against the Company or the Managers. Additionally, the Company and the Managers, to the best of their knowledge, are unaware of any prior legal proceedings that would be material to this Offering.

### **DISTRIBUTIONS AND ALLOCATIONS**

#### **Timing of Distributions**

Distributions will be made as determined by the Managers in accordance with the terms of the Operating Agreement.

#### **Cash Distributions**

Except as otherwise provided in Article 14 of the Operating Agreement (relating to the dissolution and liquidation of the Company), distributions shall be made as follows:

**Compensation Schedule.** First, in accordance with the Compensation Schedule set forth on Exhibit B to the Agreement, which Compensation Schedule may be updated from time to time with the affirmative vote of Members holding a Majority Interest.

**Cash Flow.** From time to time, the Managers shall distribute to the Class A Members and Class B Members, pro rata, according to their respective Ownership Percentages, that portion of the Company's net cash flow from the operations of the Company that the Managers, in consultation with the Company's accountants, determine is appropriate, considering the reasonable needs of the Company's business and affairs (including reserves for working capital, taxes, insurance, debt service, capital expenditures, or other costs or expenses incident to the Company's business and affairs).

**Distributions to Cover Tax Liability.** Notwithstanding Section 10.1 but subject to Section 10.4 of the Operating Agreement, the Managers shall, unless financial or other conditions of the Company prompt the Members holding a Majority Interest to determine otherwise, cause to be distributed to each Class A Member and Class B Member, at least ten (10) days before each date on which federal estimated quarterly taxes are due for individuals, cash in an amount equal to the amount, if any, by which (i) forty percent (40%) of the Company's net taxable income (as estimated by the Managers) allocable to the Member for the portion of the year ending on the last day of the most recent calendar quarter (as such allocable amount is estimated by the Managers), exceeds (ii) the sum of any distributions previously made to the Member for the year. Such tax distributions will be considered as advances against the recipient's actual entitlement to distributable cash for the year. The Managers may request proof from any Member that any or all distributions to cover tax liability have been paid to the appropriate taxing authority and, in such event, the Member will provide documentary evidence of the same within seven (7) days of any such request. All Members shall be individually responsible for the payment of all taxes in connection with distributions made under Article 10 of the Operating Agreement. If it transpires that any Member has received more in distributions for the year than he is finally determined actually to have been entitled to for the year, the Managers as soon as practicable will make such adjustments as they deem appropriate to cure the excess distribution to that Member and the shortfall in the distributions owing to the other Members. For example, the Managers may (i) charge the amount of the excess distribution for the year against the aggregate distributions to which that Member will be entitled for the next year, and (ii) during the next year, cause the Company to make corresponding make-up distributions to the other Members from distributable cash, to make up the shortfall in the shares of distributable cash to which those Members were entitled for the year just ended.

**Amounts Withheld.** All amounts withheld pursuant to the Code or any provision of any state, local or other tax law with respect to any payment or distribution to the Members shall be treated as amounts distributed to the Members pursuant to this Section 10 for all purposes under this Agreement. The Manager may allocate any such amounts among the Equity Owners in any manner that is in accordance with applicable law.

**Proceeds of Capital Transactions.**

(a) As soon as practicable after the receipt by the Company of net proceeds from a Capital Transaction, in an amount less than Twenty Million Dollars (\$20,000,000), distributions shall be made as follows: (i) First, to each of the Class B Members in an amount equal to each Class B Member's Initial capital contribution, *multiplied by two* (2); (ii) Second, to any Class A Member that has an Unrecovered capital contribution Amount, then to such Members, in proportion to their respective Unrecovered capital contribution Amounts, until their respective Unrecovered capital contribution Amounts equal zero (0), and; Third, to the Class A Members in proportion to their respective Ownership Percentages.

(b) As soon as practicable after the receipt by the Company of net proceeds from a Capital Transaction, in an amount equal to or greater than Twenty Million Dollars (\$20,000,000), distributions shall be made as follows: (i) First, to any Class A Member that has an Unrecovered capital contribution Amount, then to such Members, in proportion to their respective Unrecovered capital contribution Amounts, until their respective Unrecovered capital contribution Amounts equal zero (0); and (ii) Second, to the Class A Members and Class B Members in proportion to their respective Ownership Percentages.

Please review the foregoing distribution terms in the Operating Agreement, included as Exhibit 2 to this Memorandum, before purchasing any Units.

## Allocations

Net taxable income and loss and all items of income, gain, loss, deduction, or credit of the Company as determined for federal income tax purposes (“Income Tax Items”) shall be allocated and credited to the Equity Owners as follows:

(a) Income Tax Items shall be allocated and credited to the Equity Owners pro rata, according to their respective Ownership Percentages; provided, that if cash (or property) is distributed pursuant to Article 10 of the Operating Agreement, then Income Tax Items shall be allocated among the Equity Owners in proportion to the amount of cash (or property) distributed to such Equity Owners pursuant to Article 10.

(b) Notwithstanding anything in this Agreement to the contrary

a. No Equity Owner shall be allocated any net loss or deduction of the Company to the extent that the allocation would cause the Equity Owner's Capital Account deficit, if any, to exceed the Equity Owner's share of partnership minimum gain as defined and determined in accordance with §1.704 2(g) of the Treasury Regulations. All net loss and any deductions not allocated to an Equity Owner solely by reason of the preceding sentence shall be allocated to the Equity Owner(s) to whom (and to the extent that) they may be allocated without violating the preceding sentence.

b. If there is a net decrease in partnership minimum gain (as defined in §1.704 2(g) of the Treasury Regulations) for any taxable year of the Company, then to the extent required under §1.704 2(f) of the Treasury Regulations, each Equity Owner will be allocated items of income and gain for that year equal to the Equity Owner's share of the net decrease in partnership minimum gain (within the meaning of §1.704 2(g)(2) of the Treasury Regulations). Such allocations shall be made in accordance with §1.704 2(f) of the Treasury Regulations.

c. Items of income and gain shall first be allocated in a manner which complies with the “qualified income offset” requirement of §1.704 (b)(2)(ii)(d)(3), (4), (5) and (6) of the Treasury Regulations.

Prospective investors should read the Operating Agreement for a more detailed description of how Income Tax Items will be allocated to the Members.

## SUMMARY OF THE OPERATING AGREEMENT

The rights and obligations of the Company’s Members are governed by the Operating Agreement, which each prospective investor will be required to execute as a condition to purchasing Units. The following summary covers certain significant provisions of the Operating Agreement and is qualified in its entirety by the provisions of the Operating Agreement. It is the intent of the Company that this Memorandum accurately summarize and represent the terms of the Operating Agreement. However, in the event that any term of this Memorandum conflicts with the Operating Agreement, the Operating Agreement shall control. Each prospective investor should carefully study the Operating Agreement attached hereto as Exhibit 2 in its entirety before purchasing Units.

**Interests in the Company:** Interests in the Company are divided into two classes, Class A and Class B. The Company is authorized to issue Membership Interest to new Members with the affirmative written consent of all Class A Members. The Managers may create additional classes of membership in the Company.

**The Managers:** Terri Braun and David Pazgan are the Managers of the Company. The Managers will manage all business and affairs of the Company. The Managers will direct, manage, and control the Company to the best of their ability and will have full and complete authority, power, and discretion to make any and all decisions and to do any and all things that the Managers deem to be reasonably required to accomplish the business and objectives of the Company.

**The Members:** The Members are not permitted to take part in the management or control of the business or operations of the Company. Assuming that the Company is operated in accordance with the terms of the Operating Agreement, a Member generally will not be liable for the obligations of the Company in excess of its total capital contributions and share of undistributed profits. However, a Member may be liable for any distributions made to the Member if, after such distribution, the remaining assets of the Company are not sufficient to pay its then outstanding liabilities. The Operating Agreement provides that the Members will not be personally liable for the expenses, liabilities, or obligations of the Company.

**Voting Rights of the Members:** Only Class A Members may vote, except to amend the Operating Agreement, in which case the unanimous written consent of all the Members, including the Class B Members, is required. Class A Member may vote on the following matters:

- Removal of a Manager by the affirmative vote of Members holding a Majority Interest.
- Election of a Manager by an affirmative vote of the Members holding a Majority Interest.
- Update the Compensation by the affirmative vote of Members holding a Majority Interest.
- Issuing Membership Interest to a Person who is not already a Member or to one or more existing Members by the written consent of all Class A Members.
- Sale of all of an Equity Owner's Ownership Interest to a third-party purchaser with the unanimous written consent of all Class A Members.
- Admitting a transferee as a substitute Member by the unanimous written consent of all non-transferring Members.
- Amending the Operating Agreement or Articles of Organization (unanimous written consent of ALL Members).
- Such other matters as are required by the Operating Agreement or the Act.

**Term and Dissolution:** The Company shall be dissolved upon the occurrence of any of the following events:

- In the sole discretion of the Managers, after the liquidation and subsequent distribution of all Company Assets to the Members;
- The withdrawal of the Managers unless (i) the Company has at least one other Manager, or (ii) within ninety (90) days after the withdrawal, a vote of Members holding a majority of the Ownership Percentages to continue the business of the Company and to appoint, effective as of the date of withdrawal, one or more additional Managers;
- The withdrawal of all the Members, unless the Company is continued in accordance with the Act;
- The Company is to be dissolved upon the entry of a decree of judicial dissolution by a court of competent jurisdiction.

**Distributions and Allocations:** See “Distributions and Allocations” on page 22.

**Access to Company Information:** At the expense of the Company, the Managers shall maintain records and accounts of all operations and expenditures of the Company which may be inspected by the Members subject to such reasonable restrictions as may be imposed by the Managers.

**Indemnification:** To the fullest extent provided or permitted under the laws of the State, the Company shall (i) indemnify and hold harmless each Member, Manager, and Officer from and against any and all claims, demands, liabilities, costs, and reasonable expenses (including attorneys' fees) whatsoever arising in connection with the business of the Company or otherwise incurred by reason of the fact that he is or was a Member, Manager, or Officer of the Company, or, while a Member, Manager, or Officer is or was serving at the request of the Company as an officer, director, partner, joint venturer, trustee, manager, member, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, limited liability company, employee benefit plan or other enterprise, and (ii) make advances to them for reasonable expenses with respect to such matters.

**Removal of a Manager:** At a meeting called expressly for that purpose and at which the Manager(s) in question have been given an opportunity for a hearing, any or all of the Managers may be removed at any time, (i) with or without cause, by the affirmative vote of Members holding a Majority Interest, or (ii) for gross negligence, fraud, deceit, or intentional misconduct that had a material adverse effect on the Company, or if the Manager is incapacitated, by the affirmative vote of Members holding a Majority Interest determined without regard to any Ownership Percentage held by the Manager or an affiliate of the Manager. The removal of a Manager who is also an Equity Owner shall not affect the Manager's rights as an Equity Owner.



**Transfers of Units:** No interest in, or any part of, any Equity Owner's Ownership Interest may be Transferred (i) unless the Managers determine to their reasonable satisfaction that the Transfer would not violate any applicable laws regulating the transfer of securities, or (ii) if the Transfer, alone or in combination with other transactions, would cause the Company to terminate for federal income tax purposes under Code §708 and cause any Equity Owner to suffer adverse federal income tax consequences as a result thereof or would cause the Company to be treated as a corporation for federal income tax purposes.

In addition, no Transfer will be effective unless and until (i) written notice (including the name and address of the proposed transferee and the date of such Transfer) has been provided to the Managers, and (ii) the transferee agrees in writing that the transferee will be bound by, and the transferred interest will be subject to, the terms of the Operating Agreement.

Upon any Transfer of an Ownership Interest, the transferor and transferee shall furnish to the Managers any information reasonably requested by the Managers to enable the Company to file all required tax and information statements or returns. The Company shall not be required to make any distribution with respect to any transferred interest until it has received such information.

See Article 13 of the Operating for a full description of the Transfer restrictions and requirements.

**Class B Take-Along** If all the Class A Members approve (i) an acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation) that would result in the transfer of fifty percent (50%) or more of the Membership Interests of the Company or in which the Members of the Company immediately prior to such transaction would own, as a result of such transaction, less than a majority of the voting securities, in the same relative proportions, of the successor or surviving entity immediately thereafter or a sale of all or substantially all of Company's assets, whether by means of a merger, consolidation, sale of stock or assets or otherwise (a "Sale of the Company"), or (ii) a proposed round of equity financing by the Company (the "Equity Financing"), then all Members shall consent to and vote in favor of the Equity Financing or the Sale of the Company, and if the Sale of the Company is structured as (a) a merger or consolidation of the Company, or a sale of all or substantially all of the Company's assets, each Member shall waive any dissenters' rights, appraisal rights or similar rights in connection with such merger, consolidation or asset sale, or (b) a sale of the Membership Interests of the Company, the Class B Members shall agree, if so required by agreement of all Class A Members, to sell all, or a portion of their Membership Interests on the terms and conditions approved by the Class A Members. .

**Additional Capital Contributions:** The Equity Owners may make such additional capital contributions as the Equity Owners unanimously agree upon from time to time. If all the Equity Owners agree to make additional contributions, then except as the Equity Owners otherwise unanimously agree, the additional contributions shall be made in proportion to their respective Ownership Percentages.

**Dispute Resolution:** Any dispute, controversy or claim arising out of or in connection with, or relating to, this Agreement or any breach or alleged breach hereof which cannot first be settled through good faith negotiations between the parties shall, on the request of any party involved, be submitted to, and settled by, arbitration administered by a single arbitrator in Davie, Florida, pursuant to the American Arbitration Association's commercial arbitration rules then in effect (or at any time or at any other place or under any other form of arbitration mutually acceptable to the parties so involved). Any award rendered shall be final and conclusive on the parties and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each such party shall pay for and bear the cost of its own experts, evidence and counsel's fees, except that in the discretion of the arbitrator, any award may include the cost of a party's counsel if the arbitrator expressly determines that the party against whom such award is entered has caused the dispute, controversy or claim to be submitted to arbitration as a dilatory tactic.

**Partnership Representative:** The Managers may designate the IRS Partnership Representative each year until dissolution in its sole discretion. The initial Partnership Representative is David Pazgan.

## **RETIREMENT TRUSTS AND OTHER BENEFIT PLAN INVESTORS**

Each respective Member that is an employee benefit plan or trust (an "ERISA Plan") within the meaning of, and subject to, the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), or an individual retirement account ("IRA") or Keogh Plan subject to the Internal Revenue Code, should consider the matters described below in determining whether to invest in the Company.

In addition, ERISA Plan fiduciaries must give appropriate consideration to, among other things, the role that an investment in the Company plays in such ERISA Plan's portfolio, taking into consideration (i) whether the investment is reasonably designed to further the ERISA Plan's purposes, (ii) an examination of the risk and return factors, (iii) the portfolio's composition with regard to diversification, (iv) the liquidity and current return of the total portfolio relative to the ERISA Plan's objectives and (v) the limited right of Members to withdraw all or any part of their capital accounts or to transfer their interests in the Company.

If the assets of the Company were regarded as "plan assets" of an ERISA Plan, an IRA, or a Keogh Plan, the Managers of the Company would be a "fiduciary" (as defined in ERISA) with respect to such plans and would be subject to the obligations and liabilities imposed on fiduciaries by ERISA. Moreover, other various requirements of ERISA would also be imposed on the Company. In particular, any rule restricting transactions with "parties in interest" and any rule prohibiting transactions involving conflicts of interest on the part of fiduciaries would be imposed on the Company which may result in a violation of ERISA unless the Company obtained an appropriate exemption from the Department of Labor allowing the Company to conduct its operations as described herein.

Regulations adopted by the Department of Labor (the "Plan Regulations") provides that when a Plan invests in another entity, the Plan's assets include both the equity interest and an undivided interest in each of the underlying assets of the entity, unless it is established that, among other exceptions, the equity participation in the entity by "benefit plan investors" is not "significant." The Pension Protection Act of 2006 amended the definition of "benefit plan investors" to include only plans and plan asset entities (i.e., entities that are themselves deemed to hold plan assets by virtue of investments in them by plans) that are subject to part 4

of Title I of ERISA or section 4975 of the Internal Revenue Code. This new definition excludes governmental, church, and foreign benefit plans from consideration as benefit plan investors.

Under the Plan Regulations, participation by benefit plan investors is “significant” on any date if, immediately after the last acquisition, twenty-five percent (25%) or more of the value of any class of equity interests in the entity is held by benefit plan investors. The Company intends to limit the participation in the Company by benefit plan investors to the extent necessary so that participation by benefit plan investors will not be “significant” within the meaning of the Plan Regulations. Therefore, it is not expected that the Company assets will constitute “plan assets” of plans that acquire interests.

It is the current intent of the Company to limit the aggregate investment by benefit plan investors to less than twenty-five percent (25%) of the value of the Members' membership interests so that equity participation of benefit plan investors will not be considered “significant.” The Company reserves the right, however, to waive the twenty-five percent (25%) limitation. In such an event, the Company would expect to seek exemption from application of “plan asset” requirements under the real estate operating company exemption.

ACCEPTANCE OF SUBSCRIPTIONS ON BEHALF OF INDIVIDUAL RETIREMENT ACCOUNTS OR OTHER EMPLOYEE BENEFIT PLANS IS IN NO RESPECT A REPRESENTATION BY THE COMPANY OR ITS OFFICERS, DIRECTORS, OR ANY OTHER PARTY THAT THIS INVESTMENT MEETS ALL RELEVANT LEGAL REQUIREMENTS WITH RESPECT TO INVESTMENTS BY ANY PARTICULAR PLAN. THE PERSON WITH INVESTMENT DISCRETION SHOULD CONSULT WITH HIS OR HER ATTORNEY AND FINANCIAL ADVISERS AS TO THE PROPRIETY OF SUCH AN INVESTMENT IN LIGHT OF THE CIRCUMSTANCES OF THAT PARTICULAR PLAN AND CURRENT TAX LAW.

## **FEDERAL AND STATE TAXES**

The potential investor should be aware of the material Federal and State income tax aspects of an investment in the Units. Investors should consult with their tax professional to determine the effects of the tax treatment of the Units with respect to their individual situation.

### **Reporting Status of the Company**

The Company will elect to be treated as a partnership for Federal and State income tax purposes. By maintaining partnership tax status, the Company will not report income or loss at the Company level but will report to each Member their pro rata share of Profits and Losses from operations and disposition. This process will make the Company a pass-through entity for tax purposes.

### **Taxation of Members**

The Company will be treated as a partnership for Federal tax purposes. A partnership is not generally a taxable entity. A Member will be required to report on their federal tax return their distributable share of partnership profit, loss, gain, deductions, or credits. cash distributions may or may not be taxable, depending on whether such cash distribution is being treated as a return of capital or a return on investment. Tax treatment of the cash distributions will be treated according to appropriate tax accounting procedure as determined by the Company’s tax advisor.

## **Basis of the Company**

An original tax basis will be established for the Company. The tax basis of the Company will be adjusted during the operations of the Company under applicable partnership tax principles.

## **Basis of a Member**

A Member will establish their original tax basis based on the amount of their initial capital contribution. Each Member's tax basis will be adjusted during operations of the Company by principles of subchapter K of the Internal Revenue Code. A Member may deduct, subject to other tax regulations and provisions, their share of Company Losses only to the extent of the adjusted basis of their Interest in the Company. Members should seek qualified tax advice regarding the deductibility of any Company Losses.

## **Cost Recovery and Recapture**

The Manager may apply the current cost recovery rules to the improved portion of any real property according to the relevant Internal Revenue Code sections, namely: straight-line, using a 27.5-year useful life for residential property and thirty-nine (39) years for non-residential property. The Manager may elect to use the cost segregation method of depreciation for any personal property associated with real property it acquires on behalf of the Company.

The annual cost recovery deductions that must be taken by the Company will be allocated to the Members based on their Membership Interests in the Company. The cost recovery deductions will be available to the Members to shelter the principal reduction portion of the debt service payments and part of the cash flow distributed by the Company.

According to the current tax code, cost recovery deductions taken during operations may be required to be reported on the sale of the Company Assets and may be taxed at a twenty-five percent (25%) marginal rate, not the more favorable long-term capital gains rates.

## **Deductibility of Prepaid and Other Expenses**

The Company will incur expenditures for legal fees in association with the set-up of the Company. These expenditures will be capitalized and will be deducted on dissolution of the Company based on current tax law.

The Company will incur expenditures for professional fees associated with the preparation and filing of the annual income tax and informational return and the preparation of Schedule K-1 reports to be distributed to the Members. These expenditures will be deducted on an annual basis. All other normal operating expenses will be deducted on an annual basis by the Company, which will use a calendar accounting year.

## **Taxable Gain**

Members may receive taxable income from Company operations, from the sale or other disposition of a Member's Membership Interests, from disposition of the Company Assets, or from phantom income. Presently, the maximum Federal tax rate on cost recovery recapture is twenty-five percent (25%). The balance of the taxable gain will be taxed at the capital gain tax rate in effect at that time. Investors should check with their tax professional for information as to what capital gains tax rate applies to them.

### *From Operations*

The Manager is projecting that there will be taxable income to distribute to the Members on the Schedule K-1 report provided to each Member annually.

### *From Disposition, Dissolution and Termination*

On disposition of the Company Assets or on dissolution and termination of the Company, which will likely be caused by the sale of the Company Assets, the Members may be allocated taxable income that may be treated as ordinary income or capital gain.

In addition, the Members may receive an adjustment in their Capital Account(s) that will either increase or decrease the capital gain to be reported. The Agreement describes the operation of Capital Accounts for the Company and the Members.

### *From Sale or Other Disposition of a Member's Interests*

A Member may be unable to sell their Membership Interests in the Company, as there may be no market. If there is a market, it is possible that the price received will be less than the market value. It is possible that the taxes payable on any sale may exceed the cash received on the sale.

Upon the sale of a Member's Membership Interest, the Member will report taxable gain to the extent that the sale price of the Interest exceeds the Member's adjusted tax basis. A portion of taxable gain may be reported as a recapture of the cost recovery deduction allocated to the Member and will be taxed at the cost recovery tax rate in effect at that time. Members should seek advice from their qualified tax professional in the event of the sale of the Member's interest.

### *Phantom Income*

It may occur that in any year the Members will receive an allocation of taxable income and not receive any cash distributions. This event is called receiving phantom income as the Member has taxable income to report but receives no cash. In this event, the Members may owe tax on the reportable income, which the Member will need to pay out of pocket.

### *Unrelated Business Income Tax (UBIT)*

An Investor who is tax exempt (such as a charitable organization), or who acquires Units through a tax-exempt vehicle (such as an Individual Retirement Account) may be subject to Unrelated Business Income Tax (UBIT). The Manager recommends that Investors contact their qualified tax advisor to determine how/whether the application of UBIT may apply to them.

## **Audits**

### *Election Out of Bipartisan Budget Act Audit Rules*

Effective for partnership returns for tax years beginning on or after January 1, 2018, partnerships will be subject to the audit rules of sections 6221 through 6241 of the Internal Revenue Code, as amended by Bipartisan Budget Act of 2015 (BBA). Under the previous rules, partnership audits (subject to certain exceptions for small partnerships) were conducted at the partnership level, through interaction with a Tax Matters Partner (TMP) authorized to bind all partners (subject to participation in some instances by Notice Partners). Tax adjustments were made at the partnership level, but the adjustments would flow through to

the partners who were partners during the year(s) under audit. Collection would then occur at the partner level.

Under the BBA audit rules, the IRS will assess and collect tax deficiencies directly from the partnership at the entity level. Generally, the tax is imposed on and paid by the partnership in the current year, calculated at the highest individual rate. The result is that the underlying tax burden of the underpayment may be shifted from the partners who were partners during the year(s) under audit to current partners.

In addition, the positions of TMP and Notice Partners have been eliminated and replaced with a Partnership Representative, which must be designated annually on the partnership's timely filed return. The Partnership Representative has the sole authority to act on behalf of the partnership and the partners in an audit, and those powers cannot be limited.

A partnership may elect out of the BBA audit rules if certain conditions are met. In order to elect out, the partnership must issue 100 or fewer K-1s each year with respect to its partners. Moreover, each partner must be either an individual, a C corporation, a foreign entity that would be treated as a C corporation if it were domestic, an S corporation, or the estate of a deceased partner. Thus, a partnership is ineligible to elect out if any partner is a trust (including a grantor trust), a partnership, or a disregarded entity, such as an LLC where the social security number of the individual member is used for income tax reporting purposes. The election out must be made annually on the partnership's timely filed return and must include a disclosure of the name and taxpayer identification number of each partner. In the case of a partner that is an S corporation, each K-1 issued by the S corporation partner counts toward the limit of 100 K-1s. The partnership must notify each partner of the election out.

It is the intent of the Company to elect out of the BBA audit rules, if possible. By electing out of the BBA audit rules, the Company will be subject to audit procedures similar to the TEFRA and pre-TEFRA rules, but the IRS will be required to assess and collect any tax that may result from the adjustments at the individual partner level. However, this opt-out provision likely will not be available to the Company based on the tax classification of the Members.

Members will be required timely to furnish the Company with the information necessary to make the annual election, and the Company will be authorized to provide such information to the IRS.

#### *Push Out Election (Audit)*

The "push out" election of Internal Revenue Code section 6226 provides an alternative to the general rule that the partnership must pay any tax resulting from an adjustment made by the IRS. Under section 6226, a partnership may elect to have its reviewed year partners consider the adjustments made by the IRS and pay any tax due as a result of those adjustments. The partnership must make the "push out" election no later than 45 days after the date of the notice of final partnership adjustment and must furnish the Secretary and each partner for the reviewed year a statement of the partner's share of the adjustment.

If the Company fails to make a valid election out of the BBA audit rules or is otherwise disqualified from electing out of their application, the Company intends to elect the application of the "push out" procedures. In the event of a push out a former Member may owe additional tax if they were a Member during the reviewed year.

## TERMS OF THE OFFERING

### The Offering

Subject to the terms and conditions set forth in this Memorandum and the Subscription Documents described below, the Company is offering to sell Units to specified purchasers who are Accredited Investors, as that term is defined in Regulation D, Rule 501 who each meet the Company's suitability criteria.

This Offering is for up to 1,000 Class B Units at a price of \$1,000.00 per Unit, for a total Maximum Offering Amount of \$1,000,000.00 if all offered Units are sold. There is no minimum Offering amount, and Offering proceeds will be available immediately for the Company's use. While the Company may raise up to a maximum amount of \$1,000,000.00, it is targeting a raise of \$600,000.00, and is not obligated to raise up to the Maximum Offering Amount.

The minimum investment from each investor is \$10,000.00 unless the minimum is waived by the Managers. This Offering will close as soon as the Maximum Offering Amount is sold or one year from the date of this Memorandum, whichever is earlier, or as otherwise determined in the discretion of the Managers.

Each investor will be charged platform fees by the Company. These include a one-time platform fee of \$500.00 and an annual platform maintenance fee of \$100.00 while the investor is a Member of the Company. The one-time fee of \$500.00 and first annual fee of \$100.00 will be payable at the time of subscription and investors will not be issued Units for these amounts. For example purposes only, if an investor were to invest \$10,600.00, \$600.00 would be allocated toward the platform fees (one-time fee and first annual maintenance fee) and \$10,000.00 would be allocated toward the subscription amount. The investor would be issued Units for the \$10,000.00 only. All subsequent payments of the \$100.00 annual platform maintenance fee after the first year will be deducted from distributions paid to investors and these fees will accrue until paid.

### Method of Placement

Units will be offered exclusively through the Company's management, including the Managers and their Affiliates, who will not be compensated directly or indirectly for such efforts. Units will be offered on a "best-efforts" basis. There is no assurance that all or any Units will be sold. The Company's Affiliates may purchase Units on the same terms and conditions as other prospective investors. The Company intends to indemnify the Company's Managers and other persons and entities against certain Company actions and civil liabilities, including liabilities under the Securities Act. In the opinion of the SEC, the foregoing indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

The Managers will decide whether to accept or reject a subscription within a reasonable time after the receipt of the completed subscription booklet and investment amount. If a subscription is not accepted, any related collected funds will be returned to the subscriber promptly, but in any event within 5 business days of non-acceptance of the prospective investor. The Company will advise all prospective investors whose subscriptions have been accepted when this Offering has been terminated.

### Restricted Securities

There are significant restrictions under the securities laws on the transfer of Units. Units are offered in reliance on exemptions and preemption from the registration provisions of the Securities Act and various state securities laws. Units constitute "restricted securities," as that term is defined in Rule 144 promulgated under the Securities Act and cannot be resold unless such resale is registered under the Securities Act and applicable state securities laws (which may be prohibitively expensive and may not be possible in any

event) or sold pursuant to an exemption therefrom. In some states, specified conditions must be met, or approval of a state authority may be required. Even if Units purchased in this Offering are eligible for resale, there is no trading market for such Units, and none is likely to develop.

In an effort to meet the conditions of such exemptions or preemption, the Company will file such notices and reports as may be required by the states in which the purchasers of Units in this Offering reside at the time of purchase of such Units from the Company and will otherwise utilize commercially reasonable efforts to satisfy the conditions of an exemption or preemption from registration in each of such states.

Units offered hereby must be acquired for investment purposes only and not with a view to or for resale in connection with any distribution thereof. Units will not be registered under the Securities Act or under the securities acts of any state where offered and will be sold and issued in reliance on exemptions and preemption from such registration. Such exemption or preemption depends in part on the investment intent of the investors. Among other things, such restrictions require the investors to bear the economic risk of the investment by holding the securities acquired for an indefinite period of time. These restrictions are set forth in detail in the separately bound Subscription Documents, which must be signed and agreed to by persons and entities purchasing Units. Prospective investors are urged to review the specific restrictions carefully.

The Company may refuse to transfer any securities to any transferee that does not furnish, in writing to the Company, the same representations and warranties and agree to the same conditions with respect to such securities as are set forth herein. The Company may further refuse to transfer the securities if circumstances are present reasonably indicating that the proposed transferee's representations are not accurate. In any event, the Company may refuse to consent to any transfer in the absence of an opinion of legal counsel, satisfactory to, and independent of, the Company's counsel that such proposed transfer is consistent with the above conditions.

In addition to the foregoing restrictions under applicable securities laws, there are also significant restrictions on the transfer of Units as set forth in the Operating Agreement.

### **Acceptance Guidelines of the Company**

Based on the representations contained in the Subscription Documents and other information of which the Company has actual knowledge, the Company's Managers will make the determination of whether to proceed with the sale of Units to the prospective investor. The Company has an absolute right to accept or reject prospective investors and may do so on the basis of factors not related to the suitability of the prospective investor. In making the determination, the Company's Managers will follow guidelines appropriate for reliance on exemptions and preemption from registration under applicable securities laws.

If the subscription offer is not accepted, appropriate notice thereof will be transmitted promptly to the prospective investor, the Subscription Documents will be appropriately marked, and the subscription proceeds will be returned, without interest or deduction of expenses, to the prospective investor. Regardless of the date of execution, investors whose subscriptions are accepted will not become Members of the Company until the Company "breaks impounds" and begins to deploy investor funds.

### **How to Purchase Units**

In order to purchase Units described in this Memorandum, prospective investors are required to tender to the Company signed copies of the Subscription Documents, delivered together with a payment in the amount of the subscription payable to Kidokinetics Franchise LLC. On acceptance, the subscription agreement automatically becomes a binding bilateral agreement for the purchase of the number of Units specified.



Subscription Documents may be completed at <http://www.kidokinectics.franshares.com>.

## DEFINED TERMS

In addition to those capitalized and otherwise defined terms contained herein and therein the Operating Agreement, the following terms shall have the definitions ascribed hereunder.

“Accredited Investor” means those individuals that meet the criteria established by the SEC pursuant to the Securities Act, Regulation D, Section 230.501 (“Rule 501”).

“Affiliate” has the definition provided in the SEC’s Regulation D, Section 230.501(b), i.e., “a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.”

“Capital Transaction” means a sale, exchange, or other disposition by the Company of all or any portion of its assets or business outside the ordinary course of business.

“Class A Member” means a Person that has been admitted as a Class A Member of the Company following the approval of the Members to the extent required, the payment of any required initial capital contribution, and such Person’s agreement to be bound by the terms and conditions of this Agreement, as evidenced by such Person’s execution of a copy of the Operating Agreement in order to make such Person a party to the Operating Agreement and a Member.

“Class B Member” means a Person or entity that has been admitted as a Class B Member of the Company following the approval of the Members to the extent required, the payment of any required initial consideration, and such Person’s or Entity’s agreement to be bound by the terms and conditions of this Agreement, as evidenced by such Person’s or Entity’s execution of a copy of the Operating Agreement in order to make such Person a party to the Operating Agreement and a Class B Member. In no event shall Class B Members be considered voting Members of the Company.

“Company” refers to Kidokinetics Franchise LLC, a Florida limited liability company.

“Distributable Cash” means all cash of the Company derived from operations and capital transactions, less the following items: (i) payment of all fees, costs, indebtedness, and expenses of the Company, (ii) any required tax withholdings, and (iii) reserves for future expenses related to the Company’s operations, as established in the reasonable discretion of the Managers.

“Economic Interest” means an Equity Owner’s share of one or more of the Company’s distributions and income tax items pursuant to this Agreement and the Act, but shall not include any right to participate in the management of the business and affairs of the Company, including any right to vote on, consent to or otherwise participate in any decision or action of or by the Members or Managers.

“Economic Interest Owner” means the owner of an Economic Interest who is not a Member.

“Equity Owner” means an Economic Interest Owner or a Member.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Plan” means an employee benefit plan or trust within the meaning of, and subject to, the provisions of ERISA.

“Good Cause” means, in reference to an action to remove a Manager, that the Manager conducted itself on behalf of the Company in a manner that (i) constitutes gross negligence or willful misconduct and (ii) has a material, adverse effect on the Company.

“Investment Company Act” means the Investment Company Act of 1940, as amended.

“IRA” means an individual retirement account.

“Managers” means Terri Braun and David Pazgan, or any other person or persons, or entity that becomes a manager pursuant to the Operating Agreement.

“Maximum Offering Amount” means \$1,000,000.00, the maximum aggregate investment in Units allowed under the terms of this Offering.

“Member” means a party holding membership interests in the Company. The term “Member” as used herein will include a Manager to the extent it has purchased or received such membership interests in the Company.

“Memorandum” means this Confidential Private Placement Memorandum and all of its Exhibits, each of which are incorporated herein by reference.

“Net Worth” means the difference between total assets and total liabilities while excluding any positive equity in the prospective investor’s primary residence, but, if the net effect of the mortgage results in negative equity, the prospective investor should include any negative effects in calculating their Net Worth. The prospective investor should also subtract from their Net Worth any additional indebtedness secured by his/her primary residence incurred within the 60 days prior to his/her purchase of the Units (other than debt incurred as a result of the acquisition of the primary residence).

“Offering” means the sale of Class B Units in the Company, whose purchasers, if accepted by the Company, will become Members of the Company pursuant to the terms of this Memorandum.

“Operating Agreement” means the written Third Amended and Restated Operating Agreement of Kidokinetics Franchise LLC dated May YY, 2024, as may be amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended.

“Subscription Documents” means the Subscription Agreement and related documents attached as Exhibit 3 hereto.

“Units” means membership units in the Company purchased in this Offering, or otherwise issued to persons and entities.

“Unrecovered capital contribution Amount” shall mean, with respect to each Class A Member, at the time in question, an amount equal to the excess, if any, of such Member’s cash capital contributions over all amounts distributed to such Member pursuant to the terms and conditions contained in Article 10 of the Operating Agreement.

## **ADDITIONAL INFORMATION**

Prospective investors may request additional information concerning the Company and other matters relating thereto that is necessary to verify the information in this Memorandum, and the Company will

undertake to provide such information to the extent the Company possesses the information or can acquire such information without unreasonable effort or expense. All questions or comments should be directed to the Managers of the Company. Information about the Company is contained in the following documents, which may be included in electronic format accompanying this Memorandum, each of which is incorporated herein by reference:

**Exhibit 1** contains the Company Formation Documents

**Exhibit 2** contains the Operating Agreement

**Exhibit 3** contains the Subscription Documents

**Exhibit 4** contains the Franchise Disclosure Document

**Exhibit 5** contains the Financial Statements

**Exhibit 6** contains the Investment Summary

No person is authorized to give any information or to make any representation in connection with this Offering other than those contained in this Memorandum, the Exhibits, and the additional information that is available to prospective investors as provided herein. Information or representations not contained herein or in such Exhibits or other information must not be relied on as having been authorized by the Company. This Memorandum does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer, solicitation, or any sale may not be lawfully made. The statements in this Memorandum are made as of the date hereof unless another time is specified.

**Kidokinetics Franchise LLC**  
**May 30, 2024**

P05000106384

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP     WAIT     MAIL

(Business Entity Name)

(Document Number)

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TALLAHASSEE, FLORIDA

05 JUL 29 PM 1:30

FILED

8/1/05  
BLK

July 25, 2005

Florida Department of State  
Division of Corporations  
Corporate Filings  
Post Office Box 6327  
Tallahassee, Florida 32314

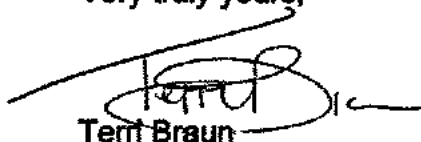
Dear Sir/Madam:

Enclosed please find Articles of Incorporation of Kidokinetics Franchise Corp. Also enclosed is a check in the amount of \$70.00, representing the filing fee for same.

Kindly see that these Articles are filed and mail a stamped copy of same in the enclosed pre-addressed, postage-paid envelope.

Thank you for your assistance.

Very truly yours,



Terr Braun

Enclosures

ARTICLES OF INCORPORATION  
OF  
KIDOKINETICS FRANCHISE CORP.

**FILED**  
05 JUL 29 PM 1:30  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned does hereby act as incorporator in adopting the following Articles of Incorporation for the purpose of organizing a business corporation pursuant to the provisions of the Florida Business Corporation Act.

FIRST: The name of the corporation (hereinafter called the "Corporation") is Kidokinetics Franchise Corp.

SECOND: The principal office of the Corporation shall be located at 1209 Chenille Circle, Weston, Florida 33327. The mailing address of the Corporation is 1209 Chenille Circle, Weston, Florida 33327.

THIRD: The aggregate number of shares which the Corporation shall have authority to issue is 1,000, all of which are of a par value of \$0.01 each and are of the same class and are to be common shares.

FOURTH: The number of directors constituting the initial Board of Directors of the Corporation is one which may be increased by the bylaws.

The name and address of each person who is to serve as a member of the initial Board of Directors of the Corporation is as follows:

<u>NAME</u>	<u>ADDRESS</u>
Terri Braun	1209 Chenille Circle Weston, Florida 33327

FIFTH: The address of the initial registered agent of the Corporation in the State of Florida is 1209 Chenille Circle, Weston, Florida 33327 and the name of the initial registered agent of the Corporation at such address is Terri Braun.

SIXTH: The name and address of the incorporator is:

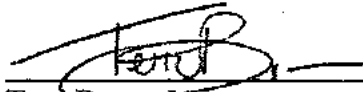
<u>NAME</u>	<u>ADDRESS</u>
-------------	----------------

Terri Braun

1209 Chenille Circle  
Weston, Florida 33327

SEVENTH: The Corporation shall, to the fullest extent permitted by the provisions of the Florida Business Corporation Act, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said provisions from and against any and all of the expenses, liabilities or other matters referred to in or covered by said provisions, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be in a capacity entitling such person to be indemnified, and shall inure to the benefit of the heirs, executors and administrators of such a person.

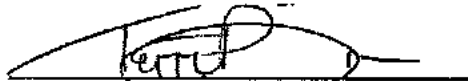
EIGHTH: The corporate existence of the Corporation shall commence as of the date and time upon which these Articles of Incorporation shall have been filed with the Florida Department of State.



Terri Braun, Incorporator  
Signed on July 25, 2005

Acceptance of Appointment by Registered Agent

Pursuant to the provisions of the Florida Business Corporation Act, the undersigned does hereby accept her appointment as registered agent on which process may be served within the State of Florida for the proposed domestic corporation named in the foregoing Articles of Incorporation.

  
Terri Braun

L21000100963

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

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(Business Entity Name)

(Document Number)

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**P.O. BOX 10662 TALLAHASSEE, FL 32302  
155 Office Plaza Dr Ste A Tallahassee FL 32301  
PHONE: (800) 435-9371; FAX: (866) 860-8395**

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**DATE: 3/9/2021**

**NAME: KIDOKINETICS FRANCHISE LLC**

**TYPE OF FILING: CONVERSION**

**COST: 150.00**

**RETURN: PLAIN COPY PLEASE**

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**ACCOUNT: FCA000000015**

**AUTHORIZATION: ABBIE/PAUL HODGE**

*Abbie Hodge*

---

**COVER LETTER**

**TO:** New Filing Section  
Division of Corporations

**SUBJECT:** Kidokinetics Franchise LLC  
(Name of Resulting Florida Limited Company)

The enclosed Articles of Conversion, Articles of Organization, and fees are submitted to convert an "Other Business Entity" into a "Florida Limited Liability Company" in accordance with s. 605.1045, F.S.

Please return all correspondence concerning this matter to:

Mark S. Feluren  
(Contact Person)

Genovese Joblove & Battista, P.A.  
(Firm/Company)

200 E Broward Blvd., Suite 1110  
(Address)

Fort Lauderdale, FL 33301  
(City, State and Zip Code)

mfeluren@gjb-law.com  
E-mail Address: (to be used for future annual report notifications)

For further information concerning this matter, please call:

Mark Feluren at ( 954 ) 453-8000  
(Name of Contact Person) (Area Code) (Daytime Telephone Number)

Enclosed is a check for the following amount: (All checks processed by this office must be payable in US dollars and drawn on a bank located in the United States)

- \$150.00 Filing Fees (\$25 for Conversion & \$125 for Articles of Organization)
- \$155.00 Filing Fees and Certificate of Status
- \$180.00 Filing Fees and Certified Copy
- \$185.00 Filing Fees, Certified Copy, and Certificate of Status

**Mailing Address:**  
New Filing Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**Street Address:**  
New Filing Section  
Division of Corporations  
The Centre of Tallahassee  
2415 N. Monroe Street, Suite 810  
Tallahassee, FL 32303

**Articles of Conversion**  
For  
**"Other Business Entity"**  
Into  
**Florida Limited Liability Company**

The Articles of Conversion **and attached Articles of Organization** are submitted to convert the following **"Other Business Entity" into a Florida Limited Liability Company** in accordance with s.605.1045, Florida Statutes.

1. The name of the "Other Business Entity" immediately prior to the filing of the Articles of Conversion is:  
Kidokinetics Franchise Corp.

(Enter Name of Other Business Entity)

2. The "Other Business Entity" is a corporation PO5000106384  
(Enter entity type. Example: corporation, limited partnership, general partnership, common law or business trust, etc.)

First organized, formed or incorporated under the laws of Florida  
(Enter state, or if a non-U.S. entity, the name of the country)

on July 29, 2005  
(date of organization, formation or incorporation)

3. The name of the Florida Limited Liability Company as set forth in the attached Articles of Organization:

Kidokinetics Franchise LLC

(Enter Name of Florida Limited Liability Company)

4. If not effective on the date of filing, enter the effective date: \_\_\_\_\_

**(The effective date: Cannot be prior to date of receipt or filed date nor more than 90 calendar days after the date this document is filed by the Florida Department of State.)**

**Note:** If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.


5. The plan of conversion has been approved in accordance with all applicable statutes.

6. The "Converted or Other Business Entity" has agreed to pay any members having appraisal rights the amount to which such members are entitled under ss. 605.1006 and 605.1061-605.1072, F.S.


2021 MAR -9 AM 10:39

Signed this 9 day of March 2021

**Signature of Authorized Representative of Limited Liability Company:**

Signature of Authorized Representative:   
Printed Name: Terri Braun Title: Manager

**Signature(s) on behalf of Other Business Entity: [See below for required signature(s)]**

Signature:   
Printed Name: Terri Braun Title: President

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**If Florida Corporation:**

Signature of Chairman, Vice Chairman, Director, or Officer.  
If Directors or Officers have not been selected, an Incorporator must sign.

**If Florida General Partnership or Limited Liability Partnership:**

Signature of one General Partner.

**If Florida Limited Partnership or Limited Liability Limited Partnership:**

Signatures of ALL General Partners.

**All others:**

Signature of an authorized person.

**Fees:**

- Articles of Conversion: \$25.00
- Fees for Florida Articles of Organization: \$125.00
- Certified Copy: \$30.00 (Optional)
- Certificate of Status: \$5.00 (Optional)

**ARTICLES OF ORGANIZATION FOR FLORIDA LIMITED LIABILITY COMPANY**

**ARTICLE I - Name:**

The name of the Limited Liability Company is:

Kidokinetics Franchise LLC

(Must contain the words "Limited Liability Company," "L.L.C.," or "LLC.")

**ARTICLE II - Address:**

The mailing address and street address of the principal office of the Limited Liability Company is:

**Principal Office Address:**

**Mailing Address:**

304 Indian Trace, #121

304 Indian Trace, #121

Weston, FL 33326

Weston, FL 33326

**ARTICLE III - Registered Agent, Registered Office, & Registered Agent's Signature:**

(The Limited Liability Company cannot serve as its own Registered Agent. You must designate an individual or another business entity with an active Florida registration.)

The name and the Florida street address of the registered agent are:

Terri Braun

Name

1209 Chenille Circle

Florida street address (P.O. Box **NOT** acceptable)

Weston

City

FL 33327

Zip

2021 MAR - 9 AM 10:39

*Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent as provided for in Chapter 605, F.S..*

  
Registered Agent's Signature (REQUIRED)

(CONTINUED)

**ARTICLE IV-**

The name and address of each person authorized to manage and control the Limited Liability Company:

**Title:**

"AMBR" = Authorized Member

"MGR" = Manager

MGR

**Name and Address:**

Terri Braun

304 Indian Trace, #121

Weston, FL 33326

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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(Use attachment if necessary)

**ARTICLE V: Other provisions, if any.**

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

**REQUIRED SIGNATURE:**

**Signature of a member or an authorized representative of a member**  
This document is executed in accordance with section 605.0203 (1) (b), Florida Statutes. I am aware that any false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S.

Terri Braun



Typed or printed name of Signee

**Filing Fees**

**\$125.00 Filing Fee for Articles of Organization and Designation of Registered Agent**

**\$ 30.00 Certified Copy (Optional)**

**\$ 5.00 Certificate of Status (Optional)**

**THIRD AMENDED AND RESTATED  
OPERATING AGREEMENT  
OF  
KIDOKINETICS FRANCHISE LLC**

A Florida Limited Liability Company

**EFFECTIVE AS OF MAY 14, 2024**

NONE OF THE SECURITIES TO WHICH THIS OPERATING AGREEMENT RELATES HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY U.S. STATE SECURITIES LAWS, AND HAVE BEEN ISSUED OR SOLD IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION SET FORTH IN SECTION 4(2) OF THE SECURITIES ACT AND IN THE FLORIDA SECURITIES ACT, AS AMENDED, OR OTHER APPLICABLE STATE LAW. UNLESS SO REGISTERED, NONE OF THE SECURITIES TO WHICH THIS OPERATING AGREEMENT RELATES MAY BE OFFERED OR SOLD IN THE UNITED STATES OR TO ANY PERSON EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN EACH CASE ONLY IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THE SECURITIES DESCRIBED HEREIN HAVE BEEN ACQUIRED FOR INVESTMENT PURPOSES ONLY AND ARE FOR EACH MEMBER’S OWN ACCOUNT, WITHOUT PARTICIPATION, DIRECTLY OR INDIRECTLY, IN A DISTRIBUTION OR RESALE OF SAID SECURITIES. THESE SECURITIES HAVE AND MAY NOT BE SOLD, ASSIGNED, TRANSFERRED, PLEDGED, HYPOTHECATED OR IN ANY OTHER WAY DISPOSED OF OR ENCUMBERED, VOLUNTARILY OR INVOLUNTARILY, BY GIFT, BANKRUPTCY, OPERATION OF LAW, WINDING UP OF THE COMPANY OR OTHERWISE, EXCEPT IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS OPERATING AGREEMENT.

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**EXHIBIT A**  
**EXHIBIT B**

**THIRD AMENDED AND RESTATED  
OPERATING AGREEMENT  
OF  
KIDOKINETICS FRANCHISE LLC**

**THIS THIRD AMENDED AND RESTATED OPERATING AGREEMENT** is made and entered into effective as of May 14, 2024 (the “Effective Date”) by and among (i) **KIDOKINETICS FRANCHISE LLC**, a Florida limited liability company (the “Company”), (ii) executing the Member Counterpart Signature Page attached hereto as Exhibit A and incorporated herein by this reference, (iii) who are accepted by Terri Braun and David Pazgan (the “Managers”), and (iv) who by their signatures hereto hereby represent and agree to all of the terms and conditions set forth herein (each a “Member,” and collectively, the “Members”).

**WITNESSETH**

**WHEREAS**, the Company is a Florida limited liability company formed on March 9, 2021 under the Florida Limited Liability Company Act (the “Act”); and

**WHEREAS**, this Third Amended and Restated Operating Agreement supersedes and replaces all other Operating Agreements, including that certain Operating Agreement dated as of May 4, 2021, as amended and that certain Second Amended and Restated Operating Agreement dated February 1, 2024, as amended (such operating agreements, the “Prior Agreements”); and

**WHEREAS**, the Members now desire to amend and restate the Prior Agreements for the purpose of reducing to writing the covenants, agreements, promises and representations regarding the management and operation of the Company and restrictions on the transfer of the ownership thereof; and

**NOW, THEREFORE**, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by each of the parties to the others and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
DEFINITIONS**

The following terms used in this Agreement have the following meanings (unless otherwise expressly provided herein):

“**Act.**” The Florida Limited Liability Company Act.

“**Agreement.**” This Operating Agreement, as originally executed and as amended from time to time.

“**Articles of Organization.**” The Articles of Organization of Kidokinetics Franchise LLC, as filed with the Secretary of State, as the same may be amended from time to time.

**“Capital Account.”** A capital account maintained in accordance with the rules contained in the Code and in Treasury Regulation §1.704-1, including §1.704-1(b)(2)(iv).

**“Capital Transaction.”** A sale, exchange, or other disposition by the Company of all or any portion of its assets or business outside the ordinary course of business.

**“Class A Member.”** A Person that has been admitted as a Class A Member of the Company following the approval of the Members to the extent required, the payment of any required initial capital contribution, and such Person’s agreement to be bound by the terms and conditions of this Agreement, as evidenced by such Person’s execution of a copy of this Agreement in order to make such Person a party to this Agreement and a Member.

**“Class B Member.”** A Person or entity that has been admitted as a Class B Member of the Company following the approval of the Members to the extent required, the payment of any required initial consideration, and such Person’s or Entity’s agreement to be bound by the terms and conditions of this Agreement, as evidenced by such Person’s or Entity’s execution of a copy of this Agreement in order to make such Person or Entity a party to this Agreement and a Class B Member. In no event shall Class B Members be considered voting Members of the Company.

**“Code.”** The Internal Revenue Code of 1986, as amended from time to time.

**“Company.”** Kidokinetics Franchise LLC.

**“Disabled.”** means physically or mentally impaired such that the person is substantially unable to perform the duties he customarily performed for the Company prior to the impairment and that continues for 180 days and then can reasonably be expected to last permanently or for an indefinite period of long continued duration (or until the person’s death), as determined by the Company in good faith on the basis of evidence satisfactory to the Company.

**“Economic Interest.”** An Equity Owner's share of one or more of the Company's distributions and income tax items pursuant to this Agreement and the Act, but shall not include any right to participate in the management of the business and affairs of the Company, including any right to vote on, consent to or otherwise participate in any decision or action of or by the Members or Managers.

**“Economic Interest Owner.”** The owner of an Economic Interest who is not a Member.

**“Entity.”** Any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association, or any foreign trust or foreign business organization.

**“Equity Owner.”** An Economic Interest Owner or a Member.

**“Fiscal Year.”** The taxable year of the Company as determined under the Code.

**“Immediate Family”** means (as to a specified person) the specified person's spouse, descendants, ancestors, and siblings, and spouses of the specified person's descendants, ancestors, and siblings.

**“Majority Interest.”** Ownership Percentages of Class A Members that, taken together, exceed fifty percent (50%) of the aggregate of all Ownership Percentages of all Class A Members.

**“Managers.”** The Person or Persons designated as Managers of the Company pursuant to this Agreement, acting in that capacity. Initially, the Managers shall be Terri Braun and David Pazgan. See also Article 5.

**“Member.”** Any Person that becomes a Class A Member or Class B non-voting Member, and any other party who may hereafter become a Member pursuant to the terms of Articles 12 and 13 of this Agreement. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Economic Interest, such Person shall have all the rights of a Member with respect to such purchased or otherwise acquired Ownership Interest. When a Member ceases to be a Member, they cease to be entitled to exercise any rights or privileges of a Member, including the right to participate in the management of the business and affairs of the Company (including, if applicable, the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members).

**“Membership Interest.”** A Member's entire interest in the Company, including such Member's Economic Interest and such other rights and privileges that the Member may enjoy by being a Member, including the right to participate in the management of the business and affairs of the Company (including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members).

**“Ownership Interest.”** In the case of a Member, the Member's Membership Interest. In the case of an Economic Interest Owner, the Economic Interest Owner's Economic Interest. In either case, an Equity Owner's Ownership Interest shall be expressed as Units in the Company.

**“Ownership Percentage.”** For each Equity Owner, the percentage designated herein as the Equity Owner's Ownership Percentage. Ownership Percentages of the Equity Owners shall be calculated as follows:

i. Class A: Subtract the sum of the total Ownership Percentages of the Class B Equity Owners from one hundred percent (100%) and multiply the difference by the total Class A Units held by an Equity Owner divided by all issued and outstanding Class A Units.

ii. Class B: multiply 0.01% by the total Class B Units held by the Equity Owner.

Issued Units shall be set forth in Exhibit B, and the Managers shall update Exhibit B periodically to reflect the admission or withdrawal of Members. For purposes of the provisions hereof relating to actions taken or approved by Members, including voting, written consents, or other approval, only Ownership Percentages held by Members will be taken into account.

**“Person.”** Any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such individual or Entity.

**“Reserves.”** With respect to any fiscal period, funds set aside or amounts allocated during such period to reserves which shall be maintained in amounts deemed sufficient by the Manager for working capital, taxes, insurance, debt service, capital expenditures, or other costs or expenses incident to the ownership or operation of the Company's business.

**“Secretary of State.”** The Secretary of State of Florida.

**“State.”** The State of Florida.

**“Substitute Member.”** A substitute Member is a transferee of a Membership Interest who has been admitted to all of the rights and privileges of a Member with the approval of the Members as provided in Section 13.2. The substitute Member has all the rights and privileges and is subject to all the restrictions and liabilities of his transferor. The substitution of the transferee does not release the transferor from any liability as a Member theretofore incurred except to the extent provided in writing signed by the Persons affected thereby.

**“Transfer.”** Sell, assign, pledge, or otherwise transfer, voluntarily or involuntarily (whether by operation of law or otherwise), for value or gratuitously, directly or indirectly.

**“Transferring Equity Owner.”** An Equity Owner that Transfers all or any portion of its Ownership Interest.

**“Treasury Regulations” or “Regulations.”** The federal income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

**“Unanimous Interest.”** Ownership Percentages of Members that, taken together, are equal to one hundred percent (100%) of the aggregate of all Ownership Percentages of all Members.

**“Unit(s)”** means a unit of membership in the Company that represents Membership Interest and Economic Interest in the Company.

**“Unrecovered Capital Contribution Amount”** shall mean, with respect to each Class A Member, at the time in question, an amount equal to the excess, if any, of such Member's cash Capital Contributions less all amounts distributed to such Member pursuant to the terms and conditions contained in Section 10.4.

**ARTICLE 2  
FORMATION OF THE COMPANY**

2.1 **Formation.** On March 9, 2021, the Company was formed as a limited liability company pursuant to the Act by the filing of Articles of Organization with the Secretary of State in accordance with the provisions of the Act.

2.2 **Name.** The name of the Company is Kidokinetics Franchise LLC.

2.3 **Principal Place of Business.** The principal place of business of the Company is 10428 W SR 84, Unit 1, Davie, Florida 33324. The Company may locate its places of business at any other place or places as the Manager from time to time deems advisable.

2.4 **Registered Office and Registered Agent.** The address of the Company's initial registered office in the State and the name of its initial registered agent at such address shall be as set forth in the Articles of Organization or such other required initial filing with the Secretary of State. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State pursuant to the Act.

2.5 **Term.** The Company shall continue in existence until it terminates in accordance with the provisions of this Agreement or the Act.

**ARTICLE 3  
BUSINESS OF THE COMPANY**

The business of the Company shall be to (i) engage in the business of growing the Kidokinetics national franchise brand, (ii) to engage in such other lawful activities as are reasonably necessary or useful to the furtherance of the foregoing purpose, (iii) accomplish any lawful business whatsoever, or which at any time appears conducive to or expedient for the protection or benefit of the Company and its assets, (iv) to exercise all other powers necessary to or reasonably connected with the Company's business which may be legally exercised by limited liability companies under the Act, and (v) to engage in all activities necessary, customary, convenient or incident to any of the foregoing.

**ARTICLE 4  
NAMES AND ADDRESSES OF MEMBERS**

The names and addresses of the Members are kept in the Company's books records and shall be made available to the Members upon request.

**ARTICLE 5  
RIGHTS AND OBLIGATIONS OF THE MANAGERS**

5.1 **Management.** The business and affairs of the Company shall be managed by its Managers. Except for situations in which the approval of the Members is expressly required by this Agreement or by nonwaivable provisions of applicable law, the Managers shall have full and

complete authority, power and discretion to manage and control the day-to-day business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business.

5.2 **Number, Election, Tenure, and Qualifications.** The Company shall initially have two (2) Managers (see the definition of “Manager” in Article 1 for the identity of the Managers). The number of Managers of the Company shall be fixed from time to time by the affirmative vote of Members holding a Majority Interest (but in no instance shall there be less than one (1) Manager). See Section 5.10 concerning the removal of a Manager, Section 5.11 concerning the election of a successor Manager, and Sections 5.12 – 5.15 concerning meetings of and actions by Managers. Each Manager shall hold office until his successor has been elected and qualified, or until his earlier death, resignation, incapacity to serve, or removal. Managers need not be residents of the State or Members.

5.3 **Certain Powers of the Managers.** Without limiting the generality of Section 5.1, but subject to the limitations of Section 5.16, the Managers shall have power and authority, on behalf of the Company:

5.3.1 To acquire property from any Person as the Managers may determine. The fact that a Manager or an Equity Owner is directly or indirectly affiliated or connected with any such Person shall not prohibit the Managers from dealing with that Person.

5.3.2 To borrow money for the Company from banks, other lending institutions, the Managers, the Equity Owners, or affiliates of a Manager or Equity Owners, on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers or, to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers.

5.3.3 To purchase liability and other insurance to protect the Company's property and business.

5.3.4 To hold and own any Company real and personal properties in the name of the Company.

5.3.5 To invest any Company funds temporarily in time deposits, short-term governmental obligations, commercial paper or other investments.

5.3.6 To execute on behalf of the Company all documents, including checks, drafts, notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments; bills of sale; leases; partnership agreements; operating agreements or limited liability company agreements of other limited liability companies; documents for the formation of subsidiary corporations; and any other documents necessary, in the opinion of the Managers, to the business of the Company.



5.3.7 To employ accountants, legal counsel, managing agents or other experts to perform services for the Company, and to compensate them from Company funds.

5.3.8 To enter into any and all other agreements on behalf of the Company, with any other Person for any purpose, in such forms as the Managers may approve.

5.3.9 To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Agreement or by the Managers of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company except to the extent the Member has been expressly authorized by the Managers in writing to act as an agent of the Company.

The Managers are agents of the Company for the purpose of the Company's business and affairs and may execute in the name of and on behalf of the Company any document for carrying on the business and affairs of the Company (including documents described in paragraph 5.3.6 above). The authority to execute documents in the name of (or otherwise act on behalf of) the Company does not relieve a Manager from any fiduciary obligations he may otherwise have to the Company and its Members, including any obligation to obtain the approval of the other Manager or the Members, as applicable. A Manager's act (including the execution of a document in the name of the Company), even if apparently for carrying on the business and affairs of the Company in the usual way, shall not bind the Company if the Manager has no authority to act for the Company in that particular matter (for example, because his act contravenes a restriction on his authority set forth in this Agreement) and the Person with whom the Managers are dealing know that the Managers have no such authority.

5.4 **Liability for Certain Acts.** No Manager in any way guarantees the return of any Equity Owner's capital contributions or any profit for the Equity Owners from the operations of the Company. No Manager shall be liable to the Company or to any Equity Owner for any loss or damage sustained by the Company or any Equity Owner or Manager except to the extent, if any, that the loss or damage results from intentional misconduct or knowing violation of law or a transaction for which such Manager received a personal benefit in violation or breach of the provisions of this Agreement.

5.5 **The Managers and Members Have No Exclusive Duty to Company.** Except as set forth in Section 6.4: (i) the Manager and Members will have no exclusive duty to act on behalf of the Company; (ii) each Manager and Equity Owner may have other business interests and may engage in other activities in addition to those relating to the Company; (iii) neither the Company nor any Manager or Equity Owner shall have any right, by virtue of this Agreement, to share or participate in any other investments or activities of any other Manager or Equity Owner; and (iv) neither any Manager nor any Equity Owner will incur any liability to the Company or to any of the Equity Owners as a result of engaging in any other business or venture.

5.6 **Bank Accounts; Signatories.** The Managers may from time-to-time open bank or other financial accounts in the name of the Company. Unless otherwise determined from time to

time by the Managers, checks, drafts, etc., on any such accounts may be signed (on behalf of the Company) by any Manager.

5.7 **Compensation of the Managers.** The salaries and other compensation of the Managers shall be fixed from time to time by the affirmative vote of Members holding a Majority Interest. No Manager shall be prevented from receiving compensation by reason of the fact that he is also a Member.

5.8 **Resignation.** Any Manager may resign by giving written notice to the Members. The resignation shall be effective on receipt of notice thereof or at such later time as is specified in the notice. If the resignation is effective at a future time, a successor may be elected before that time to take office when the resignation becomes effective. The resignation of a Manager who is also an Equity Owner shall not affect the Manager's rights as an Equity Owner.

5.9 **Removal.** At a meeting called expressly for that purpose and at which the Manager(s) in question have been given an opportunity for a hearing, any or all of the Managers may be removed at any time, (i) with or without cause, by the affirmative vote of Members holding a Majority Interest, or (ii) for gross negligence, fraud, deceit, or intentional misconduct that had a material adverse effect on the Company, or if the Manager is incapacitated, by the affirmative vote of Members holding a Majority Interest determined without regard to any Ownership Percentage held by the Manager or an affiliate of the Manager. The removal of a Manager who is also an Equity Owner shall not affect the Manager's rights as an Equity Owner.

5.10 **Vacancies.** If the office of any Manager becomes vacant for any reason, a successor Manager may be appointed by the affirmative vote of the Members holding a Majority Interest; if there are no remaining Managers, a successor Manager shall be appointed by the affirmative vote of Members holding a Majority Interest. Any Manager's position to be filled by reason of an increase in the number of Managers shall be filled by the affirmative vote of Members holding a Majority Interest.

5.11 **Notice of and Participation in Meetings of Managers.** If at any time there is more than one Manager, meetings of the Managers may be called by any Manager. At least two days' notice of any meeting of the Managers shall be given by any Manager calling the meeting. Such notice may be given orally and will be effective when actually communicated to the recipient. Managers may participate in any meeting by, or conduct the meeting through the use of, any means of communication by which all Managers participating may simultaneously hear each other during the meeting. A Manager participating in a meeting by this means is deemed to be present in person at the meeting.

5.12 **Quorum of Managers.** All of the Managers then in office shall be necessary to constitute a quorum for a meeting of the Managers.

5.13 **Action of Managers.** The act of a majority of Managers at a meeting of the Managers at which a quorum is present shall be required for the Managers to take action on any matter where a vote of the Managers is required.

5.14 **Action by Managers Without a Meeting.** Any action required or permitted to be taken at a meeting of the Managers may be taken without a meeting if the action is taken by all of the Managers entitled to vote on the action, evidenced by one or more written consents (describing the action taken) signed by those Managers and delivered to the Company for inclusion in its records.

5.15 **Limitations on Authority of the Managers.** Notwithstanding anything in this Agreement to the contrary, without the written consent of all of the Managers, the Managers shall not cause or commit the Company to do any of the following:

(a) Sell, exchange, or otherwise dispose of any assets of the Company other than in the ordinary course of business;

(b) Mortgage, pledge, or grant a security interest in assets of the Company then having a fair market value in excess of \$50,000 (as reasonably determined by the Managers), whether in a single transaction or a series of related transactions;

(c) Borrow money, refinance any indebtedness for money borrowed by the Company, or otherwise incur an obligation (for example, an obligation to purchase property), whether secured or unsecured, in excess of \$50,000, whether in a single transaction or a series of related transactions;

(d) Make an expenditure or series of related expenditures in excess of \$50,000;

(e) Lend money to or guarantee or become surety for the obligations of any other Person, other than in the ordinary course of business; or

(f) Compromise or settle any claim of or against the Company involving an amount in controversy in excess of \$10,000.

(g) Create or authorize the creation or increase the authorized amount of any additional class or series of Membership Interests in the form of Units;

(h) Merge, consolidate, convert to another form of business entity, or otherwise reorganize or recapitalize the Company, or sell, exchange, or otherwise dispose of all or substantially all of the assets of the Company, whether in a single transaction or a series of related transactions;

(i) Authorize the transfer of any Membership Interest pursuant to Section 13.2 hereof;

(j) Reduce or eliminate an obligation to make a contribution to the capital of the Company;

(k) Reduce or increase the compensation paid by the Company to any Manager, whether in the form of salary or distributions;

(l) Enter into any transaction between the Company and the Managers or any Equity Owner or any of their affiliates;

(m) Authorize or permit the Company to (i) file a petition in bankruptcy or petition to take advantage of any insolvency act; (ii) make an assignment for the benefit of the Company's creditors; (iii) commence a proceeding for the appointment of a receiver, trustee, liquidator or conservator of the Company or of the whole or any substantial part of its property; or (iv) file a petition or answer seeking reorganization or arrangement or similar relief under the Federal bankruptcy laws or any other applicable law or statute of the United States or any state; or

(n) Take any other action for which this Agreement expressly requires the affirmative vote or approval of the Members (see, for example, Section 13.2 concerning the admission of a transferee as a substitute Member). Once a transaction described above has been approved by the Members as required above, the Managers may exercise (with respect to that transaction) the authority granted to the Managers elsewhere in this Agreement.

5.16 **Right to Rely on the Managers.** Any Person dealing with the Company may rely (without duty of further inquiry) upon a certificate signed by the Managers as to: (i) the identity of any Manager or Equity Owner; (ii) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts on behalf of the Company by the Managers or which are in any other manner germane to the affairs of the Company; (iii) the Persons who are authorized to execute and deliver any instrument or document of the Company; or (iv) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Equity Owner.

## ARTICLE 6 CERTAIN AGREEMENTS OF EQUITY OWNERS

6.1 **Limitation of Liability.** Except as otherwise provided by the non-waivable provisions of the Act and by this Agreement, no Equity Owner shall be liable for an obligation of the Company solely by reason of being or acting as an Equity Owner.

6.2 **List of Equity Owners.** Upon the written request of any Member, the Managers shall provide a list showing the names, addresses, Ownership Interests of all Equity Owners and Managers and the other information maintained pursuant to Section 11.2. Class B Members and Economic Interest Owners will have no rights to information pursuant to this Section 6.2.

6.3 **Equity Owners Have No Agency Authority.** Except as expressly provided in this Agreement, the Equity Owners (in their capacity as Equity Owners) shall have no agency authority on behalf of the Company.

6.4 **Covenant Not To Compete.** Each Member agrees that during the term of this Agreement, neither such Member, nor any affiliate of such Member, shall in any manner, directly or indirectly, participate in, be connected with, have an interest or aid or assist anyone else in any business or operations competitive with the Company in the State of Florida without the prior approval of the Class A Members.

## ARTICLE 7

## MEETINGS OF MEMBERS

7.1 **Calling of Meetings.** Meetings of the Members, for any purpose or purposes, may be called only by the Manager or by a Member or Members holding twenty percent (20%) or more of the Ownership Percentages.

7.2 **Place of Meetings.** The Persons calling the meeting may designate any place within Florida as the place for meeting for any meeting of the Members. If no designation is made, or if a special meeting is otherwise called, the place of meeting will be the principal executive office of the Company. Class B Members shall not be entitled to attend any meeting of the members.

7.3 **Notice of Meetings.** Written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than two (2) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the Person calling the meeting, to each Member who is entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two calendar days after being deposited in the United States mail, addressed to the Member at its address as it appears on the books of the Company, with postage thereon prepaid. Notice provided in accordance with this Section shall be effective notwithstanding anything in the Act to the contrary.

7.4 **Meeting of All Members.** If all the Members meet at any time and place, either within or outside of the State of Florida, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken.

7.5 **Quorum; Adjournment of Meetings.** Members holding a Majority Interest, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any such meeting, a majority of the Ownership Percentages so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if at the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting. At such an adjourned meeting at which a quorum is present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed.

7.6 **Manner of Acting.** If a quorum is present, the affirmative vote of Members holding a Majority Interest shall be necessary and sufficient to constitute the act of the Members, unless a greater number of votes are required by the Articles of Organization or this Agreement. Unless otherwise expressly provided herein, Members that have an interest (economic or otherwise) in the outcome of any particular matter on which the Members vote or consent may vote or consent on any such matter and their Ownership Percentage, vote, or consent, as the case may be, shall be counted in the determination of whether the matter is approved by the Members.

7.7 **Proxies.** At all meetings of Members, a Member having the right to vote may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such written proxy shall be delivered to the Manager before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless the proxy provides for a longer period.

7.8 **Action by Members without a Meeting.** Action required or permitted to be taken by the Members may be taken without a meeting if the action is taken by Members who would be entitled to vote not less than the minimum number of votes that would be necessary to authorize or take the action (at a meeting at which all Members entitled to vote were present and voted). The action must be evidenced by one or more written consents (describing the action taken) signed by those Members and delivered to the Company for inclusion in its records. The record date for determining Members entitled to take action without a meeting will be the date the first Member signs a written consent. Action taken under this Section is effective when the Members required to approve such action have signed the consent, unless the consent specifies a different effective date. All Members who did not participate in taking the action shall be given written notice of the action not more than ten (10) days after the taking of the action without a meeting, but the failure to give such notice shall not invalidate the action so taken.

7.9 **Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the record date for such determination of Members shall be the date on which notice of the meeting is mailed or the date on which such distribution is made (as the case may be) or such other date (not more than 60 days before the date of such meeting or other action) as may be fixed in advance by the Managers.

7.10 **Waiver of Notice.** When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

7.11 **Participation in Meetings of Members.** Members may participate in any meeting by, or conduct the meeting through the use of, any means of communication by which all Members participating may simultaneously hear each other during the meeting. A Member participating in a meeting by this means is deemed to be present in person at the meeting.

## ARTICLE 8 CAPITAL CONTRIBUTIONS AND CAPITAL ACCOUNTS

### 8.1 **Initial and Additional Contributions to the Company.**

8.1.1 **Generally.** Each Equity Owner is obligated to contribute cash to the capital of the Company (in accordance with this Section 8 the amount shown as his Capital Contribution on Exhibit B hereto. Each Equity Owner will forthwith contribute to the Company the amount set forth in Exhibit B attached hereto as his initial capital contribution.

8.1.2 **Other Additional Contributions.** The Equity Owners may make such additional capital contributions as the Equity Owners unanimously agree upon from time to time. If all the Equity Owners agree to make additional contributions, then except as the Equity Owners otherwise unanimously agree, the additional contributions shall be made in proportion to their respective Ownership Percentages.

8.1.3 Not for Benefit of Creditors. None of the provisions, rights, or obligations contained in this Section 8 is or may be deemed to be for the benefit of any person other than the Equity Owners and the Company, and no such third person will under any circumstances have any right to compel any actions or payments by the Equity Owners or the Manager (or both).

8.2 Interest on and Return of Capital Contributions. Except as otherwise specifically provided for herein, no Equity Owner shall be entitled to any interest on, or to the return of, all or any part of its Capital Account or its contributions to the capital of the Company.

8.3 Capital Accounts. The Company shall establish for each Equity Owner a Capital Account, which shall be credited with the amount of cash and the fair market value of all property contributed by such Equity Owner to the capital of the Company. Each Equity Owner's Capital Account shall be credited or charged, as the case may be, with the Equity Owner's distributive share of Company income tax items or any special allocations pursuant to Article 9 hereof and shall be charged with the amounts of any distributions to the Equity Owner pursuant to Article 10 hereof, and in all events shall be maintained in accordance with Code §704 and Treasury Regulations promulgated thereunder.

## ARTICLE 9 ALLOCATIONS OF INCOME TAX ITEMS

9.1 Allocations of Income Tax Items. Net taxable income and loss and all items of income, gain, loss, deduction or credit of the Company as determined for federal income tax purposes (“Income Tax Items”) shall be allocated and credited to the Equity Owners as follows:

9.1.1 Income Tax Items shall be allocated and credited to the Equity Owners pro rata, according to their respective Ownership Percentages; provided, that if cash (or property) is distributed pursuant to Article 10 hereof, then Income Tax Items shall be allocated among the Equity Owners in proportion to the amount of cash (or property) distributed to such Equity Owners pursuant to Article 10.

9.1.2 Notwithstanding anything in this Agreement to the contrary --

(a) No Equity Owner shall be allocated any net loss or deduction of the Company to the extent that the allocation would cause the Equity Owner's Capital Account deficit, if any, to exceed the Equity Owner's share of partnership minimum gain as defined and determined in accordance with §1.704-2(g) of the Treasury Regulations. All net loss and any deductions not allocated to an Equity Owner solely by reason of the preceding sentence shall be allocated to the Equity Owner(s) to whom (and to the extent that) they may be allocated without violating the preceding sentence.

(b) If there is a net decrease in partnership minimum gain (as defined in §1.704-2(g) of the Treasury Regulations) for any taxable year of the Company, then to the extent required under §1.704-2(f) of the Treasury Regulations, each Equity Owner will be allocated items of income and gain for that year equal to the Equity Owner's share of the net decrease in partnership minimum gain (within the meaning of §1.704-2(g)(2) of the Treasury Regulations). Such allocations shall be made in accordance with §1.704-2(f) of the Treasury Regulations.

(c) Items of income and gain shall first be allocated in a manner which complies with the “qualified income offset” requirement of §1.704-(b)(2)(ii)(d)(3), (4), (5) and (6) of the Treasury Regulations.

The foregoing provisions have been included in order to satisfy the requirement of the Treasury Regulations that allocations of Income Tax Items shall have substantial economic effect or be in accordance with the Equity Owners' interests in the Company.

9.1.3 To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code §734(b) or Code §743(b) is required to be taken into account in determining the Equity Owners' Capital Accounts pursuant to applicable Treasury Regulations, the amount of such adjustments to the Equity Owners' Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be allocated to the Equity Owners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Regulations.

9.2 **Allocations on Transfers of Ownership Interests.** In any taxable year of the Company in which there is a change in any Equity Owner's interest in the Company, each Equity Owner's distributive share of any item of income, gain, loss, deduction or credit of the Company for such taxable year shall be determined in accordance with rules established by the Manager, which rules shall, to the extent possible, comply with the applicable provisions of §706 of the Code and any Treasury Regulations thereunder.

## **ARTICLE 10 DISTRIBUTIONS**

Except as otherwise provided in Article 14 hereof (relating to the dissolution and liquidation of the Company), distributions shall be made as follows:

10.1 **Compensation Schedule.** First, in accordance with the Compensation Schedule set forth on Exhibit B to this Agreement, which Compensation Schedule may be updated from time to time with the affirmative vote of Members holding a Majority Interest.

10.2 **Cash Flow.** From time to time, the Managers shall distribute to the Class A Members and Class B Members, pro rata, according to their respective Ownership Percentages, that portion of the Company's net cash flow from the operations of the Company that the Managers, in consultation with the Company's accountants, determine is appropriate, considering the reasonable needs of the Company's business and affairs (including reserves for working capital, taxes, insurance, debt service, capital expenditures, or other costs or expenses incident to the Company's business and affairs).

10.2.1 **Distributions to Cover Tax Liability.** Notwithstanding Section 10.2 but subject to Section 10.5, the Managers shall, unless financial or other conditions of the Company prompt the Members holding a Majority Interest to determine otherwise, cause to be distributed to each Class A Member and Class B Member, at least ten (10) days before each date on which federal estimated quarterly taxes are due for individuals, cash in an amount equal to the amount,



if any, by which (i) forty percent (40%) of the Company's net taxable income (as estimated by the Managers) allocable to the Member for the portion of the year ending on the last day of the most recent calendar quarter (as such allocable amount is estimated by the Managers), exceeds (ii) the sum of any distributions previously made to the Member for the year. Such tax distributions will be considered as advances against the recipient's actual entitlement to distributable cash for the year. The Managers may request proof from any Member that any or all distributions to cover tax liability have been paid to the appropriate taxing authority and, in such event, the Member will provide documentary evidence of the same within seven (7) days of any such request. All Members shall be individually responsible for the payment of all taxes in connection with distributions made under this Article 10. If it transpires that any Member has received more in distributions for the year than he is finally determined actually to have been entitled to for the year, the Managers as soon as practicable will make such adjustments as they deem appropriate to cure the excess distribution to that Member and the shortfall in the distributions owing to the other Members. For example, the Managers may (i) charge the amount of the excess distribution for the year against the aggregate distributions to which that Member will be entitled for the next year, and (ii) during the next year, cause the Company to make corresponding make-up distributions to the other Members from distributable cash, to make up the shortfall in the shares of distributable cash to which those Members were entitled for the year just ended.

10.3 **Amounts Withheld.** All amounts withheld pursuant to the Code or any provision of any state, local or other tax law with respect to any payment or distribution to the Members shall be treated as amounts distributed to the Members pursuant to this Section 10 for all purposes under this Agreement. The Manager may allocate any such amounts among the Equity Owners in any manner that is in accordance with applicable law.

10.4 **Proceeds of Capital Transactions.**

(a) As soon as practicable after the receipt by the Company of net proceeds from a Capital Transaction, in an amount less than Twenty Million Dollars (\$20,000,000), distributions shall be made as follows: (i) First, to each of the Class B Members in an amount equal to each Class B Member's Initial Capital Contribution, *multiplied by two* (2); (ii) Second, to any Class A Member that has an Unrecovered Capital Contribution Amount in proportion to their respective Unrecovered Capital Contribution Amounts, until their respective Unrecovered Capital Contribution Amounts equal zero (0), and; Third, to the Class A Members in proportion to their respective Ownership Percentages.

(b) As soon as practicable after the receipt by the Company of net proceeds from a Capital Transaction, in an amount equal to or greater than Twenty Million Dollars (\$20,000,000), distributions shall be made as follows: (i) First, to any Class A Member that has an Unrecovered Capital Contribution Amount in proportion to their respective Unrecovered Capital Contribution Amounts, until their respective Unrecovered Capital Contribution Amounts equal zero (0); and (ii) Second, to the Class A Members and Class B Members in proportion to their respective Ownership Percentages.

10.5 **Prohibited Distributions.** No distribution shall be made that would violate the Act.

## ARTICLE 11

## BOOKS AND RECORDS

11.1 **Accounting Period.** The Company's accounting period shall be the Fiscal Year.

11.2 **Records and Reports.** At the expense of the Company, the Managers shall maintain records and accounts of all operations and expenditures of the Company. The Company shall keep (at its principal place of business or at such other reasonable location as may be selected by the Manager) the following records: (i) a current list of the full name and last known address of each Equity Owner and Managers, (ii) copies of records to enable a Member to determine the relative voting rights, if any, of the Members, (iii) a copy of the Articles of Organization, together with any amendments thereto, (iv) copies of the Company's federal, state and local income tax returns and reports, if any, for the three (3) most recent years, (v) a copy of this Agreement, together with any amendments thereto, and (vi) copies of any financial statements of the Company for the three most recent years.

11.3 **Returns and Elections.** The Managers shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, shall be furnished to the Equity Owners within a reasonable time after the end of the Company's fiscal year. All elections permitted to be made by the Company under federal or state laws shall be made by the Managers in their sole discretion, acting together.

## ARTICLE 12 ISSUANCE OF MEMBERSHIP INTERESTS

12.1 **Issuance of Additional Membership Interests to New and Existing Members.** The Company, in the discretion of the Managers, may issue Membership Interest in the form of Units to a Person who is not already a Member or to one or more existing Members, for such consideration as those Members determine.

12.2 **Part-Year Allocations with Respect to New Members.** No additional (or substitute) Member will be entitled to any retroactive allocation of losses, income, or expense deductions incurred by the Company. In accordance with the provisions of Code §706(d) and the Treasury Regulations promulgated thereunder, the Managers, at their option, at the time a Member is admitted, may close the Company books (as though the Company's tax year had ended) or make pro rata allocations of losses, income, and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted.

## ARTICLE 13 TRANSFERABILITY

13.1 **General Restrictions on Transfer.**

13.1.1 No interest in, or any part of, any Equity Owner's Ownership Interest may be transferred except as expressly permitted by this Agreement. Any attempt to Transfer any interest in or part of an Ownership Interest in violation of this Agreement is ineffective, and the

Ownership Interest shall remain subject to this Agreement. Any further Transfer by the transferee in a permitted Transfer is subject to all of the restrictions of this Agreement, including the restrictions of this Section 13.1.

13.1.2 No interest in, or any part of, any Equity Owner's Ownership Interest may be Transferred (i) unless the Managers determine to their reasonable satisfaction that the Transfer would not violate any applicable laws regulating the transfer of securities, or (ii) if the Transfer, alone or in combination with other transactions, would cause the Company to terminate for federal income tax purposes under Code §708 and cause any Equity Owner to suffer adverse federal income tax consequences as a result thereof or would cause the Company to be treated as a corporation for federal income tax purposes.

13.1.3 No Transfer will be effective unless and until (i) written notice (including the name and address of the proposed transferee and the date of such Transfer) has been provided to the Managers, and (ii) the transferee agrees in writing that the transferee will be bound by, and the transferred interest will be subject to, the terms of this Agreement.

13.1.4 Upon any Transfer of an Ownership Interest, the transferor and transferee shall furnish to the Managers any information reasonably requested by the Managers to enable the Company to file all required tax and information statements or returns. The Company shall not be required to make any distribution with respect to any transferred interest until it has received such information.

**13.2 Transferee Not a Member in Absence of Consent; Transferor Loses Voting Rights as to Transferred Interest.**

13.2.1 A transferee of a Membership Interest (which transferee is not already a Member immediately prior to the Transfer) shall not become a substitute Member or otherwise be entitled to exercise any rights of a Member (including the right to vote or otherwise participate in the management of the business and affairs of the Company) with respect to the transferred interest but instead shall be merely an Economic Interest Owner with respect to the transferred interest, unless the transferee is admitted as a substitute Member with respect to the transferred interest by the unanimous written consent (which consent may be withheld in their absolute discretion) of all nontransferring Members. Except as provided in the preceding sentence, a pledgee of, or holder of a security interest in, or lien or other encumbrance on, an Ownership Interest shall not become a Member.

13.2.2 Except as may be expressly provided herein, the Transferring Equity Owner that is a Class A Member will cease to have any voting or other residual rights with respect to the Ownership Interest transferred to the transferee.

13.2.3 The transferee of all or a portion of an Ownership Interest will succeed to that portion of the Transferring Equity Owner's Capital Account (and "Unreturned Capital Contributions" account) that is allocable to the portion of the Ownership Interest transferred to the transferee.

13.3 **Voluntary Transfer to Member(s) of Immediate Family.** Subject to the provisions of this Agreement, including Sections 13.1 and 13.2, an Equity Owner may voluntarily Transfer his Ownership Interest in whole or in part to or in trust for (i) the Equity Owner and/or one or more members of his Immediate Family (but no one else), and/or (ii) an Entity established or maintained for the purpose of asset management and/or estate planning the direct or indirect control of which is maintained by the Equity Owner and/or one or more members of his Immediate Family (but no one else). If the Transferring Equity Owner was a Member, the transferee will not become a substitute Member with respect to the Ownership Interest transferred to him unless the transferee is admitted as a substitute Member in accordance with Section 13.2. In accordance with Section 13.2, the Transferring Equity Owner will cease to have any voting or other residual rights with respect to the Ownership Interest transferred to the transferee.

13.4 **Voluntary Sale Subject to Unanimous Consent.** Subject to the provisions of this Agreement, including Sections 13.1 and 13.2, an Equity Owner may sell all (but not less than all) of its Ownership Interest to a third-party purchaser only with the unanimous written consent of all of the other Class A Members.

13.5 **Involuntary Transfer in Connection with Bankruptcy, Divorce, etc.** In the case of an involuntary or other required Transfer of an Ownership Interest where no bona fide offer for purchase of the Ownership Interest has been received, including a transfer as the result of a divorce proceeding or a proceeding in bankruptcy, the Equity Owner being required to Transfer the Ownership Interest (“Transferring Equity Owner”) shall give the Company and the other Equity Owners who are Members written notice of the required Transfer. In accordance with Section 13.2, the Transferring Equity Owner and the Equity Owner to whom the Ownership Interest has been transferred involuntarily will cease to have any voting or other residual rights with respect to such Ownership Interest. As in the case of any Transfer, the effectiveness of the Transfer to the transferee will be subject to the conditions of Section 13.1.

13.6 **Transfer in Connection with Death, Disability.** Upon a Member’s death or disability for a period exceeding 180 days, the Members that survive or that are not Disabled (the “Surviving Members”) will have the option but not the obligation, for one hundred eighty (180) days after the date of such death or disability, to purchase a pro-rata portion of the deceased or Disabled Member’s Ownership Interest at a price that is equal to 80% of the “fair market value” of such ownership interest. “Fair market value” shall be determined by an independent appraiser selected by the deceased or Disabled Member’s estate or representative, as the case may be, and the Surviving Members, or if they are unable to agree on an appraiser, each shall select an independent appraiser and those two appraisers shall select a third independent appraiser who shall determine the fair market value. No appraiser may be an affiliate of or bear any family or economic relationship to either the selling Member or purchasing Member (or both) or otherwise be unable to deal with the selling Member and purchasing Member at arm’s length. The determination of the appraiser(s) shall be final and binding on the parties. The cost of the appraisal shall be paid by the Company. The closing of any purchase and sale may be delayed for a reasonable period if necessary to complete any appraisal. The purchase price for an Ownership Interest pursuant to this Section 13.6 shall be payable as follows: the purchaser shall pay to the seller at the closing cash in an amount to be determined by the purchaser but not less than (i) twenty percent (20%) of the total purchase price. With respect to the balance, if any, owing on the total purchase price, the purchaser shall execute and deliver to the seller at the closing a promissory note in that principal

amount. The note shall bear simple interest at the prime rate of interest as listed in the Wall Street Journal, plus one percent (1%) (on the outstanding principal balance, beginning on the date of the closing of the purchase and sale) and shall be payable over a period of five (5) years in sixty (60) equal monthly installments of principal and interest; the first payment under the note shall be due thirty (30) days after the date of the closing of the purchase and sale; the purchaser shall have the right to prepay the note in whole or in part without penalty or premium; if any payment on the note is not made when due and the default is not cured within thirty (30) days after delivery of written notice, the holder of the note may accelerate the entire unpaid balance; and the purchaser shall pledge the purchased Ownership Interests as security for payment of the note and shall execute and deliver such pledge agreement and assignments as may reasonably be requested by the seller to create, perfect, and maintain the security interest in the purchased Ownership Interests.

13.8 **Forfeiture.** If any Equity Owner is convicted of fraud, embezzlement or other similar financial crime related to the Company, then such Equity Owner shall immediately forfeit and relinquish all right, title and interest in and to his Ownership Interest in the Company.

13.9 **Class B Take-Along.** If all the Class A Members approve (i) an acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation) that would result in the transfer of fifty percent (50%) or more of the Membership Interests of the Company or in which the Members of the Company immediately prior to such transaction would own, as a result of such transaction, less than a majority of the voting securities, in the same relative proportions, of the successor or surviving entity immediately thereafter or a sale of all or substantially all of Company's assets, whether by means of a merger, consolidation, sale of stock or assets or otherwise (a "Sale of the Company"), or (ii) a proposed round of equity financing by the Company (the "Equity Financing"), then all Members shall consent to and vote in favor of the Equity Financing or the Sale of the Company, and if the Sale of the Company is structured as (a) a merger or consolidation of the Company, or a sale of all or substantially all of the Company's assets, each Member shall waive any dissenters' rights, appraisal rights or similar rights in connection with such merger, consolidation or asset sale, or (b) a sale of the Membership Interests of the Company, the Class B Members shall agree, if so required by agreement of all Class A Members, to sell all, or a portion of their Membership Interests on the terms and conditions approved by the Class A Members. Each Member hereby irrevocably constitutes and appoints the Company and any representative or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Member and in the name of such Member or in its own name, for the purpose of carrying out the terms of this Section 13.9, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Section 13.9. Such Member hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof.

## ARTICLE 14 DISSOLUTION AND TERMINATION

14.1 **Dissolution.** Notwithstanding anything to the contrary in the Act, the Company shall not be dissolved upon the occurrence of the bankruptcy, disability, or death of an Equity Owner or upon any other event of dissociation with respect to any Equity Owner. The Company shall be dissolved upon the occurrence of any of the following events:

14.1.1 In the sole discretion of the Managers, after the liquidation and subsequent distribution of all Company Assets to the Members;

14.1.2 The withdrawal of the Managers unless (i) the Company has at least one other Manager, or (ii) within ninety (90) days after the withdrawal, a vote of Members holding a majority of the Ownership Percentages to continue the business of the Company and to appoint, effective as of the date of withdrawal, one or more additional Managers;

14.1.3 The withdrawal of all the Members, unless the Company is continued in accordance with the Act;

14.1.4 The Company is to be dissolved upon the entry of a decree of judicial dissolution by a court of competent jurisdiction.

14.2 **Effect of Dissolution.** Upon dissolution, the Company shall cease to carry on its business, except insofar as may be necessary for the winding up of its business, but its separate existence shall continue until winding up and distribution is completed.

14.3 **Winding Up, Liquidation, and Distribution of Assets.**

14.3.1 Upon dissolution, an accounting shall be made by the Company's accountants of the accounts of the Company and of the Company's assets, liabilities, and operations, from the date of the last previous accounting until the date of dissolution. The Manager shall immediately proceed to wind up the affairs of the Company.

14.3.2 If the Company is dissolved and its affairs are to be wound up, the Manager shall:

(a) sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Manager may determine to distribute any assets to the Equity Owners in kind);

(b) allocate any income tax items resulting from such sales to the Equity Owners in accordance with Article 9 hereof;

(c) discharge all liabilities of the Company, including liabilities to Equity Owners who are creditors, to the extent permitted by law, other than liabilities to Equity Owners for distributions and the return of capital, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Equity Owners, the amounts of such Reserves shall be deemed to be an expense of the Company); and

(d) distribute the remaining assets to the Class A Members as follows:

(1) First, distribute to each Class A Member an amount equal to any remaining positive balance of his Capital Account (as determined after taking into account all

Capital Account adjustments for the Company's taxable year during which the liquidation occurs), or if the assets available are insufficient to repay the positive Capital Account balances of all Class A Members in full, distribute the available amount among the Class A Members having positive Capital Account balances pro rata, in proportion to their respective positive Capital Account balances. The positive balance (if any) of each Class A Member's Capital Account may be distributed either in cash or in kind, as determined by the Managers, with any assets distributed in kind being valued for this purpose at their fair market value. Any such distributions in respect of Capital Accounts shall, to the extent practicable, be made in accordance with the time requirements set forth in §1.704-1(b)(2)(ii)(b)(2) of the Treasury Regulations.

(2) Then, distribute any balance to the Equity Owners pro rata according to their respective Ownership Percentages.

(e) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of the Members. Such assets shall be deemed to have been transferred as of the date of dissolution for their fair market value, and the Capital Accounts of the Equity Owners shall be adjusted pursuant to the provisions of this Agreement (including Article 9) to reflect such deemed sale.

14.3.3 Notwithstanding anything in this Agreement to the contrary, upon a "liquidation" with the meaning of § 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Equity Owner has a deficit Capital Account (after giving effect to all contributions, distributions, allocations, and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Equity Owner shall have no obligation to make any capital contribution to reduce or eliminate the negative balance of such Equity Owner's Capital Account, and the negative balance of such Equity Owner's Capital Account shall not be considered a debt owed by such Equity Owner to the Company or to any other Person for any purpose whatsoever.

14.3.4 Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

14.4 **Filing or Recording Statements.** Upon the conclusion of winding up, the appropriate representative of the Company shall execute all documents required by the Act at the time of completion of winding up and file or record such statements with the appropriate officials.

14.5 **Return of Contribution Nonrecourse Against Other Equity Owners.** Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Equity Owner shall look solely to the assets of the Company for the return of the Equity Owner's capital contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the Capital Account of one or more Equity Owners (including all or any part of that Capital Account attributable to capital contributions), such Equity Owners shall have no recourse against any other Equity Owner.

## ARTICLE 15 INVESTMENT REPRESENTATIONS OF EQUITY OWNERS

15.1 **Unregistered Interests.** Each Equity Owner hereby acknowledges that he is aware that his Ownership Interest has not been registered under the Securities Act of 1933, as amended, the Florida Securities Act, as amended, or the securities laws of any other state or country, in reliance on applicable exemptions thereunder. Each Equity Owner further understands and acknowledges that his representations and warranties contained in this Article 15 are being relied on by the Company and the Manager as the basis for such exemptions from registration.

15.2 **Nature of Investment.** Each Equity Owner acknowledges that, prior to the execution hereof, he received a copy of this Agreement and that he has examined this Agreement or caused this Agreement to be examined by his representatives or attorneys. Each Equity Owner further acknowledges that he or his representatives or attorneys are familiar with the business of the Company; that neither he nor his representatives or attorneys desire any further information or data concerning the Company or the Manager; and that all such Persons have had the opportunity to ask questions of the Manager with respect to the terms of such Equity Owner's investment in the Company and the business and affairs of the Manager and the Company. Each Equity Owner hereby acknowledges that he understands that the purchase of his Ownership Interest is a speculative investment involving a high degree of risk and hereby acknowledges that he is not acquiring such interest based on any representation, oral or written, by any Person with respect to the future value of or income from such interest, but rather on an independent examination and judgment as to the prospects of the Company.

15.3 **Investment Intent.** Each Equity Owner hereby represents and warrants to the Manager and the Company that he is acquiring his Ownership Interest solely for investment for his own account and not with the intent of participating directly or indirectly in a distribution of any portion of such Ownership Interest. Each Equity Owner further acknowledges that the Company will be under no obligation to register its Ownership Interest or to comply with any exemption available for sale of such Ownership Interest without registration or to act in any manner so as to make Rule 144 of the Securities and Exchange Commission available with respect to such interest.

15.4 **Legend.** Each Equity Owner agrees that any documents evidencing his Ownership Interest may bear a legend, in such form and content as the Manager deems appropriate in light of state and federal securities laws, referring to the restrictions on transferability and sale of such interest.

15.5 **No Representation Received Regarding Tax Consequences.** Each Equity Owner acknowledges and agrees that no representation, oral or written, has been made to it by any Person with respect to the federal, state or local tax consequences of the Company's formation and operation, or an investment in the Company, including the availability of any deductions, credits or other tax benefits.

## ARTICLE 16



## MISCELLANEOUS PROVISIONS

16.1 **Indemnification; Liability Insurance.** To the fullest extent provided or permitted under the laws of the State, the Company shall (i) indemnify and hold harmless each Member, Manager, and Officer from and against any and all claims, demands, liabilities, costs, and reasonable expenses (including attorneys' fees) whatsoever arising in connection with the business of the Company or otherwise incurred by reason of the fact that he is or was a Member, Manager, or Officer of the Company, or, while a Member, Manager, or Officer is or was serving at the request of the Company as an officer, director, partner, joint venturer, trustee, manager, member, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, limited liability company, employee benefit plan or other enterprise, and (ii) make advances to them for reasonable expenses with respect to such matters. The Company may purchase and maintain insurance on behalf of any Person who is or was a Member, Manager, or Officer of the Company, or is or was serving at the request of the Company as a director, officer, partner, joint venturer, trustee, member, manager, employee, or agent of another foreign or domestic corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Company would have the power to indemnify him against such liability.

16.2 **Books of Accounts and Records.** Proper and complete records and books of account shall be kept or shall be caused to be kept by the Managers in which shall be entered fully and accurately all transactions and other matters relating to the Company's business in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. The books and records shall at all times be maintained at the principal executive office of the Company or at such other reasonable location as may be selected by the Managers and shall be open to the reasonable inspection and examination of the Members, or their duly authorized representatives, during reasonable business hours.

16.3 **Application of State Law; Effect of Inconsistencies with the Act.** This Agreement shall be governed by and construed in accordance with the laws of the State, and specifically the Act. It is the express intention of the Equity Owners and the Company that this Agreement shall be the sole source of agreement among them, and, except to the extent that a provision of this Agreement expressly incorporates federal income tax rules by reference to sections of the Code or Regulations or is expressly prohibited or ineffective under the Act, this Agreement shall govern, even when inconsistent with, or different than, the provisions of the Act or any other law or rule. In the event that the Act is subsequently amended or interpreted in such a way to make valid any provisions of this Agreement that was formerly invalid, such provision shall be considered to be valid from the effective date of such interpretation or amendment. The Members and the Company hereby agree that the duties and obligations imposed on the Members as such shall be those set forth in this Agreement, which is intended to govern the relationship among the Company and the Equity Owners, notwithstanding any provision of the Act or common law to the contrary.

16.4 **No Action for Partition.** Each Equity Owner irrevocably waives any right it may have to maintain any action for partition with respect to the property of the Company.

16.5 **Execution of Additional Instruments.** Each Equity Owner hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules or regulations.

16.6 **Construction; Headings; Including.** When required by the context, the singular shall include the plural and vice versa, and the masculine, feminine, or neuter gender shall include the other two genders. The headings in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. “Including” means including without limitation.

16.7 **Waivers.** No provision of this Agreement may be waived except by an instrument signed by the parties against whom the waiver is sought to be enforced. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

16.8 **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

16.9 **Heirs, Successors and Assigns.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding on and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

16.10 **Creditors.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company.

16.11 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

16.12 **Federal Income Tax Elections; Tax Matters Representative.** All elections required or permitted to be made by the Company under the Code shall be made by the Managers as determined in their sole discretion. For all purposes permitted or required by the Code, the Members constitute and appoint David Pazgan as Tax Matters Representative.

16.13 **Certification of Non-Foreign Status.** In order to comply with § 1445 of the Code and the applicable Treasury Regulations thereunder, in the event of the disposition by the Company of a United States real property interest as defined in the Code and Treasury Regulations, each Equity Owner shall provide to the Company an affidavit stating, under penalties of perjury, (a) the Equity Owner's address, (b) the Equity's Owner's United States taxpayer identification number, and (c) (if true) that the Equity Owner is not a foreign person, as that term is defined in the Code and Treasury Regulations. Failure by any Equity Owner to provide such affidavit by the date of such disposition shall authorize the Manager to withhold ten percent (10%) of each such Equity Owner's distributive share of the amount realized by the Company on the disposition.

16.14 **Notices.** Any and all notices, offers, demands or elections required or permitted to be made under this Agreement (“Notices”) shall be in writing, signed by the party giving the

Notice, and shall be deemed given and effective (a) when hand-delivered (either in person by the party giving the Notice, or by its designated agent, or by commercial courier) or (b) on the third (3rd) business day (which term means a day when the United States Postal Service or its legal successor (“Postal Service”) is making regular deliveries of mail on all of its regularly appointed week-day rounds in Davie, Florida) following the day (as evidenced by proof of mailing) on which the Notice is deposited, postage pre-paid, certified mail, return receipt requested, with the Postal Service, and addressed to the other party at such party's respective address as set forth below, or at such other address as the other party may hereafter designate by Notice.

16.15 **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation or in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

16.16 **Arbitration.** Any dispute, controversy or claim arising out of or in connection with, or relating to, this Agreement or any breach or alleged breach hereof which cannot first be settled through good faith negotiations between the parties shall, on the request of any party involved, be submitted to, and settled by, arbitration administered by a single arbitrator in Davie, Florida, pursuant to the American Arbitration Association’s commercial arbitration rules then in effect (or at any time or at any other place or under any other form of arbitration mutually acceptable to the parties so involved). Any award rendered shall be final and conclusive on the parties and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each such party shall pay for and bear the cost of its own experts, evidence and counsel's fees, except that in the discretion of the arbitrator, any award may include the cost of a party's counsel if the arbitrator expressly determines that the party against whom such award is entered has caused the dispute, controversy or claim to be submitted to arbitration as a dilatory tactic.

16.17 **Further Assurances.** Each Equity Owner agrees to cooperate and act diligently and in good faith in fulfilling its obligations hereunder and to execute and deliver in a timely fashion any and all additional documents necessary to effectuate the purposes of the Company and this Agreement.

16.18 **Amendments.** Any amendment to this Agreement or the Articles of Organization must be approved by the Members holding a majority of the Ownership Percentages of the Company, including the Class B Members.

16.19 **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter, including, but not limited to, the Prior Agreements.

*[Signatures Begin on Following Page.]*

*IN WITNESS WHEREOF*, the Company and the Members hereby make this Third Amended and Restated Operating Agreement as of the date first above written.

**COMPANY:**  
**KIDOKINETICS FRANCHISE LLC**

By: \_\_\_\_\_  
Terri Braun, Manager

By: \_\_\_\_\_  
David Pazgan, Manager

**EXHIBIT A**

**MEMBER COUNTERPART SIGNATURE PAGE**

The undersigned prospective Member executes this counterpart signature page and thereby joins in the Third Amended and Restated Operating Agreement of **KIDOKINETICS FRANCHISE LLC**, a Florida limited liability company (the “Company”), dated May 14, 2024 (the “Agreement”), as may be amended from time to time, between and among Terri Braun and David Pazgan, the managers of the Company (the “Managers”), and the Persons acquiring Membership Interests in the form of Units (the “Members”) as described in the Agreement.

For purposes of reference, this document specifically incorporates the Agreement. The undersigned acknowledges that this counterpart signature page may be affixed with other counterpart signature pages of substantially like tenor, which are executed by the other parties to the Agreement, to constitute an original, and which taken together shall be but a single instrument.

The undersigned acknowledges that he/she/it has read, understands, and agrees to the entire dispute resolution procedure described in Article 16 of the Agreement, has sought advice of his/her/its own counsel to the extent he/she/it deems necessary, and is giving up the right to trial by jury, the right to conduct pretrial discovery, and the right to reimbursement of expenses, including attorneys’ fees, related to a Dispute.

EACH PERSON ACKNOWLEDGES AND CONFIRMS THAT THEY HAVE REVIEWED THE THIRD AMENDED AND RESTATED OPERATING AGREEMENT, ACCEPTS ITS PROVISIONS, AND AGREES TO BE BOUND BY ALL THE TERMS, CONDITIONS, AND RESTRICTIONS CONTAINED THEREIN.

IN WITNESS WHEREOF, this Membership Counterpart Signature Page is executed as of the date listed below.

Date: \_\_\_\_\_

\_\_\_\_\_  
Full Name of Person or Entity

\_\_\_\_\_  
Name of Joint Signatory (if any)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Additional Signature (if necessary)

\_\_\_\_\_  
Title (if member not a natural person)

\_\_\_\_\_  
Title (if necessary)

**EXHIBIT B**

to the Third Amended and Restated Operating Agreement  
of  
KIDOKINETICS FRANCHISE LLC

Initial Capital Contributions

**Class A Members**

<b>Member</b>	<b>Initial Capital Contribution</b>	<b>Number of Units</b>	<b>Ownership Percentage</b>
Terri Braun	\$1,000	2,804.00	28.04%
David Pazgan	\$1,000	2,999.00	29.99%
Darwin Investments Inc.	\$75,000	1,824.00	18.24%
Friedman and Soliman Enterprises, LLC	\$350,000	1,347.00	13.47%
TOTAL	\$427,000	8,975.00	89.75%

**Class B Members**

<b>Member</b>	<b>Initial Capital Contribution</b>	<b>Number of Units</b>	<b>Ownership Percentage</b>
Terri Braun	\$192,000	192.00	1.92%
David Pazgan	\$432,938	432.94	4.33%
Omar Soliman	\$100,000	100.00	1.00%
Jack Kemp	\$100,000	100.00	1.00%
David Geaslen	\$100,000	100.00	1.00%
Chad Wilson	\$100,000	100.00	1.00%
TOTAL	\$1,024,938	1,024.94	10.25%

Compensation Schedule:

Terri Braun is to be paid \$12,000 per month via consulting fees paid to Kidokinetics Inc. Annual bonus plan is to be determined.

David Pazgan is to be paid \$12,000 per month via consulting fees paid to Cerulean Strategic Group LLC. Annual bonus plan is to be determined.

**Subscription Booklet**  
**for**  
**Kidokinetics Franchise LLC**  
**a Florida limited liability company**

**Managers:**  
David Pazgan  
Terri Braun

INVESTORS MUST FILL OUT THIS ENTIRE SUBSCRIPTION BOOKLET TO BE USED ONLY IN CONJUNCTION WITH AN INVESTMENT IN UNITS OFFERED THROUGH THE PRIVATE PLACEMENT MEMORANDUM DATED MAY 30, 2024.

THE DECISION TO ACCEPT OR REJECT A SUBSCRIPTION FOR UNITS SHALL BE MADE IN THE SOLE DISCRETION OF THE MANAGERS OF THE COMPANY.

## INTRODUCTION

**Do not continue unless you have read and understand the Confidential Private Placement Memorandum, the Third Amended and Restated Operating Agreement, and all Exhibits included with this Offering in their entirety.**

This Subscription Booklet is provided as an Exhibit to the Confidential Private Placement Memorandum of the Company (the “PPM”). To subscribe for Units in the Company, you need only submit this Subscription Booklet and the full amount you wish to invest as instructed below. In addition, you may be requested to provide a copy of a photo ID (or organizational documents if you are investing as an entity). You do not need to return a copy of the entire PPM or the Third Amended and Restated Operating Agreement (the “Operating Agreement”). Please keep those documents for your records.

- **Part 1** contains the **Instructions to Prospective Purchasers**. Please read this carefully. You are encouraged to have an attorney or other professional adviser review all Offering documents before making an investment decision.
- **Part 2** contains the **Subscription Agreement**. Please read this carefully and fill out and sign the agreement. The Subscription Amount is the amount of money you wish to invest in Units. Prospective investors must deliver the Subscription Amount in addition to \$600.00 for platform fees (\$500.00 one-time investor start-up platform fee and first year annual maintenance platform fee of \$100.00) by through a Plaid link or wire transfer before a subscription may be accepted by the Company.
- **Part 3** contains the **Member Signature Page and Limited Power of Attorney**. This is an identical copy of Exhibit A to the Operating Agreement and is reproduced here for convenience. This counterpart will be attached to, and become part of, the Operating Agreement. Signing the counterpart is how you, as a prospective investor, agree to the terms of the Operating Agreement. Please read this carefully and sign where indicated.
- **Part 4** contains the **Prospective Investor Questionnaire**. Please read this carefully and fill it out.
- **Part 5** contains the **Bank Deposit Authorization Form**. Fill this out and include a voided check if you wish to authorize the Company to deliver distributions via direct deposit.
- **Part 6** contains **IRS Form W-9**. Form W-9 is promulgated by the IRS for providing taxpayer information to entities, such as the Company, from which the taxpayer receives payments. Prospective investors should deliver the form to the Company along with their Subscription Documents.



## Part 1

### INSTRUCTIONS TO PROSPECTIVE PURCHASERS

Each prospective purchaser (“investor,” “Subscriber,” or “you”) of membership units (“Units”) should examine the suitability of this type of investment in the context of their own needs, investment objectives, and financial capabilities, and should make his/her/its own independent investigation and decision as to suitability and as to the risk and potential gain involved. Each prospective purchaser of Units is encouraged to consult with his/her/its attorney, accountant, financial consultant, or other business or tax adviser regarding the risks and merits of the proposed investment.

If you meet the qualifications and desire to purchase Units, then please

- complete and execute each document included in this Subscription Booklet (the “Subscription Documents”);
- provide accredited investor verification for each investor from an independent certified public accountant, attorney, or investment adviser;
- provide a completed IRS Form W-9 for each investor; and
- tender the full Subscription Amount in addition to \$600.00 for platform fees (\$500.00 one-time investor start-up platform fee and first year annual maintenance platform fee of \$100.00) to the Company as directed by the Managers.

In addition, you may be asked to provide a government issued form of picture identification (e.g., passport or driver license) for investors who are natural persons or organizational documents for investors who are entities.

If the investor is an entity or custodian entity (the “Custodian”), the term “you” in the Investor Contact and General Information and Accredited Investor Representation (collectively, the “Questionnaire”) refers to the entity or Custodian rather than the individual completing the Questionnaire. If Units are purchased through a custodial account (IRA, qualified plan, etc.), the Custodian of such account will be the investor and legal owner of Units and must complete and sign all parts of the Subscription Documents, unless otherwise indicated. However, because Units will be purchased for the benefit of a person/entity other than the Custodian (the “Beneficiary”), questions about correspondence information and Investor qualification should be answered according to the Beneficiary’s personal information rather than that of the Custodian. Distributions will be made to the Custodian unless the Company is instructed differently.

Based on the representations contained in these Subscription Documents and other information of which the Company has actual knowledge, Bravehart Development LLC as the Managers of the Company (the “Managers”), will make the determination whether to proceed with the sale of Units to the investor. The Managers reserves the right, in its sole discretion, to accept or reject a subscription for any or no reason whatsoever. If an investor’s subscription offer is not accepted, appropriate notice thereof will be transmitted promptly to the investor, the Subscription Documents will be appropriately marked, and the subscription proceeds will be returned, without interest or deduction of expenses, to the investor.

## Part 2

### SUBSCRIPTION AGREEMENT

The undersigned hereby subscribes for the dollar amount (the “Subscription Amount”) of membership units (“Units”) in Kidokinetics Franchise LLC, a Florida limited liability company (the “Company”), as indicated on the signature page hereto. The undersigned desires to be admitted as a member (“Member”) of the Company, or to increase the undersigned’s aggregate Subscription Amount.

1. To induce Bravehart Development LLC as the managing member of the Company (the “Managers”), to accept this subscription, the undersigned hereby agrees that:
  - a. The undersigned has transferred funds equal to the Subscription Amount in addition to \$600.00 for platform fees (\$500.00 one-time investor start-up platform fee and first year annual maintenance platform fee of \$100.00) to the Managers or designated agent concurrently with submitting this Subscription Agreement.
  - b. Within five (5) days after receipt of a written request from the Managers, the undersigned shall provide such information and execute and deliver such documents as the Managers may reasonably request to comply with any and all laws and ordinances to which the Company may be subject, including the securities laws of the United States or any other jurisdiction.
  - c. The Company has entered into, and from time to time may enter into, separate subscription agreements with other investors for the sale of membership units to such other investors. The sale of membership units to such other investors and this sale of Units shall be separate sales, and this Subscription Agreement and the other subscription agreements shall be separate agreements.
2. The undersigned understands the meaning and legal consequences of, and the Company and the Managers intend to rely upon, the representations and warranties contained herein, and the undersigned hereby agrees to indemnify and hold harmless the Company and the Managers and each other Member of the Company and any managers, member, officer, employee, agent, or affiliate thereof from and against any and all loss, damage, or liability due to or arising out of a breach of any representation or warranty of the undersigned, whether contained in the Third Amended and Restated Operating Agreement, dated May 14, 2024, as may be amended from time to time (the “Operating Agreement”), or this Subscription Agreement.
3. To induce the Managers to accept this subscription, the undersigned hereby represents, warrants, and agrees that:
  - a. The information submitted herein or otherwise furnished by the undersigned is true and correct in all respects as of the date hereof (or, if there have been any changes in such information since the date the subscription documents or such other information was furnished to the Managers, the undersigned has advised the Managers in writing of such changes).
  - b. The undersigned, if an individual, is over 21 years of age, and the address set forth below is the true residence and domicile of the undersigned, and the undersigned has no present intention of becoming a resident or domiciliary of any other state, country, or jurisdiction. If a corporation, trust, partnership, limited liability company, or other entity, the undersigned has its principal place of business at the address set forth below.

- c. The undersigned has received and reviewed carefully the Operating Agreement, dated May 14, 2024, and the Company's Confidential Private Placement Memorandum, dated May 30, 2024 (the "PPM"), each as may be amended and supplemented from time to time.
- d. The undersigned has had an opportunity to ask questions of and receive answers from the Managers, or a person or persons acting on its behalf, concerning the Company and the terms and conditions of this investment, and all such questions have been answered to the full satisfaction of the undersigned.
- e. In entering into this transaction, the undersigned is not relying upon any information other than that contained in the PPM, exhibits to the PPM, the Operating Agreement, and the Representations and Warranties which have been made herein. The undersigned understands that the offering materials supersede any other facts or assumptions that may have been communicated, predicted, represented, guaranteed, or warranted to the undersigned by any person, expressly or by implication, in any way connected with or related to this offering.
- f. The undersigned has access to adequate legal counsel, and to the extent desired has received advice from its own independent legal counsel and has relied exclusively thereon. The undersigned is not relying on legal counsel who prepared the PPM and any exhibits thereto and understands that such attorney(s) represent the Company and the Managers and have not agreed to represent any of the Company Members.
- g. The undersigned has such knowledge and experience in financial and business matters that the undersigned is capable of evaluating the merits and risks of an investment in the Company and making an informed investment decision with respect thereto. The undersigned has consulted his/her/its own advisers with respect to its proposed investment in the Company.
- h. The undersigned has the financial ability to bear the economic risk of the undersigned's investment, including a complete loss thereof, has adequate means for providing for his/her/its current needs and possible contingencies, and has no need for liquidity in its investment.
- i. The undersigned acknowledges and understands that:
  - i. Units are a speculative investment and involve a substantial degree of risk, including, but not limited to, those set forth in the section entitled "Risk Factors" in the offering materials;
  - ii. Units have not been registered under the Securities Act in reliance on an exemption thereunder for transactions not involving any public offering, Units have not been registered or qualified under any state blue sky or securities law, this offering has not been approved or disapproved by the Securities and Exchange Commission or by any other federal or state agency, and no such agency has passed on the accuracy or adequacy of the PPM or the exhibits thereto;
  - iii. Units constitute "restricted securities" within the meaning of Rule 144 promulgated under the Securities Act;

- iv. Any federal income tax treatment which may be currently available to the undersigned may be lost through adoption of new laws or regulations, amendments to existing laws or regulations, or changes in the interpretations of existing laws and regulations;
  - v. The value of a Member's capital account and withdrawals therefrom under the Operating Agreement, and the performance of the Company, may be based on unaudited, and in some cases estimated, valuations of the Company's investments, and valuations provided in any Member's account statement or periodic report may be unaudited, estimated values;
  - vi. The Managers' fees and distributions and all other costs and expenses of the Company and the undersigned's investment in the Company may be paid directly from the Company's funds;
  - vii. The Managers and its affiliates may provide investment services to, and may have investment responsibilities for, other individuals and entities, and the Managers may give advice or exercise investment responsibility and take other action with respect to accounts of such persons or entities which may differ from advice given or action taken for the Company. The Managers shall have no obligation to acquire for the Company, or to sell for the Company, a position in any investment which any such account may acquire or sell; and
  - viii. The Company does not intend to register as an "investment company" under the Investment Company Act of 1940, as amended (the "1940 Act") pursuant to an exemption from such registration requirements, and the Managers does not intend to register as an "investment adviser" under the Investment Advisers Act of 1940, as amended.
- j. The Units are being acquired for the undersigned's own account, or the account of the entity it represents, solely for investment, and are not being purchased with a view to or for the resale, distribution, division, or fractionalization thereof. The undersigned will not resell the Units, or any interest therein, either to an assignee or to a transferee, unless the conditions set forth in the Operating Agreement are met, which requires (among other conditions) that (i) an exemption from registration under the Securities Act of 1933 and appropriate state securities laws is available, (ii) similar warranties as are set forth in this Agreement are obtained from any such assignee or transferee and (iii) the written approval of the Company (which may be withheld and/or may require a satisfactory legal opinion regarding the availability of such exemption) for any Substitute Membership is previously obtained.
- k. The undersigned is not making this subscription in any manner as a representative of a charitable remainder unitrust or a charitable remainder trust.
- l. If the undersigned is an entity, the undersigned represents that:
- i. All of undersigned's outstanding securities (other than short-term paper) are beneficially owned by one natural person; or
  - ii. (1) it was not formed for the purpose of investing in the Company, (2) it is not investing more than 40% of its total assets in the Company; (3) each of the

undersigned's beneficial owners participates in investments made by the undersigned pro rata in accordance with its interest in the undersigned and, accordingly, the undersigned's beneficial owners cannot opt-in or opt-out of investments made by the undersigned, (4) the undersigned is not an "investment company" under Section 3(a) of the 1940 Act, (5) the entity would not be an "investment company" but for the exception provided for in Section 3(c)(1) or Section 3(c)(7) of the 1940 Act., and (6) if a holder of an interest in such entity may decide whether or how much to invest by means of such entity in various investment vehicles including the Company, then the undersigned shall notify the Managers as to the number of holders of interests in the undersigned, the number of holders of interests in the undersigned that hold interests in the Company through the undersigned, and any changes to either such number; or

- iii. The undersigned has disclosed to the Managers in writing that it does not meet the requirements of (i) or (ii) above, disclosed its ownership structure to the Managers, had each of its beneficial owners fill out and sign a separate copy of this subscription book on behalf of the Company, and understands that the Company may require answers to additional questions before accepting the entity as a member.
    - m. If the undersigned is an individual retirement account, qualified pension, profit sharing or other retirement plan, or governmental plan or unit (all such entities are herein referred to as a "Retirement Trust"), the undersigned represents that the investment in the Company by the Retirement Trust has been authorized by the appropriate person or persons, the Retirement Trust has consulted its counsel with respect to such investment, and the undersigned represents that it has not relied on any advice of the Managers or its affiliates in making its decision to invest in the Company.
4. It is understood that this subscription is not binding on the Company until the Managers accepts it on behalf of the Company, which acceptance is at the sole discretion of the Managers, by executing this Subscription Agreement where indicated. The Managers may accept this subscription in whole or in part. If the Managers accepts this subscription only in part, the Managers shall cause to be returned to the undersigned any cash or check tendered herewith by the undersigned to the Company, but not accepted on behalf of the Company, without interest. If such acceptance is not secured, the Managers shall cause to be returned to the undersigned any cash or check tendered herewith by the undersigned to the Company, and the Company and the undersigned shall have no further obligation to each other hereunder.
5. The Managers and the Company reserve the right to request such information as is necessary to verify the identity of the undersigned. The undersigned shall promptly, on demand, provide such information and execute and deliver such documents as the Company or the Managers may request to verify the accuracy of the undersigned's representations and warranties herein or to comply with the USA Patriot Act of 2001, as amended (the "Patriot Act"), and certain anti-money laundering laws or any other law or regulation to which the Company or the Managers may be subject. In addition, by executing this Subscription Agreement the undersigned authorizes the Managers to provide the Company's legal counsel and any other appropriate third party with information regarding the undersigned's account, until the authorization is revoked by the undersigned in writing to the Managers.
6. The undersigned represents that Units are being purchased with funds that are from legitimate sources in connection with its regular business activities and which do not constitute the proceeds

of criminal conduct. The undersigned hereby warrants that Units are not being acquired, and will not be held, in violation of any applicable laws. The investor is not listed on the list of Specially Designated Nationals and Blocked Persons maintained by the United States Office of Foreign Assets Control. The undersigned represents and warrants that they are not a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure.

7. The Company represents and warrants to the undersigned that:
  - a. The Company is duly formed and validly existing in good standing as a limited liability company under the laws of the State of Florida and has all requisite power and authority to carry on its business as now conducted and as proposed to be conducted as described in the PPM. The Managers has all requisite power and authority to act as the Managers of the Company and to carry out the terms of this Subscription Agreement and the Operating Agreement applicable to it.
  - b. The execution, delivery, and performance by the Company of the Subscription Agreement have been authorized by all necessary action on behalf of the Company, and this Subscription Agreement is a legal, valid, and binding agreement of the Company, enforceable against the Company in accordance with its terms.
  - c. The execution and delivery of the Subscription Agreement by the Company, the performance by the Company of its obligations under the Subscription Agreement, and the consummation by the Company of the transactions contemplated herein will not conflict with or result in any violation of or default under any provision of the Operating Agreement, or, to the Managers' knowledge, (i) any material agreement or other instrument to which the Company is a party or by which it or any of its properties are bound, or (ii) any material permit, franchise, judgment, decree, statute, order, rule, or regulation applicable to the Company, its business, or its assets.
8. This Subscription Agreement and the Operating Agreement constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the parties in connection therewith. No covenant, representation or condition not expressed in this Subscription Agreement or the Operating Agreement shall affect, or be effective to interpret, change, or restrict, the express provisions of this Subscription Agreement.
9. This subscription is not transferable or assignable by the undersigned. All notices or other communications to be given or made hereunder shall be in writing and shall be delivered personally, mailed (postage prepaid), or electronically delivered to the undersigned or to the Company, as the case may be, at their respective addresses as set forth on the signature page hereto with respect to the investor and on the initial page hereof with respect to the Company. Notices to the Company delivered by email shall only be effective if they state in the subject line, in all capital letters, "NOTICE UNDER KIDOKINETICS FRANCHISE LLC SUBSCRIPTION AGREEMENT."
10. This Subscription Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to its principles of conflicts of laws. All nouns and pronouns and any variations thereof used herein shall be deemed to refer to the masculine, feminine, neutral, singular, or plural as the identity of the person or persons may require. All capitalized terms used, but not defined, herein shall have the respective meanings given to such terms in the Operating Agreement.

11. The Subscription Agreement and Operating Agreement may be executed in counterparts (each of which shall be deemed an original, but all of which shall constitute one and the same instrument) and by any combination of a physical copy of the document bearing the party's original signature, a scanned or faxed copy of a party's signature, or a party's electronic signature. All parties agree that electronic signatures (along with submissions of scanned, faxed, or other copies of manual signatures) will be treated as the legal equivalent of manual signature on both this Subscription Agreement and the Operating Agreement, and that by submitting such a signature each party consents to be legally bound by terms and conditions of such Agreements. By typing in its name, with the underlying software recording its IP address, its browser identification, the timestamp, and a security hash within an SSL encrypted environment, each party submitting an electronic signature hereby consents and agrees that an electronic signature constitutes its signature as if each of the documents so signed were actually signed by that party in writing. All parties agree that no certification authority or other third-party verification is necessary to validate any electronic signature; and that the lack of such certification or third-party verification will not in any way affect the enforceability of your signature or resulting contract. All electronically signed or submitted Agreements will be stored by the Company in such a manner that the Company can access them at any time.
12. Consent to Receive Documents Electronically: The undersigned hereby agree that all current and future notices, confirmations and other communications regarding this Subscription Agreement, the Operating Agreement, the Company, and/or future communications in general between the parties, may be made by email, sent to the email address of record as set forth in the attached Questionnaire or as otherwise from time to time changed or updated and disclosed to the other party, without necessity of confirmation of receipt, delivery or reading, and such form of electronic communication is sufficient for all matters regarding the relationship between the parties. If any such electronically sent communication fails to be received for any reason, including but not limited to such communications being diverted to the recipients' spam filters by the recipients' email service provider, or due to a recipients' change of address, or due to technology issues by the recipients' service provider, the parties agree that the burden of such failure to receive is on the recipient and not the sender, and that the sender is under no obligation to resend communications via any other means, including but not limited to postal service or overnight courier, and that such communications shall for all purposes, including legal and regulatory, be deemed to have been delivered and received. The Managers does not intend to send physical, paper documents, and the undersigned acknowledges that if it desires physical documents then it will be satisfied by directly and personally printing, at its own expense, the electronically sent communication(s) and maintaining such physical records in any manner or form that it desires.
13. Company Reliance on Questionnaire Responses: The undersigned understands that Units have not been, and will not be, registered under the Securities Act and are being sold in reliance upon an exemption from such Act, and that such reliance is based in part on the information supplied in the enclosed questionnaires. The undersigned agrees to provide the Company with such other information as it may reasonably request. If the Investor has previously verified their status as an Accredited Investor, then Investor hereby represents that no material change has occurred modifying their classification as an Accredited Investor.

*[signature page follows]*

IN WITNESS WHEREOF, the undersigned has executed this Subscription Agreement on the date set forth below.

**SUBSCRIBER**

\_\_\_\_\_  
Date

\$ \_\_\_\_\_  
Subscription Amount

\_\_\_\_\_  
Name of Subscriber (Person or Entity)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title (if subscriber not a natural person)



**Part 3**

**Member Counterpart Signature Page**

**Follows on the Next Page**

**EXHIBIT A**

**MEMBER COUNTERPART SIGNATURE PAGE**

The undersigned prospective Member executes this counterpart signature page and thereby joins in the Third Amended and Restated Operating Agreement of **KIDOKINETICS FRANCHISE LLC**, a Florida limited liability company (the “Company”), dated May 14, 2024 (the “Agreement”), as may be amended from time to time, between and among Terri Braun and David Pazgan, the managers of the Company (the “Managers”), and the Persons acquiring Membership Interests in the form of Units (the “Members”) as described in the Agreement.

For purposes of reference, this document specifically incorporates the Agreement. The undersigned acknowledges that this counterpart signature page may be affixed with other counterpart signature pages of substantially like tenor, which are executed by the other parties to the Agreement, to constitute an original, and which taken together shall be but a single instrument.

The undersigned acknowledges that he/she/it has read, understands, and agrees to the entire dispute resolution procedure described in Article 16 of the Agreement, has sought advice of his/her/its own counsel to the extent he/she/it deems necessary, and is giving up the right to trial by jury, the right to conduct pretrial discovery, and the right to reimbursement of expenses, including attorneys’ fees, related to a Dispute.

EACH PERSON ACKNOWLEDGES AND CONFIRMS THAT THEY HAVE REVIEWED THE THIRD AMENDED AND RESTATED OPERATING AGREEMENT, ACCEPTS ITS PROVISIONS, AND AGREES TO BE BOUND BY ALL THE TERMS, CONDITIONS, AND RESTRICTIONS CONTAINED THEREIN.

IN WITNESS WHEREOF, this Membership Counterpart Signature Page is executed as of the date listed below.

\_\_\_\_\_  
Full Name of Person or Entity

\_\_\_\_\_  
Name of Joint Signatory (if any)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Additional Signature (if necessary)

\_\_\_\_\_  
Title (if member not a natural person)

\_\_\_\_\_  
Title (if necessary)

**Part 4**

**PROSPECTIVE INVESTOR QUESTIONNAIRE**

*Investor represents and warrants that the following information is true and correct, and the Company may rely on the information contained in the Questionnaire in deciding whether to accept you as an investor.*

**In addition to the following, the Managers may request the following documents and information as part of suitability consideration:**

For **individuals, community property, or joint tenant** investors, a copy of a government-issued form of picture identification (e.g., passport or driver license) for each interested party.

For a **corporation**, copies of (i) articles/certificate of incorporation or certificate of formation, (ii) bylaws, and (iii) resolutions or consents authorizing the purchase of Units, if necessary per governing documents.

For a **limited liability company**, copies of (i) articles/certificate of organization or certificate of formation, (ii) company/operating agreement, and (iii) resolutions or consents authorizing the purchase of Units, if necessary per governing documents.

For a **partnership**, copies of the applicable (i) formation documents, if any, (ii) partnership agreement, and (iii) resolutions or consents authorizing the purchase of Units, if necessary per governing documents.

For a **trust**, a copy of the instrument creating the trust or the trust certificate.

The investor warrants that the following information is true and correct, and the Company may rely on the following information contained in this Questionnaire in deciding whether to accept you as an investor.

**Please complete the following general information for the investor:**

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

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone Number: Business (\_\_\_\_\_) \_\_\_\_\_ Home (\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

**Please indicate to whom the Company should send all investor correspondence (if investor is a custodian, please complete using the beneficiary's information):**

\_\_\_\_\_  
Contact Name (if other than the investor)

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Street Address/City/State/Zip Code

\_\_\_\_\_  
Fax Number

1. Do you acknowledge that your investment objectives and goals in this investment are primarily speculation and growth, agree that these risks are in line with your personal investment objectives, and acknowledge that you may lose part or all of your investment?

Yes       No

2. Are you a person associated with a securities broker dealer?

Yes       No

3. Are you (1) a senior military, governmental, or political official in a non-U.S. country or (2) closely associated with or an immediate family member of such an official?

Yes       No

If Yes, please identify the name of the official, office held, and country:

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4. Have you received, reviewed carefully, and had an opportunity to ask questions about the Operating Agreement, dated May 14, 2024?

Yes       No

5. Have you received, reviewed carefully, and had an opportunity to ask questions about the Company's Confidential Private Placement Memorandum, dated May 30, 2024?

Yes       No

6. In deciding to purchase this investment, have you relied upon any representations, warranties, or other statements made by the Company or the Managers (including any Member's agent, employee, or affiliate), other than those contained in the PPM, exhibits to the PPM, the Operating Agreement, and the Representations and Warranties which have been made herein?

Yes       No

If Yes, please describe the statements relied upon below and, if the statements were written, attach a copy of any written statement(s) so relied upon with your submission of this subscription book.

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7. Have you relied upon one or more professional adviser(s) regarding the suitability or desirability of this investment?

Yes       No

If Yes, please identify the (i) name, (ii) address, (iii) telephone number, and (iv) email of the adviser(s), and identify the relationship(s) which exist between the adviser(s) named below and/or his/her or their affiliates and the Company and/or its Affiliates (if NONE, so indicate):

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**If you are investing as an entity, please complete the following:**

NOTE: REPRESENTATIVES OF ENTITIES WHO WILL BE RESPONSIBLE FOR MAKING THE DECISION TO PURCHASE THE SECURITIES MUST EACH COMPLETE THE QUESTIONNAIRE.

Type of Entity: \_\_\_\_\_

Date of Formation: \_\_\_\_\_ Number of Equity Owners: \_\_\_\_\_

**If you are investing on the behalf of a trust or an estate, please complete the following:**

NOTE: EACH TRUSTEE OR EXECUTOR MUST COMPLETE A QUESTIONNAIRE.

Type of Entity:       Trust    Estate                      /       Revocable    Irrevocable

Date of Formation: \_\_\_\_\_ Number of Beneficiaries: \_\_\_\_\_

**Part 5**

**BANK DEPOSIT AUTHORIZATION FORM**

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Distribution Payment Information**

Bank Name: \_\_\_\_\_

Account Owner: \_\_\_\_\_

Account Name: \_\_\_\_\_

Account Type:      Checking            Savings

Bank Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Routing # (9 digits) \_\_\_\_\_

Account # \_\_\_\_\_

The undersigned authorizes Kidokinetics Franchise LLC, a Florida limited liability company (the “Company”), or its designated assignee (specifically, its managing member, Bravehart Development LLC (the “Managers”)), to initiate ACH or bank wire transfer entries and to credit the account identified herein for distributions relating to the Company. This authorization shall remain in effect unless and until the Managers receives written notice that this authorization has been terminated in such time and manner to allow the Managers to act. The undersigned represents and warrants to the Managers that the person executing this authorization form is an authorized signatory on the account referenced above and all information regarding the account and account owner is true and correct.

\_\_\_\_\_  
Account Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

## **Part 6**

### **IRS FORM W-9**

If the investment is being made through a custodian (IRA, 401k, etc.), your custodian should complete the W-9.

If the investment is being made by an individual, such individual should complete the W-9.

If the investment is being made through an entity or trust, an officer/trustee should complete the W-9 with the entity/trust's tax information.

If your specific tax situation dictates that another form is appropriate, you should provide that form. If you are unsure, you should consult with your own tax professionals. Neither the Company, its Managers, nor its advisers are providing tax advice to investors.

## FRANCHISE DISCLOSURE DOCUMENT



### KIDOKINETICS FRANCHISE LLC

A Florida limited liability company

10428 West SR 84, Unit 1

Davie, Florida 33324

Phone: (954) 385-8511

Email: Franchise@kidokinetics.com

Website: www.kidokinetics.com

Kidokinetics businesses offer physical fitness programs for young children through an introduction to all sports and a variety of other related activities and services (“Kidokinetics Business(es)”). We offer the opportunity to operate a single Kidokinetics Business or multiple Kidokinetics Businesses.

The total investment necessary to begin operation of a single Kidokinetics business ranges from \$110,500 and \$144,700. This includes \$85,500 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of two Kidokinetics Businesses ranges from \$162,500 and \$204,200. This includes \$117,500 to \$125,000 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of three Kidokinetics Business ranges from \$209,500 and \$258,700. This includes \$154,500 to \$169,500 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of four Kidokinetics Business ranges from \$284,500 and \$313,200. This includes \$191,500 to \$214,000 that must be paid to the franchisor or its affiliate(s).

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 Kidokinetics Franchise LLC 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 disclosure in different formats, contact Terri Braun at (954) 385-8511, 10428 West SR 84, Unit 1, Davie, Florida 33324.

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. 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: April 19, 2024**





## 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:

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<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 E.
<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 discretion. 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 D include 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 Kidokinetics 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 franchise 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 a Kidokinetics franchisee?</b>	Item 20 or Exhibit E 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 to 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, 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 state 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 may also 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 franchise agreement requires you to resolve disputes with us by litigation only in Florida. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost you more to litigate with us in Florida than in your own state.
2. **Spousal Liability.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.
3. **Financial Condition.** The Franchisor's financial condition as reflected in the financial statements (see Item 21) calls into question the Franchisor's financial ability to provide services and support to you.
4. **Unregistered Trademark.** One of the primary trademarks that you will use in your business is not federally registered. If the franchisor's right to use this trademark in your area is challenged, you may have to identify your business and its products or services with a name that differs from that used by other franchisees or the franchisor. This change can be expensive and may reduce brand recognition of the products or services you offer.
5. **Mandatory Minimum Payments.** You must make minimum royalty, advertising, and other payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.
6. **Unopened Franchises.** The Franchisor has signed a significant number of Franchise Agreements with franchisees who have not yet opened their outlets. If other franchisees are experiencing delays in opening their outlets, you may also experience delays in opening your own outlet.

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.



**NOTICE REQUIRED BY  
STATE OF MICHIGAN**

**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.**

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that the franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a 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 a franchisor to terminate a franchise prior to the expiration of its terms 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 six (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 or 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 of 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 services.

**The fact 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 the Department of Attorney General, State of Michigan, 670 Williams Building, Lansing, Michigan 48913, telephone (517) 373-7117.

**THE MICHIGAN NOTICE APPLIES ONLY TO FRANCHISEES WHO ARE RESIDENTS OF MICHIGAN OR LOCATE THEIR FRANCHISES IN MICHIGAN.**



**KIDOKINETICS FRANCHISE LLC  
FRANCHISE DISCLOSURE DOCUMENT**

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Exhibit J	Receipt



**ITEM 1. THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

To simplify the language in this Franchise Disclosure Document, the words “we,” “our” and “us” refer to Kidokinetics Franchise LLC, the franchisor of this business. “You” and “your” refer to the person who buys the franchise, whether you are a corporation, limited liability company or other business entity. If you are a corporation, limited liability company or other business entity, certain provisions of this Franchise Disclosure Document also apply to your owners.

**The Franchisor**

We were formed in the State of Florida on July 29, 2005 as a Florida corporation, Kidokinetics Franchise Corp., and converted into a Florida limited liability company on March 9, 2021. Our principal business address is 10428 West SR 84, Unit 1, Davie, Florida 33324. We do business under our corporate name and the name “KIDOKINETICS.” We offer franchises (“Kidokinetics Franchises” or “Franchise(s)”) for Kidokinetics Businesses and have done so since September 2006. We do not conduct business under any other name or in any other line of business and we do not offer franchises in any other line of business. We do not conduct, and have never conducted, a business of the type described in this Franchise Disclosure Document. We grant Franchises to qualified persons or business entities to use the “KIDOKINETICS” trademarks and certain associated logos (the “Marks”).

Our agent for service of process in Florida is Terri Braun, 10428 West SR 84, Unit 1, Davie, Florida 33324. Our agents for service of process for other states are identified by state in Exhibit A. If a state is not listed, we have not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed above in which we have appointed an agent for service of process. There may also be additional agents appointed in some of the states listed.

**Parents, Predecessors and Affiliates**

We have no predecessors or parents. Our Affiliate, Kidokinetics, Inc. (“KKI Affiliate”) has owned and operated a Kidokinetics Business in Weston, Florida since October 2000. Our affiliate, Tampa Kidos LLC (our “TK Affiliate”), has owned and operated three Kidokinetics Businesses in Tampa, Florida since November 2021. Our former affiliate, Kidolympics LLC, has owned and operated two Kidokinetics Businesses in Marietta, Georgia and Atlanta, Georgia since January 2022 and opened an additional Kidokinetics Business in 2023. The owner of these businesses is no longer our officer but continues to operate as a franchisee. Our affiliate, KidoHQ LLC, began operating two Kidokinetics Businesses in Miami, Florida in 2024.

We do not have any affiliates that offer franchises in any line of business or provide products or services to our franchisees.



## The Franchise

Kidokinetics Businesses offer physical fitness programs for young children through an introduction to a full range of sports and a variety of other important physical exercises, related activities and services. The Kidokinetics Business focuses on children ages 18 months and up and accommodates children who are not fully mentally or physically able. The Kidokinetics Business is a mobile business that provides sports fitness programs to children at schools, parks, community centers, summer camps, hotels, gyms, health centers and similar establishments within a designated territory. Our operating system includes recognizable design, décor color scheme, uniform standards, specifications, rules and procedures of operation, techniques, philosophies, quality and uniformity of products and services offered (“System”). You must sign our standard franchise agreement attached to this Franchise Disclosure Document as Exhibit B (“Franchise Agreement”) for your Kidokinetics Business. We also allow franchisees, in our discretion, to purchase up to four Franchises concurrently. You will receive one territory for each Franchise Agreement you sign. Franchisees that elect to purchase multiple Franchises at the same time will sign separate Franchise Agreements for each Kidokinetics Business at the time of purchase.

## General Description of the Market and Competition

Our concept is targeted at young children. Our services are not seasonal in nature. The child sports and fitness industry is competitive and well developed. As a franchisee, you will compete with a variety of other businesses, including those that offer exercise programs to young children. Your competition may be local, independent businesses or may be part of a regional or national chain or franchise. You may also encounter competition from other Kidokinetics Businesses operated by us, our affiliates or other franchisees. Demand for the services you offer may be dependent on the local and national economic conditions’ effect on the public’s discretionary spending.

## Regulations Specific to the Industry

Many jurisdictions have childcare laws which require licensing, bonding, insurance, building code, fire, safety, teacher to student ratios, hours, health (for example, immunizations), instructor licensing, fingerprinting, criminal background checks and other similar requirements. Most organizations that you will have contracts with will require that your staff establish proof of a clean criminal history. Some may require fingerprint checks through the U.S. Department of Justice, while others may just require you to run the criminal background investigation yourself. You should investigate whether there are regulations and requirements that may apply in the geographic area in which you are interested in locating your franchise and should consider both their effect and cost of compliance.

## **ITEM 2. BUSINESS EXPERIENCE**

### **President/Founder: Terri Braun**

Ms. Braun is our President and Founder and has been since we were formed in July 2005 in Davie, Florida. In addition, Ms. Braun has been the President of our KKI Affiliate and a sports teacher at the Kidokinetics Business it operates in Davie, Florida since October 2000.





**Chief Executive Officer: David Pazgan**

Mr. Pazgan is our Chief Executive Officer and has been since May 2021 in Isabela, Puerto Rico. Prior to that, Mr. Pazgan was our Director of Franchise Development from August 2020 to May 2021 in Isabela, Puerto Rico. Mr. Pazgan also owns and operates three Kidokinetics franchises in Tampa, Florida through our TK Affiliate and its parent, DJE Management Consulting, LLC in Medina, Ohio and has done so since November 2021. Before joining our team, Mr. Pazgan served as President for 101 Mobility, LLC based out of Wilmington, North Carolina, from October 2008 through January 2020. Mr. Pazgan also owns a Shelf Genie franchise through DJE Management Consulting, LLC based out of Medina, Ohio and has done so since February 2019. Mr. Pazgan also provides consulting services through Cerulean Strategic Group LLC in Isabela, Puerto Rico and has done so since January 2020.

**Vice President of Franchise Operations: Dena Landers**

Ms. Landers is our Vice President of Franchise Operations and has been since December 2022 in Davie, Florida. Prior to that, Ms. Landers was our Franchise Support Coordinator from May 2021 to December 2022 in Davie, Florida. From August 2020 to May 2021, Ms. Landers was a stay-at-home mother. From October 2016 to August 2020, Ms. Landers served as the Director of Operations for New Rules Collective in Tallahassee, Florida. Ms. Lander also served as the Senior Executive Director of Engage Church in Tallahassee, Florida from October 2012 to August 2020. Ms. Landers was an executive assistant to Adrian Crawford in Tallahassee, Florida from January 2012 to August 2020.

**Vice President of Technology: Chad Wilson**

Mr. Wilson is our Vice President of Technology in Medina, Ohio and has been since December 2023. Mr. Wilson is also the Founder/President of Engage Virtual Range in Medina, Ohio and has been since January 2018.

**Director of Business Development: Samantha Scherer**

Ms. Scherer is our Director of Business Development in Seattle, Washington and has been since April 2023. Prior to that, Ms. Scherer was a Marketing Account Manager at Mittenhal & Associates in Seattle, Washington from November 2020 to April 2023. She was not employed from October 2020 to November 2020. From November 2019 to October 2020, Ms. Scherer was an Account Manager for Sprint/T-Mobile in Seattle, Washington. Prior to that, Ms. Scherer was a Regional Manager at C&C Communications from August 2014 to October 2019 in Seattle, Washington.

**ITEM 3. LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4. BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.



## **ITEM 5. INITIAL FEES**

### **Initial Franchise Fee**

The initial franchise fee (“**Initial Franchise Fee**”) for a Kidokinetics Business is \$60,000. The Initial Franchise Fee is paid to us in a lump sum when you sign the Franchise Agreement and is non-refundable. The Initial Franchise Fee is payment, in part, for expenses incurred by us in furnishing assistance and services to you and for costs incurred by us, including general sales and marketing expenses, training, legal, accounting and other professional fees.

We may also allow franchisees, in our discretion, to purchase multiple franchises (up to four) (“**Multi-Franchise**”). If you purchase a Multi-Franchise, you will enter into separate Franchise Agreements for each Franchise and pay a reduced Initial Franchise Fee for the additional Franchises: (a) \$60,000 for the first Franchise Agreement; (b) \$40,000 for the second Franchise Agreement; and (c) \$35,000 under the third and fourth Franchise Agreements.

We currently offer a reduced Initial Franchise Fee for veterans. Under this program, honorably discharged United States veterans or their spouses receive a 5% discount on our Initial Franchise Fee for each Kidokinetics Franchise they purchase. You are required to provide us with a copy of your DD214 to receive this discount.

The Initial Franchise Fee is uniform for all franchisees offered a Franchise under this Franchise Disclosure Document as described above. During our last fiscal year which ended December 31, 2023, we collected Initial Franchise Fee ranging from \$17,500 (for a Franchise sold to one of our officers) to \$60,000.

### **Initial Marketing Package**

We will provide an initial marketing package (“**Initial Marketing Package**”) when you sign your Franchise Agreement. You will pay us \$5,000 for the Initial Marketing Package for your first Franchise and it includes updating the Kidokinetics website and social media to incorporate reference to your Kidokinetics Business, two whip banners, a package of collateral materials, a local press release, and a direct mail marketing campaign targeting institutional client opportunities. This fee for the Initial Marketing Package for your first Franchise is uniform and non-refundable and is due when you enter into your first Franchise Agreement.

If you purchase a Multi-Franchise or purchase additional Franchises, you will pay us \$1,000 for the Initial Marketing Package for each additional Kidokinetics Business you open. The Initial Marketing Package for additional Franchises includes a direct marketing campaign targeting institutional client opportunities. This fee for the Initial Marketing Package for additional Franchises is uniform and non-refundable and is due when you enter into the franchise agreement for the additional Franchise.



### Software License Fee

You must pay us a software licensing fee (“Software License Fee”) for our proprietary KIDOLINK software for each Kidokinetics Business you operate. You will pay us a Software License Fee of \$3,000 when you sign your first Franchise Agreement for our proprietary business management software. This fee is uniform and non-refundable. You must also sign the “Software License Agreement,” the form of which is attached to this Franchise Disclosure Document in Exhibit H, when you sign the Franchise Agreement. If you purchase a Multi-Franchise or additional Kidokinetics Businesses, you will pay us \$1,000 for the Software License Fee for each additional Kidokinetics Business you open. The Software License Fee for additional Kidokinetics Businesses is uniform and non-refundable and is due when you enter into the Franchise Agreement for the additional Kidokinetics Business.

### Enhanced Business Coaching and Training Services

If you are purchasing your first Kidokinetics Business, you will be required to pay a fee of \$7,500 for certain opening support services (the “Enhanced Business Coaching and Training Fee”). The Enhanced Business Coaching and Training Fee includes two days of in-person business coaching and training services (“Enhanced Business Coaching and Training Services”) within your Territory (as defined in Item 12). If you purchase additional Kidokinetics Business, you are not required to buy the Enhanced Business Coaching and Training Services, but you can choose to pay the Enhanced Business Coaching and Training Fee if you want optional Enhanced Business Coaching and Training in your Area. This fee is due upon signing the Franchise Agreement.

The Enhanced Business Coaching and Training Fee covers costs and expenses (including our administrative and overhead expenses) associated with providing Enhanced Business Coaching and Training Services for your Kidokinetics Business. The Enhanced Business Coaching and Training Fee is uniform and non-refundable under any circumstances. We currently provide the Enhanced Business Coaching and Training Services directly but may designate an affiliate to provide the Enhanced Business Coaching and Training Services in the future. Enhanced Business Coaching and Training Fee is intended to be fully applied within six months of signing the Franchise Agreement, but the Enhanced Business Coaching Training Services may be provided at a later date or otherwise extended upon our mutual written agreement.

### Financial Assurances

Some states have imposed a financial assurance. Please refer to the State Addendum in Exhibit G to the Franchise Disclosure Document.



**ITEM 6. OTHER FEES**

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Royalty Fee	The greater of 8% of Gross Sales <sup>(2)</sup> or the “Minimum Royalty” <sup>(3)</sup>	Due on Wednesday of each week for percentage-based Royalty; Monthly for the Minimum Royalty	The “ <u>Royalty</u> ” is based on “Gross Sales” during the previous week. Your Royalty is an ongoing payment that allows you to use the Marks and the intellectual property of the System and pays for our ongoing support and assistance. See Note 3 for a breakout of the Minimum Royalty by timeframe of operation.
Brand Development Fund Contribution	2% of Gross Sales	Weekly	You must pay us a brand development fund contribution of 2% of Gross Sales at the same time as the Royalty. We may use the brand development fund for any purpose we determine.
Technology Fee	The then-current fee (currently \$475 per month with an additional fee of \$6 per month if you request additional email addresses)	Monthly	This fee covers certain technologies used in the operation of your Kidokinetics Business and includes up to four e-mail addresses, our KIDOLINK software, access to our Kidokinetics workspace on Slack, and up to two seats on Monday.com, our workflow management and customer relationship management tool. We may charge an additional fee for more than four e-mail addresses (currently, \$6 per month per email). This fee may include fees paid to third-party vendors and it may be adjusted to reflect their price increases. This fee will cover up to four Kidokinetics Businesses so long as they are operated by the same legal entity and have adjacent territories. You will also be responsible for any increase in fees that result from any upgrades, modifications or additional services or software.
Local Advertising	The greater of \$500 per month, or 2% of Gross Sales per month on a rolling 12-month average	Monthly	You must spend this amount on local advertising and marketing purposes.



Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Sales Support Fee	5% of Gross Sales generated during the first 90 days a converted lead becomes a customer of your Kidokinetics Business.	Same as Royalty	If you engage us to provide sales support to your Kidokinetics Business, we will contact potential clients for you, and you will pay the “Optional Sales Support Fee” on the first 90 days of Gross Sales generated by the leads we contact that become customers. You may terminate these services upon notice to us, but you will be responsible for paying the Optional Sales Support Fee for any leads that become customers during the period provided the Optional Sales Support Services.
Cooperative Advertising	Established by cooperative members, between 1% and 2% of Gross Sales	Established by cooperative members	We currently do not have a cooperative but reserve the right to require one to be established in the future. We anticipate that each Kidokinetics Business that we or our affiliate owns that exists within the cooperative’s area will contribute to the cooperative on the same basis as franchisees. We anticipate that each Kidokinetics franchisee and each Kidokinetics that we or our affiliates own will have one vote for each Kidokinetics Business operated by the member in the designated market. Item 11 contains more information about advertising cooperatives.
Audit Expenses	Cost of audit and inspection, any understated amounts, and any related accounting, legal and travel expenses	On demand	You will be required to pay this if an audit reveals that you understated weekly Gross Sales by more than three percent (3%) or you fail to submit required reports.
Late Fees	\$25 per week for each payment of any amount owed to us or any report due under the Franchise Agreement that is not received by us when due, plus interest at a rate of 1.5% per month or the highest rate allowed by the law of the state where you are located, whichever is less	On demand	Payable if any payment due to us or an Affiliate is not made by the due date. Interest accrues from the original due date until payment is received in full.
Insufficient Funds Fee	Greater of \$50 per occurrence or the amount charged to us by the financial institution	On demand	Payable if any of your checks are returned, or an electronic fund transfer from your bank account is denied for insufficient funds.



<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Supplier and Product Evaluation Fee	Costs of inspection (estimated to be approximately \$100 to \$500)	As incurred	Payable if we inspect a new product, service or proposed supplier nominated by you.
Insurance	Amount of unpaid premiums plus our reasonable expenses in obtaining the policies	On demand	If you fail to obtain insurance, we may obtain insurance for you, and you must reimburse us for the cost of insurance obtained plus twenty percent (20%) of the premium for an administrative cost of obtaining the insurance.
Transfer Fee	\$10,000 for your first Kidokinetics Business. If you transfer more than one Kidokinetics Business, a transfer fee of \$5,000 for each additional Kidokinetics Business you transfer.	At the time of transfer	Payable in connection with the transfer of your Kidokinetics Business, a transfer of ownership of your legal entity, or the Franchise Agreement.
Renewal Fee	\$7,500	At the time you sign the successor franchise agreement	Payable if you qualify to renew your Franchise Agreement and choose to enter into a successor franchise agreement.
Additional Training or Assistance Fees	\$500 per person per day; You must also pay your expenses as well as employees' expenses in attending	Upon invoice	We may require you to attend ongoing training, additional training, and remedial training as we determine appropriate or necessary throughout the term. If required, you must complete the ongoing training and pay the applicable training fees to us upon invoice.
Professional Fees and Expenses	All costs including reasonable attorney fees	Upon demand	You must reimburse us for all costs in enforcing your obligations under the Franchise Agreement and your principals' obligations under any and all personal guarantees.
Indemnification	All costs including reasonable attorneys' fees	Upon demand	You must indemnify and reimburse us for any expenses or losses, including professional fees, that we or our representatives incur related in any way to your Kidokinetics Business or Franchise.
Conference Fee	The then-current fee (currently estimated to be \$500 per person)	Upon receipt of written notice that such convention is being held	You (or your Manager, if applicable) must attend the annual conference if and when held. Payable to us to help defray the cost of your attendance at any annual conference that we choose to hold. This fee is due regardless of whether or not you attend our annual conference in any given year.

**NOTES:**



1. Fees. All fees paid to us or our affiliates are uniform and not refundable under any circumstances once paid. Fees paid to vendors or other suppliers may be refundable depending on the vendors and suppliers. We currently require you to pay fees and other amounts due to us or our affiliates via electronic funds transfer (“EFT”) or other similar means. You are required to complete the ACH authorization (in the form attached to this Franchise Disclosure Document in Exhibit H). We can require an alternative payment method or payment frequency for any fees or amounts owed to us or our affiliates under the Franchise Agreement. If you purchase multiple Kidokinetics Businesses, the fees indicated in the chart above are the fees charged and/or incurred for each Kidokinetics Businesses except as otherwise noted. All fees are current as of the Issuance Date of this Franchise Disclosure Document. Certain fees that we have indicated may increase over the term of the Franchise Agreement. All fees are current as of the Issuance Date of this Franchise Disclosure Document. Certain fees that we have indicated may increase over the term of the Franchise Agreement. Also, any fee expressed as a fixed dollar amount is subject to adjustment based on changes to the Consumer Price Index (“CPI”) in the United States. We may periodically review and increase these fees based on changes to the CPI (in addition to any other increase), but only if the increase to the CPI is more than 5% higher than the corresponding CPI in effect on: (a) the effective date of your Franchise Agreement (for the initial fee adjustments); or (b) the date we implemented the last fee adjustment (for subsequent fee adjustments). We will notify you of any CPI adjustment at least 60 days before the fee adjustment becomes effective. We will implement no more than one CPI-related fee adjustment during any calendar year.

2. Royalty Fee: “Gross Sales” means the revenues you receive from the sale of all goods, services and products sold at, from, or through the Kidokinetics Business or made pursuant to the rights granted hereunder, and all other income of every kind and nature related to the Kidokinetics Business, whether from cash or credit or otherwise, and regardless of collection in the case of credit, including the full redemption value of any gift card, gift certificate or coupon sold for use in the Kidokinetics Business (fees retained by or paid to third-party sellers of such gift cards, gift certificates or coupons are not excluded from this calculation), and all proceeds from any business interruption insurance. It does not include (i) any sales tax or other taxes collected from customers for, and turned over to, the governmental authority imposing the tax, (ii) properly documented refunds to customers, or (iii) properly documented employee discounts (limited to 3% of Gross Sales).

3. Royalty Fee: The obligation to pay Royalties begins upon completion of your initial training. You will be required to pay the greater of 8% of Gross Sales or the “Minimum Royalty” (described below). You will pay 8% of Gross Sales on a weekly basis. At the end of the month, if the Minimum Royalty amount is greater than the total weekly Royalties paid that month, you will pay us the difference in order to meet your Minimum Royalty obligation. You will receive a grace period (“Grace Period”) before you are required to begin paying Minimum Royalties. The Grace Period will be for 90 days beginning on the day you successfully complete the initial training and will expire after 90 days. If you purchase multiple franchises at the same time, you will receive an increased Grace Period for your second through fourth franchises as summarized below.



The Grace Periods are as follows:

Franchise Number	Grace Period in Months Following Grace Period Expiration
2	12 months
3	24 months
4	36 months

The “Minimum Royalty” is as follows:

Timeframe	Minimum Royalty
First 12 months (Beginning after the Grace Period Expiration)	\$600 per month
Months 13 to 24	\$800 per month
Months 25+	\$1,000 per month

## **ITEM 7. ESTIMATED INITIAL INVESTMENT**

### **YOUR ESTIMATED INITIAL INVESTMENT Single Franchise**

Type of Expenditure <sup>(1)</sup>	Amount		Method of Payment	When Due	To Whom Payment is to be Paid
	Low	High			
Initial Franchise Fee <sup>1</sup>	\$60,000	\$60,000	Lump Sum	Upon Signing the Franchise Agreement	Us
Enhanced Business Coaching and Training Fee <sup>1</sup>	\$7,500	\$7,500	Lump Sum	Upon Signing the Franchise Agreement	Us
Furniture, Fixtures & Equipment <sup>2</sup>	\$1,500	\$4,000	As Incurred	Before Beginning Operations	Third Parties
Insurance <sup>3</sup>	\$2,500	\$6,000	As Incurred	Before Beginning Operations	Third Parties
Office Equipment and Supplies <sup>4</sup>	\$300	\$500	As Incurred	Before Beginning Operations	Approved Suppliers
Initial Inventory <sup>5</sup>	\$2,000	\$3,000	As Incurred	Before Beginning Operations	Third Parties





Type of Expenditure <sup>(1)</sup>	Amount		Method of Payment	When Due	To Whom Payment is to be Paid
	Low	High			
Training <sup>6</sup>	\$1,000	\$3,000	As Incurred	Before Beginning Operations	Third Parties
Vehicle <sup>7</sup>	\$500	\$1,200	As Incurred	First 3 Months Of Operation	Third Parties
Initial Marketing Package <sup>8</sup>	\$5,000	\$5,000	As Incurred	Upon signing the Franchise Agreement	Us
Licenses & Permits <sup>9</sup>	\$200	\$500	As Incurred	Before Beginning Operations	Your Attorneys, Advisors, CPAs and Other Professionals
Professional Fees <sup>10</sup>	\$2,000	\$6,000	As Incurred	As Necessary	Third Parties
Software License Fee <sup>11</sup>	\$3,000	\$3,000	Lump Sum	Upon Signing the Franchise Agreement	Us
Additional Funds <sup>12</sup> (3 months)	\$25,000	\$45,000	As Incurred	Before Beginning Operations	Third Parties
TOTAL ESTIMATED INITIAL INVESTMENT <sup>13</sup>	\$110,500	\$144,700			

Notes:

These estimated initial expenses are our best estimate of the costs you may incur in establishing and operating your Kidokinetics Business. We do not offer direct or indirect financing for these items. All expenditures paid to us or our affiliates are uniform and non-refundable under any circumstances once paid. All expenses payable to third parties are non-refundable, except as you may arrange for deposits and other payments.

1. Initial Franchise Fee and Initial Enhanced Business Coaching and Training. These initial fees are described in greater detail in Item 5 of this Franchise Disclosure Document.
2. Furniture, Fixtures & Equipment. You must purchase (or lease) furniture, fixtures and equipment such as a desk, chair, filing cabinet, bookcase or shelving, etc. and a workspace with computer workstation with printer/fax/scanner. Although some of these items may be leased, the range



shown represents an estimated purchase price. This estimate includes purchase of a Computer System which we estimate to be between \$500 and \$1,500.

3. Insurance. You must obtain and maintain, at your own expense, the insurance coverage we require, and satisfy other insurance-related obligations. Please note that if you have had prior issues or claims from previous operations unrelated to the operation of a Kidokinetics Business, your rates may be significantly higher than those estimated above.
4. Office Equipment and Supplies. You must purchase general office supplies including stationery, business cards and typical office equipment. Factors that may affect your cost of office equipment and supplies include local market conditions, competition among suppliers and other factors. We do not know if the amounts you pay for office equipment and supplies are refundable. You should inquire about the return and refund policy of the supplier at or before the time of purchase. Factors that may affect your cost of office equipment and supplies include local market conditions, competition among suppliers and other factors.
5. Initial Inventory. You must purchase an initial inventory of play equipment, including balls of all types, fitness dice, lacrosse set, polyspots, juggling scarves, Little Tikes golf clubs, mini basketball hoops, baseball bases and bats, T-ball set, bowling set of pins and balls, tunnels, rope, footballs, bean bags, Frisbees, plastic cones, jump ropes, potato sacks, egg and spoon set, hula hoops, nets and goals, volleyballs, parachutes, hockey pucks and sticks, badminton sets, tennis racquets, etc. The cost of these items may vary based on manufacturers' discounts and specials at the time of purchase and other factors. We do not know if the amounts you pay for inventory items are refundable. You should inquire about the return and refund policy of the suppliers at or before the time of purchase.
6. Training. The cost of training is included in the Initial Franchise Fee, but you are responsible for transportation and expenses for meals and lodging while attending training. The total cost will vary depending on the number of people attending, how far you travel and the type of accommodation you choose.
7. Vehicle. You must have a vehicle capable of transporting play equipment. You may use a vehicle that you already own. If you do not already have an appropriate vehicle to travel to/from customer locations, you will need to lease an appropriate vehicle. The low cost assumes you already have a suitable vehicle, and the high cost represents the estimated maximum cost to lease an appropriate SUV or equivalent vehicle.
8. Initial Marketing Package. You must pay us \$5,000 before opening for initial marketing materials and website updates for your first Franchise. If you open additional Kidokinetics Businesses, you will pay us \$1,000 for each Kidokinetics Business. See Item 5 for more details about this fee.
9. Licenses & Permits. State and local government agencies typically charge fees for occupancy permits, operating licenses and sales tax licenses, among other things. Your actual costs may vary based on the requirements of state and local government agencies.



10. Professional Fees. You will need to employ an attorney, accountant/CPA and other consultants to assist you in establishing your Kidokinetics Business. These fees may vary from location to location depending upon the prevailing rates of local attorneys, accountants and consultants.
11. Software License Fee. You must pay us a \$3,000 software license fee for our proprietary KIDOLINK software when you sign the Franchise Agreement. See Item 5 for more details about this fee.
12. Additional Funds. The estimate of additional funds is calculated for an initial period of three months. These expenses include advertising, storage locker rent and Technology Fees, but do not include owner's salary or draw. The high end includes an estimate for three months' salary for a full-time Manager.
13. Our estimates are based on our experience and the experience of our affiliates in establishing Kidokinetics Businesses, and our current requirements for Kidokinetics Franchises.

**Multi-Franchise**

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment is to be Paid
	Low	High			
Initial Franchise Fee <sup>(1)</sup>	\$100,000	\$170,000	Upon Signing the Franchise Agreement	Us	Upon Signing the Franchise Agreement
Initial Investment for First Kidokinetics Business <sup>(2)</sup>	\$50,500	\$84,700	Per Table Above	Per Table Above	Per Table Above
Initial Investment for Additional Kidokinetics Businesses <sup>(2)</sup>	\$12,000	\$19,500	Per Table Above	Per Table Above	Per Table Above
<b>TOTAL ESTIMATED INITIAL INVESTMENT FOR TWO FRANCHISES <sup>(2)</sup></b>	<b>\$162,500</b>	<b>\$204,200</b>	<b>Per Table Above</b>	<b>Per Table Above</b>	<b>Per Table Above</b>



Type of Expenditure	Amount		Method of Payment	When Due	To Whom Payment is to be Paid
	Low	High			
TOTAL ESTIMATED INITIAL INVESTMENT FOR THREE FRANCHISES <sup>(2)</sup>	\$209,500	\$258,700	Per Table Above	Per Table Above	Per Table Above
TOTAL ESTIMATED INITIAL INVESTMENT FOR FOUR FRANCHISES <sup>(2)</sup>	\$256,500	\$313,200	Per Table Above	Per Table Above	Per Table Above

Notes:

These estimated initial expenses are our best estimate of the costs you may incur in establishing and operating multiple Kidokinetics Business. We do not offer direct or indirect financing for these items. All expenditures paid to us or our affiliates are uniform and non-refundable under any circumstances once paid. All expenses payable to third parties are non-refundable, except as you may arrange for deposits and other payments.

1. Initial Franchise Fee. If you purchase a Multi-Franchise, you will enter into separate Franchise Agreements for each Franchise and pay a reduced Initial Franchise Fee for the additional Franchises: (a) \$60,000 for the first Franchise Agreement; (b) \$40,000 for the second Franchise Agreement; and (c) \$35,000 under the third and fourth Franchise Agreements. These initial fees are described in greater detail in Item 5 of this Franchise Disclosure Document.
2. Initial Investment. See the table for Single Franchises in this Item 7 for more details on the initial investment for the first Kidokinetics Business. In addition to the costs for the first Kidokinetics Business, if you purchase additional Kidokinetics Businesses, you will only pay the Initial Franchise Fee, a reduced Initial Marketing Package Fee of \$1,000 for each Kidokinetic Business, a reduced Software License fee of \$1,000 for each additional Kidokinetics Business and you must also have an additional \$10,000 in Additional Funds. You may also elect to pay the Enhanced Business Coaching and Training Services for an additional Kidokinetics Business.
3. This is an estimate of your initial start-up expenses for operating under multiple franchise agreements in multiple territories. You should review these figures carefully with a business advisor before making any decision to purchase the Franchise(s).



## **ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

You must operate your Kidokinetics Business according to our System and specifications. This includes purchasing or leasing products, services, supplies, equipment, computer hardware and software, and inventory related to establishing and operating the Kidokinetics Franchise under our specifications, which may include purchasing these items from: (i) our designees; (ii) approved suppliers; and/or (iii) us or our affiliates. You must not deviate from these methods, standards and specifications without our prior written consent, or otherwise operate in any manner which reflects adversely on our Marks or the System.

Our confidential franchise operations manual ("Franchise Operations Manual") states our standards, specifications and guidelines for all products and services we require you to obtain in establishing and operating your Kidokinetics Franchise and approved vendors for these products and services. We will notify you of new or modified standards, specifications and guidelines through periodic amendments or supplements to the Franchise Operations Manual or through other written communication (including electronic communication such as email or through a system-wide intranet).

You must purchase, install, maintain in sufficient supply and use equipment, signs and supplies that conform to the standards and specifications described in the Franchise Operations Manual or otherwise in writing.

Many of the products, supplies and services discussed above may only be purchased from approved suppliers in accordance with the Franchise Operations Manual. We will provide you with a list of these items and services and their approved suppliers, which may include or be limited to us or an affiliate. We are approved suppliers of the proprietary business management software. We or our affiliate are the exclusive provider of the Enhanced Business Coaching and Training Services for your Kidokinetics Businesses and of the marketing materials and services including the Initial Marketing Package. We are also an approved supplier of logoed items, such as uniforms, packaging supplies and other items bearing the Marks, but we may approve alternate suppliers in our discretion.

If you want to use any item or service in establishing or operating your Kidokinetics Business that we have not approved (for items or services that require supplier approval), you must first send us sufficient information, specifications or samples for us to determine whether the item or service complies with our standards and specifications or whether the supplier meets our approved supplier criteria. You must reimburse us for all of our reasonable expenses in connection with determining whether we will approve an item, service or supplier. We will decide within a reasonable time (usually 30 days) after receiving the required information whether you may purchase or lease the items or services or if you may purchase from the supplier. Our approval may later be withdrawn based on the supplier's performance, changes in our specifications, standards or requirements, or for other reasons.

Our approval process generally focuses on the supplier's dependability, general reputation and ability to provide sufficient quantity of product or services, and the products' or services' prices and quality. Our standards, specifications and other criteria for supplier or distributor approval have been developed by us, our principals and our affiliates through the expenditure of extensive work and time and are considered confidential information. We do not make our standards and specifications or our other criteria for supplier



or distributor approval available to our franchisees or approved suppliers. Our specifications, standards and requirements may, on occasion, change, in our sole discretion.

We reserve the right to limit the number of potential suppliers we may consider for approval and for some categories of products or services, we may designate a third party or ourselves as exclusive suppliers.

We may, but are not required to, negotiate purchase arrangements with suppliers and distributors for the benefit of franchisees and the System as a whole, and we may receive rebates or volume discounts from our purchase of equipment and supplies that we resell to you. We currently do not have any purchasing or distribution cooperatives. We do not provide any other material benefits to franchisees for using designated or approved suppliers; however, purchases of unapproved products or from unapproved suppliers in violation of the Franchise Agreement will entitle us to, among other things, terminate the Franchise Agreement. We and our affiliates may receive rebates from some suppliers based on your purchase of products and services and we have no obligation to pass them on to our franchisees or use them in any particular manner. We reserve the right to receive fees or other consideration in exchange for rights licensed or granted, or services rendered to third parties, including vendors. We may derive income, consideration and other benefits from your purchases or lease of any products, services, supplies or other items from us and from approved and designated suppliers. This income may be derived in any form, including as a rebate from various suppliers based on the quantity of System franchisee purchases. We do not guarantee the availability of independent sources of supply for any particular product or service required to establish or operate your Kidokinetics Business.

You will also pay us a Software License Fee of \$3,000 prior to opening for our proprietary KIDOLINK software (\$1,000 for additional Kidokinetics Businesses). Except as disclosed above, as of the Issuance Date of this Franchise Disclosure Document, neither we, nor our affiliates are approved suppliers of any item, although we may become one in the future. Some of our officers own an equity interest in us, an approved supplier.

You must use the computer hardware and software, including the point-of-sale system that we periodically designate to operate your Kidokinetics Business. You must obtain the computer hardware, software licenses, maintenance and support services and other related services that meet our specifications from the suppliers we specify. You must pay the then-current fees to approved suppliers for certain technology business solutions that will support your business efficiencies, which may include phone systems, scheduling software, bookkeeping services and any other solutions we may require from time to time in the Franchise Operations Manual.

You must obtain the insurance coverage required under the Franchise Agreement, as follows: (i) comprehensive general liability insurance in the amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, or in the event you lease commercial office space or storage space, such amount as required by your lease or state laws; (ii) umbrella excess liability coverage in an amount equal to \$1,000,000 combined single limit coverage; (iii) automobile insurance in the amount of at least a combined single limit for bodily and property damage of \$100,000, or greater if required by state law; and, if you have employees, statutory worker's compensation insurance in the limits required by state law; (iv) hired-non owned automobile insurance; (v) crime insurance for employee dishonesty in the amount of \$5,000 combined single limit; (vi) sexual abuse and molestation coverage; (vii) accident



policy; and (viii) workers compensation with \$1,000,000 limits or such additional limits as required by state law.

The insurance company must be authorized to do business in the state where your Kidokinetics Business is located and must be approved by us. It must also be rated “A” or better by A.M. Best & Company, Inc. We may periodically increase the amount of coverage required under these insurance policies and/or require different or additional insurance coverage at any time. All insurance policies must name us and any affiliates we designate as additional named insured parties. Your policy must provide that the insurer will not cancel or materially alter the policies without giving us at least 30 days’ prior written notice.

We estimate that approximately 30% to 80% of your expenditures for leases and purchases in establishing your Kidokinetics Business will be from us or from other approved suppliers or under our specifications. We estimate that approximately 25% to 30% of your expenditures on an ongoing basis will be from us or from other approved suppliers or under our specifications.

We do not provide material benefits to you (such as renewal rights or the right to open additional Kidokinetics Businesses) based on whether or not you purchase through the sources we designate or approve; however, purchases of unapproved products or from unapproved suppliers in violation of the Franchise Agreement will entitle us to, among other things, terminate the Franchise Agreement. We and our affiliates may receive rebates from some suppliers based on your purchase of products and services and we have no obligation to pass them on to our franchisees or use them in any particular manner.

During the fiscal year ended December 31, 2023, we derived \$511,370 in revenue from required franchisee purchases in the form of sales from shirts and other apparel. This represents 14.5% of our total revenue of \$3,509,206. During the fiscal year ended December 31, 2023, our affiliates did not derive any revenue from required franchisee purchases.

## **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 these agreements and in other items of this disclosure document.**

Obligation		Section in Franchise Agreement	Disclosure Document Item
a.	Site selection and acquisition/lease	7.1	11
b.	Pre-opening purchases/leases	9.3, 11	7, 11
c.	Site development and other pre-opening requirements	7.1	11



Obligation		Section in Franchise Agreement	Disclosure Document Item
d.	Initial and ongoing training	6	11
e.	Opening	7.2	11
f.	Fees	4.1.8., 5, 6.4, 6.5, 6.6, 12, 15.4, Schedule 1	5, 6, 7
g.	Compliance with standards and policies/Operating Manual	8, 10, 11.1, 18.1	8, 11
h.	Trademarks and proprietary information	11.1, 13, 18.2, Attachment A	13, 14
i.	Restrictions on products/services offered	12	8
j.	Warranty and customer service requirements	Not applicable	Not applicable
k.	Territorial development and sales quotas	2.1, Attachment B	12
l.	Ongoing product/service purchases	11.1, 12.3	8
m.	Maintenance, appearance and remodeling requirements	8, 11.1	Not applicable
n.	Insurance	14	7
o.	Advertising	12	6, 11
p.	Indemnification	11.7, 13.8, 14.4	14
q.	Owner's participation/management/staffing	10.3, 11.1	11, 15
r.	Records and reports	11.2	6
s.	Inspections and audits	9.2, 11.2	6, 11
t.	Transfer	15	17
u.	Renewal	4	17
v.	Post-termination obligations	17	17
w.	Non-competition covenants	18	17
x.	Dispute resolution	19	17





Obligation		Section in Franchise Agreement	Disclosure Document Item
y.	Other	Not applicable	Not applicable

**ITEM 10. FINANCING**

We do not offer direct or indirect financing. We do not guarantee your lease or other obligations.

**ITEM 11. FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

**Except as listed below, Kidokinetics Franchise LLC is not required to provide you with any assistance.**

Before The Kidokinetics Business Opens

Before you open your Kidokinetics Business, we (or our designee) will:

1. Designate the territory within which you will operate the Kidokinetics Business. You must run your Kidokinetics Business from an office located inside of your territory. You may use a home office if suitable. You and we will agree on your territory before you sign the Franchise Agreement. (Franchise Agreement, Section 2.1 and Attachment B)
  
2. Provide an initial training program. We will not provide general business or operations training to your employees or independent contractors; however, we may provide limited training on the System and brand standards to your key employees. You will be responsible for training your employees and independent contractors, including any training on the day-to-day operations of the Kidokinetics Business. You will be responsible for hiring, training, directing, scheduling and supervising your employees and independent contractors in the day-to-day operations of the Kidokinetics Business. (Franchise Agreement, Section 6.1)
  
3. Loan you one copy of the Franchise Operations Manual, which is approximately 350 pages. The table of contents of the Franchise Operations Manual, along with number of pages devoted to each section, is included as Exhibit C to this Franchise Disclosure Document. (Franchise Agreement, Sections 8.1 and 9.1)
  
4. Provide to you any written specifications for required equipment, tools and vehicles and provide you with a list of any approved suppliers and/or manufacturers of these items. You must purchase at your own costs, install, maintain in sufficient supply and only use fixtures, furnishings, equipment, signs and supplies that conform to the standards and specifications described in the Franchise Operations Manual or otherwise in writing. (Franchise Agreement, Sections 9.3 and 9.5)



5. Provide you with Enhanced Business Coaching and Training Services for two days following the launch of your Kidokinetics Business. You will at all times be responsible for complying with the obligations of the Franchise Agreement even though you may retain Enhanced Business Coaching and Training Services. If you operate an existing Kidokinetics Business, you will not be required to complete this training, but may request it and pay the Enhanced Business Coaching and Training Fee (Franchise Agreement, Section 5.2.6).

### Site Selection

We expect that you will operate your Kidokinetics Business out of your home. We do not provide any site selection assistance to you. We do not have specifications for an office location outside of the home, except that if you choose to operate from a location other than a home office, such location must be within the Territory. If you choose to open an office location outside the home, we do not assist you in conforming the premises to local ordinances and building codes, obtaining permits, or constructing, remodeling or decorating your premises. You must provide a copy of the lease for the location and obtain written acceptance from us. We will notify you in writing of our approval decision of your location within 10 days of receiving the request. If we cannot agree on an office location located within your Territory, we can terminate the Franchise Agreement. You must ensure that the premises allow you to operate your Kidokinetics Business according to our standards and specifications set forth in our Franchise Operations Manual, comply with local ordinances and building codes, and obtain any required permits. We generally do not own retail or commercial spaces that we would lease to you.

### Typical Length of Time Before Operation

We estimate that the typical length of time between the signing of the Franchise Agreement and the opening of a Kidokinetics Business is 60 days. Factors that may affect your beginning operations include ability to secure permits, zoning and local ordinances, weather conditions and delays in installation of equipment and fixtures. You are required to open your Kidokinetics Business and be operational within 90 days after signing the Franchise Agreement. (Section 7.2)

### Other Assistance During the Operation of The Kidokinetics Business

During the operation of your Kidokinetics Business, we (or our designee) will:

1. Upon reasonable request, provide advice regarding your Kidokinetics Business's operation based on reports or inspections. Advice will be given during our regular business hours and via written materials, electronic media, telephone or other methods in our discretion (Franchise Agreement, Section 9.1).
2. Offer from time to time, in our sole discretion, mandatory or optional additional training programs. If we require it, you must attend any mandatory additional training for up to 5 days each year at a location we designate. You must pay our then-current additional training fees (currently \$500 per person per day). You must pay for your travel, transportation, lodging, meals and other expenses to attend any mandatory training program (Franchise Agreement, Section 6.5).



3. Schedule, in our discretion, a national business meeting or convention for up to 3 days per year at a location we designate. If we schedule any national business meeting or convention, you must attend and you must pay us a registration fee per attendee as we designate. You are also responsible for paying for your transportation, lodging, meals and other expenses to attend any national business meeting or convention (Franchise Agreement, Section 6.5).

4. Upon your request, or as we determine to be appropriate, provide remedial on-site training and assistance at your premises. If you request on-site remedial training, we may charge a per diem fee, currently \$500 per person per day, for the services of our trainer. You will pay any travel-related expenses of the trainer, including transportation, meals and lodging (Franchise Agreement, Section 6.6).

5. Upon your request, provide individualized assistance to you within reasonable through written materials, electronic media, telephone or other methods in our discretion, subject at all times to availability of our personnel and a reasonable limit (Franchise Agreement, Section 6.7).

6. From time to time, as may become available, provide you with samples or camera-ready advertising and promotional materials (Franchise Agreement, Section 9.4).

7. Conduct inspections of your Kidokinetics Business, at the frequency and duration that we deem advisable. Such inspections include evaluating your services, equipment and vehicles to ensure that they meet our standards (Franchise Agreement, Section 9.2).

8. Approve or disapprove of all advertising, direct mail, and other promotional material and campaigns you propose in writing to us. We will respond within 15 business days, either accepting or rejecting the proposed material and/or campaign. (Franchise Agreement, Section 12.7).

9. Provide you with any written specifications for required equipment, inventory, and supplies and provide you with updated lists of any approved suppliers of these items (Franchise Agreement, Section 9.5).

10. We will provide you with post-opening Enhanced Business Coaching and Training Services, either directly or through an affiliate we designate in the future. You will at all times be responsible for complying with the obligations of the Franchise Agreement even though you will receive these Enhanced Business Coaching and Training Services to assist with your obligations (Franchise Agreement Section 5.2.6).

11. Reserve the right to establish minimum and maximum resale prices for use with multi-area marketing programs and special price promotions as allowed by law.

We have no obligation to: (i) develop new products or services to be offered by you to your customers; (ii) hire or train employees; (iii) improve or develop the Kidokinetics Business; (iv) establish prices; (v) establish or use administrative, bookkeeping, accounting or inventory control procedures; or (vi) resolve operating problems encountered by you in the operation of your Kidokinetics Business. We



need not provide other assistance or services to you during the term of your Franchise Agreement except for the Enhanced Business Coaching and Training Services for your first Kidokinetic Business (and any additional Kidokinetics Business if you purchase additional, optional Enhanced Business Coaching and Training Services.)

## Advertising and Promotion

### *Initial Marketing*

To market your first Kidokinetics Business in your territory, you will pay us \$5,000 for an Initial Marketing Package. The Initial Marketing Package for your first territory includes updating the Kidokinetics website and social media to incorporate reference to your Kidokinetics Business, two whip banners, a package of collateral materials, a local press release, and a direct mail marketing campaign targeting institutional client opportunities. For each additional Franchise you open, you will pay \$1,000 for an Initial Marketing Package that includes direct mail marketing to institutional clients within the additional territory for your Kidokinetics Business.

### *Local Marketing Requirement*

After you open your Kidokinetics Business, you are required to spend the greater of \$500 or 2% of Gross Sales per month on a rolling 12-month average on local advertising and marketing to promote your Kidokinetics Business (“Local Marketing Requirement”). The Local Marketing Requirement applies once for a single franchisee operating up to four Kidokinetics Businesses so long as they are operated by the same legal entity and have adjacent territories.

You must order sales and marketing material from us or our designated suppliers. It is a material breach of the Franchise Agreement to use other marketing material without obtaining our prior written approval. If you desire to use your own advertising materials, including your own website, you must obtain our prior approval, which may be granted or denied in our sole discretion. We will review your request and we will respond in writing within 30 days from the date we receive all requested information. Our failure to notify you in the specified time frame will be deemed a disapproval of your request. Use of logos, Marks and other name identification materials must follow our approved standards. You may not use our logos, Marks and other name identification materials on items to be sold or services to be provided without our prior written approval.

### *Brand Development Fund*

The brand development fund (“Brand Development Fund”) is for marketing, developing, and promoting the System, the Marks and Kidokinetics Franchises. You must pay 2% of your weekly Gross Sales to the Brand Development Fund (“Brand Development Fund Contribution”). Each franchisee will be required to contribute to the Brand Development Fund, but certain franchisees may contribute on a different basis depending on when they signed their Franchise Agreement. Kidokinetics Businesses owned by us will contribute to the Brand Development Fund on the same basis as franchisees, except for one existing affiliate owned Kidokinetics Business.



The Brand Development Fund will be administered by us, or our affiliate or designees, at our discretion, and we may use a professional advertising agency or media buyer to assist us. We will separately account for all of the Brand Development Fund Contributions that we administer; however, we are not required to segregate any of the funds from our other monies.

We have complete discretion on how the Brand Development Fund will be utilized. We may use the Brand Development Fund for local, regional, or national marketing, or any expenditure that we, in our sole discretion, deem necessary or appropriate to promote or improve the System or the Kidokinetics brand. For example, we may use the Brand Development Fund for: (i) developing, maintaining, administering, directing, preparing or reviewing advertising and marketing materials, promotions and programs, including social media management; (ii) public awareness of any of the Marks; (iii) public and consumer relations and publicity; (iv) brand development; (v) research and development of technology, products and services; (vi) website development (including social media) and search engine optimization; (vii) development and implementation of quality control programs; (viii) conducting market research; (ix) changes and improvements to the System; (x) the fees and expenses of any advertising agency we engage to assist in producing or conducting advertising or marketing efforts; (xi) collecting and accounting for Brand Development Fund Contributions; (xii) preparing and distributing financial accountings of the Brand Development Fund; (xiii) conducting quality assurance programs and other reputation management functions; and (xiv) our and our affiliates' expenses associated with direct or indirect labor, administrative, overhead, or other expenses incurred in relation to any of these activities. We may use national and/or regional advertising agencies as the source for our advertising materials, or we may prepare them in-house.

We are not obligated to spend any amount on advertising in the geographical area where you are or will be located. We do not guarantee that advertising expenditures from the Brand Development Fund will benefit you or any other franchisee directly, on a pro rata basis, or at all. We are not obligated to spend any amount on advertising in the geographical area where you are or will be located. We will not use the Brand Development Fund Contributions for advertising that is principally a solicitation for the sale of Franchises, but we reserve the right to include a notation in any advertisement or website indicating "Franchises Available" or similar phrasing.

We assume no fiduciary duty to you or other direct or indirect liability or obligation to collect amounts due to the Brand Development Fund or to maintain, direct or administer the Brand Development Fund. Any unused funds that were collected in any calendar year will be applied to the following year's funds, and we reserve the right to contribute or loan additional funds to the Brand Development Fund on any terms we deem reasonable.

The Brand Development Fund is not audited. Upon your written request, we will make available an annual accounting for the Brand Development Fund that shows how the Brand Development Fund proceeds have been spent for the previous year. During our fiscal year ended December 31, 2023, we spent 100% of the Brand Development Fund Contributions on administration.

### *Cooperatives*



Currently, our System has no regional advertising fund or cooperative. We may establish a regional fund or cooperative in the future and your participation may be mandatory, in our sole discretion. A regional cooperative consists of all Kidokinetics Businesses in a designated geographic area. We anticipate that each Kidokinetics Business that we or our affiliates owns that exists within the cooperative's area will contribute to the cooperative on the same basis as franchisees. We anticipate that each Kidokinetics Business, including any Kidokinetics Businesses we or our affiliates own, will have one vote in the cooperative. We will determine in advance how each cooperative will be organized and governed. Members of the cooperative will be responsible for administering the cooperative, including determining the amount of contributions, between 1% and 2% of Gross Sales, from each member. We may require that each cooperative operate with governing documents. Each cooperative must prepare annual unaudited financial statements, and such statements will be provided for review to each member of such cooperative. We have the right to form, dissolve, merge or change the structure of the cooperatives. If a cooperative is established during the term of your Franchise Agreement, you must sign all documents we request and become a member of the cooperative according to the terms of the documents. (Franchise Agreement, Section 12.3)

Cooperative contributions will not exceed the Local Marketing Requirement unless a majority of the Cooperative votes to increase that requirement.

#### *Advertising Council*

We have an advertising council composed of franchisees that advise us on advertising policies. The Franchise Agreement gives us the right, in our discretion, to create a franchisee advisory council to communicate ideas, including proposed advertising policies. We determine how franchisees are selected to the council. We reserve the right to change or dissolve the council at any time. (Franchise Agreement, Section 8.6)

#### *Internet*

You are restricted from establishing a presence on, or marketing, promoting or advertising your Kidokinetics Business, using the Internet or other electronic media without our prior written approval. Except as approved in advance in writing by us, you must not establish or maintain a separate website, splash page, profile or other presence on the Internet, or otherwise advertise on the Internet or any other public computer network in connection with the Kidokinetics Business, including on social media and/or networking site (whether currently existing or developed in the future). If we grant the approval, you: (i) must establish and operate such Internet site in accordance with System standards and any other policies we designate in the Franchise Operations Manual or otherwise in writing from time to time; (ii) must utilize any templates that we provide to you to create and/or modify such site(s); and (iii) must obtain our approval prior to making social media postings and you agree to any social media postings that we, in our sole discretion, determine are inappropriate or detrimental to the goodwill of the System within 24 hours of our notice to you. You must obtain paid advertising on the Internet (i.e., Google, Yahoo, Bing, and MSN) for your Kidokinetics Business. You will obtain these services directly through third parties and are responsible for any fees they charge. These fees may be credited to your Local Marketing Requirement.



We reserve the right to require you to provide us with all social media account information related to the Kidokinetics Business and grant us independent access (including administrator rights) to your Kidokinetics Business social media accounts in order to make upgrades, post information, and manage social media accounts as we deem appropriate for the benefit of the System. (Franchise Agreement, Section 12.6).

We retain the sole right to market on the Internet, including the use of websites, domain names, uniform resource locator's, linking, search engines (and search engine optimization techniques), banner ads, meta-tags, marketing, auction sites, e-commerce and co-branding arrangements. You may be requested to provide content for our Internet marketing, and you must follow our intranet and Internet usage rules, policies and requirements. We retain the sole right to use the Marks on the Internet, including on websites, as domain names, directory addresses, search terms and meta-tags, and in connection with linking, marketing, co-branding and other arrangements. We retain the sole right to approve any linking to, or other use of, the Kidokinetics website. (Franchise Agreement, Section 12.6)

### Computer System

You are required to purchase a computer system that consists of the following hardware and software: (a) a desktop or laptop that runs Windows 11, a multi-function printer/scanner, a digital camera, a phone, a music box and a flash drive; and (b) Microsoft Office and QuickBooks ("Computer System"). We estimate the cost of purchasing the Computer System will be between \$500 and \$1,500. You will also pay us a Software License Fee of \$3,000 prior to opening for our proprietary KIDOLINK software (\$1,000 for additional Kidokinetics Businesses). You will also pay us a monthly Technology Fee for certain technologies used in the operation of your Kidokinetics Business, which includes up to four email addresses, access to our Kidokinetics workspace on Slack, and up to two seats on Monday.com, our workflow management and customer relationship management tool. We do not assess an additional technology fee for a single franchisee operating up to four outlets so long as they are operated by the same legal entity and have adjacent territories.

The Computer System will manage the daily workflow of the Kidokinetics Business, register your participants, market to them, report to us, and perform other functions. You must record all Gross Sales on the Computer System. You must use the Computer System to track all online and offline registrations. You must store all data and information in the Computer System that we designate, and report data and information in the manner we specify. The Computer System will generate reports on the Gross Sales of your Kidokinetics Business. We may access electronic information and data generated from the Computer System at any time. There are no contractual limitations on our rights to access this information.

We are not required to provide you with any ongoing maintenance, repairs, upgrades, updates or support for the Computer System. The cost of maintaining, updating, or upgrading the Computer System or its components will depend on your repair history, costs of computer maintenance services in your area, and technological advances. We estimate the annual cost will range between \$1,000 and \$1,500, but this could vary (as discussed above).

Computer systems are vulnerable in varying degrees to computer viruses, bugs, power



disruptions, communication line disruptions, internet access failures, internet content failures and similar problems, and attacks by hackers and other unauthorized intruders (“E-Problems”). We have taken reasonable steps so that E-Problems will not materially affect our business. We do not guarantee that information or communication systems that we designate and/or we or others supply will not be vulnerable to E-Problems. It is your responsibility to protect yourself from E-Problems. You should also take reasonable steps to verify that your suppliers, lenders, landlords, and governmental agencies on which you rely, have reasonable protection from E-Problems. This may include taking reasonable steps to secure your systems (including firewalls, password protection and anti-virus systems) and to provide backup systems.

**Training**

We will conduct an initial training program that the Manager (see Item 15) (or you, if you are not a corporation or other business entity) must attend and complete to our satisfaction. Although initial training is mandatory for the Manager, it is also available for up to one additional assistant. Training will take place at our headquarters, or at another location we designate, and will be held whenever necessary to train new franchisees. The initial training program covers the business and administrative aspects of the operation of a Kidokinetics Business, including sales and marketing methods; financial controls; maintenance of quality standards; customer service techniques, record keeping and reporting procedures, other operational issues and on-the-job training. All franchisees must complete initial training to our satisfaction within 60 days of signing the Franchise Agreement. We expect franchisees will advance through the training program at different rates depending on a variety of factors such as background and experience. Accordingly, the time frames provided in the following chart are an estimate of the time it will take to complete training. If you replace your designated manager, your new Manager must attend our training program. We do not charge for initial training, however, you must pay for all travel costs and living expenses for yourself and any of your attendees. You may be charged fees for additional training of a new Manager. You are obligated to train your own employees and other management personnel. This initial training is in addition to the on-site opening assistance we provide you. (Section 6.1). We plan to provide the training listed in the table below.

**TRAINING PROGRAM**

Subject	Hours of In-Person Training	Hours of Virtual Training	Hours of On-The-Job Training	Location
Business Operations Training	1	4.25		Davie, Florida and Virtual
Sales, Marketing and Enrollment Training	0	9.5		Virtual
Technology Training: CRM, Kidolink, QuickBooks, Canva	0	5.5		Virtual
Programming, Coaching, Sport-Specific Training, and Equipment	23.5	4.5		Davie, Florida or Franchisee’s Location
Strategic Planning		0	1	Davie, Florida or Franchisee’s Location





Subject	Hours of In-Person Training	Hours of Virtual Training	Hours of On-The-Job Training	Location
TRAINING TOTAL	24.5	23.75		
TRAINING GRAND TOTAL				

Terri Braun and Dena Landers will supervise our initial training program. Ms. Braun is our president and founder and has owned a Kidokinetics business since 2000. Ms. Landers is our VP of Franchise Operations and has worked in operations since 2016. Sales training will be supervised by Samantha Scherer, and Team Building Training will be supervised by Dave Pazgan. Ms. Scherer is our Director of Business Development in Seattle, Washington and has been since April 2023. Mr. Pazgan is our Chief Executive Officer and has been since May 2021. From time to time, we may require that you or your owners, Managers and other employees attend system-wide refresher or additional training courses. Some of these courses may be optional, while others may be required. If you appoint a new principal owner or transfer ownership, or if you hire a new Manager, that person must attend and successfully complete our initial training program before assuming responsibility for the management of your Kidokinetics Business. If we conduct an inspection of your Kidokinetics Business and determine you are not operating in compliance with the Franchise Agreement, we may require that you or your operating principal, Manager, managers and other employees attend remedial training that addresses your operational deficiencies. You may also request that we provide additional training (either at corporate headquarters or at your Kidokinetics Business). You must pay us \$500 per attendee per day for additional training, and you must pay for airfare, meals, transportation costs, lodging and incidental expenses for all of your training program attendees. If we determine that you are not operating your Kidokinetics Business in compliance with the Franchise Agreement or the Operations Manual, we may require that you or your principal owner, designated managers and other employees attend remedial training. If the training program is conducted at your Kidokinetics Business, you must reimburse us for the expenses we or our representatives incur in providing the training.

## **ITEM 12. TERRITORY**

You and we will agree on your territory before you sign the Franchise Agreement. You will not receive an exclusive territory (“Territory”). You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. Except as described below, we will not establish or franchise others to establish another Kidokinetics Business within your designated Territory during the term of the Franchise Agreement. Your Territory for each Kidokinetics Business will contain a minimum population of approximately 250,000 persons. You may offer the Kidokinetics® sports fitness programs to all schools, parks, community centers, summer camps, hotels, gyms, health centers and similar establishments located within your Territory.

The Kidokinetics Business is a mobile business that provides sports fitness programs to children at schools, parks, community centers, summer camps, hotels, gyms, health centers and similar establishments within a designated territory. You may choose to have a home-based office for your Kidokinetics Business, located within your Territory. If you wish to rent commercial office space, such space must also be located within your Territory, and you must request our acceptance. In our experience and that of



our franchisees, the majority of these establishments do not charge any fee for the right to provide Kidokinetics services on their premises. However, an establishment may require you to pay an access or rental fee to provide services on its premises. An establishment could charge a flat fee per month in which you hold an event on its premises. Alternatively, an establishment may require you to pay a percentage of your event revenue. We estimate an approximate average of 5% of your annual revenue. These estimates take into consideration that establishments may charge or negotiate varying amounts at their discretion, and others will not impose any fee or revenue share. Because these establishments are independent third parties, you and they will arrange for these and other terms, and we do not have any control over or involvement with potential charges set by any establishment.

As long as your Franchise Agreement is in effect, we will not establish, own or operate, or license others to establish, own or operate, any other Kidokinetics Business within your Territory. You are not granted any options, rights of first refusal or similar rights to acquire additional development rights or franchises anywhere, regardless of the proximity to your Kidokinetics Business.

We, and any party we designate, retains and will have the right to: (i) establish and operate, and license third parties the right to establish and operate, other Kidokinetics Businesses using the Marks and System at any location outside of the Territory; (ii) acquire, merge with, engage in joint ventures with, or otherwise affiliate with, and thereafter own and operate and franchise others the right to own and operate, any business of any kind, including businesses that offer products that are similar to those provided by a Kidokinetics Business, within or outside the Territory; (iii) open and operate, or license third parties the right to open or operate, businesses that offer products and services similar to the Kidokinetics Business under marks other than the Marks at any location; (iv) sell and distribute, directly or indirectly, or license others to sell and distribute, directly or indirectly, any products, services or merchandise, from any location or to any purchaser, through any channel or method of distribution (including, but not limited, to virtual classes, sales made by or through telemarketing, and/or on the Internet); (v) provide the services or sell products authorized for Kidokinetics Businesses to customers whose principal residence (or principal business office, if the customer is a business entity) is within a Kidokinetics franchisee's Territory if contact with the customer is initiated by the customer and not us; (vi) to use and license the use of technology to non-franchisee locations inside and outside the Territory; and (vii) engage in any other activities not expressly prohibited under this Agreement. Although we reserve the rights described, neither we nor any affiliate, currently operates, franchises or has plans to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those offered by you or our other Franchises. The Franchise Agreement does not grant you any right to (a) offer any product or service via e-commerce without our prior written approval, (b) establish an independent website or to establish a website for the Kidokinetics Business or using the Marks, or (c) distribute, market, or implement any products and/or services (including competitive products and/or services) in any channel of distribution not specifically identified in this Agreement. You do not receive the right to acquire additional Kidokinetics Business unless you purchase a Multi-Franchise. You are not given a right of first refusal on the sale of existing Kidokinetics Business. We are not required to compensate you for soliciting or accepting orders from inside your Territory.

You may not relocate the Kidokinetics Business without our prior written consent, which shall not be unreasonably withheld. We may approve a request to relocate the Kidokinetics Business according





to the provisions of the Franchise Agreement that provide for the relocation of the Kidokinetics Business, and our then-current site selection policies and procedures. Any relocation will be at your sole expense. In the event you wish to relocate the Kidokinetics Business to a new location, you may relocate the Kidokinetics Business to a new location within the Territory.

You may only advertise your services within your Territory and provide services to customers in your Territory unless you have requested and receive our prior written approval to provide services to customers outside your Territory. If we approve you to provide services outside your Territory, we may withdraw that approval, in our discretion, at any time, and you must comply with our directives.

You are not permitted to use other channels of distribution, such as the Internet, mobile applications, catalog sales, telemarketing or other direct marketing, to make sales of services or products to customers. You may not maintain a website with respect to your franchise without our prior written consent. We have the right to condition our approval on the terms that we determine are necessary, such as requiring that your domain name and home page belong to us and be licensed to you for your use during the term of your Franchise Agreement.

**ITEM 13. TRADEMARKS**

The Franchise Agreement and your payment of the Royalty Fee grant you the non-exclusive right and license to use the System, which includes the use of the Marks. You may also use other future trademarks, service marks, and logos we approve to identify your Kidokinetics Franchise. The Marks and the System are owned by us. We have registrations with the United States Patent and Trademark Office (“USPTO”) for the following Marks:

Trademark	Registration Number	Registration Date	Register
<b>KIDOKINETICS</b>	6,401,659	June 29, 2021	Principal
	6,401,783	June 29, 2021	Principal
	7,103,844	July 11, 2023	Principal



We have applied to register the following trademark with the USPTO:

Trademark	Serial Number	Filing Date	Status
SPORTSPRAY	98,338,513	January 2, 2024	Pending on the Principal Register

We do not have a federal registration for the trademark listed above (serial number 98,338,513). Therefore, this trademark does not have as many legal benefits and rights as a federally registered trademark. If our right to use this trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

There are no effective adverse material determinations of the USPTO, the Trademark Trial and Appeal Board or the trademark administrator of any state, or any court, and no pending infringement, opposition or cancellation proceedings or material litigation involving the Marks. All required affidavits and renewals have been filed.

No agreement significantly limits our right to use or license the Marks in any manner material to the Kidokinetics Franchise. We do not know of any superior prior rights or infringing uses that could materially affect your use of the trademarks. You must follow our rules when using the Marks. You cannot use our name or Mark as part of a corporate name or with modifying words, designs or symbols unless you receive our prior written consent. You must indicate to the public in any contract, advertisement and with a conspicuous sign in your Kidokinetics Business that you are an independently owned and operated licensed franchisee of Kidokinetics. You may not use the Marks in the sale of unauthorized products or services or in any manner we do not authorize. You may not use the Marks in any advertising for the transfer, sale or other disposition of the Kidokinetics Franchise, or any interest in the Kidokinetics Franchise. All rights and goodwill from the use of the Marks accrue to us.

We will defend you against any claim brought against you by a third party that your use of the Marks, in accordance with the Franchise Agreement, infringes upon that party's intellectual property rights. We may require your assistance, but we will exclusively control any proceeding or litigation relating to our Marks. We have no obligation to pursue any infringing users of our Marks. If we learn of an infringing user, we will take the action appropriate, but we are not required to take any action if we do not feel it is warranted. You must notify us within three business days if you learn that any party is using the Marks or a trademark that is confusingly similar to the Marks. We have the sole discretion to take such action as we deem appropriate to exclusively control any litigation or administrative proceeding involving a trademark licensed by us to you.

If it becomes advisable at any time, in our sole discretion, for us and/or you to modify or discontinue using any Mark and/or use one or more additional or substitute trademarks or service marks, you must comply with our directions within 30 days after receiving notice. We will not reimburse you for



your direct expenses of changing signage, for any loss of revenue or other indirect expenses due to any modified or discontinued Mark, or for your expenses of promoting a modified or substituted trademark or service mark.

You must not directly or indirectly contest our right to the Marks. We may acquire, develop and use additional marks not listed here, and may make those marks available for your use and for use by other franchisees.

#### **ITEM 14. PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

We hold no patents and have no pending patent applications that are material to the franchise. We have registered no copyright with the United States Copyright Office. However, we claim copyrights on certain forms, advertisements, promotional materials and other written materials. We also claim copyrights and other proprietary rights in our Franchise Operations Manual.

There are no current material determinations of, or proceedings pending in, the USPTO, the U.S. Copyright Office, or any court regarding any of our copyrights discussed above.

There are no agreements currently in effect which limit your right to use any of our copyrights. As of the date of this Franchise Disclosure Document, we are unaware of any infringing uses of or superior previous rights to any of our copyrights which could materially affect your use of them.

Our mutual obligations to protect your rights to use our copyrights are the same as the obligations for trademarks described in Item 13 of this Franchise Disclosure Document. You must promptly tell us when you learn about unauthorized use of any Confidential Information. We are not obligated to take any action but will respond to this information as we think appropriate. We will defend you against any claim brought against you and indemnify you for losses brought by a third party concerning your use, in strict compliance with the Franchise Agreement, of the Confidential Information. We have the sole discretion to take such action as we deem appropriate to exclusively control any litigation or administrative proceeding involving any copyrighted works, confidential information or trade secrets.

During the term of the Franchise Agreement, you may have access to and become acquainted with our trade secrets, including, but not limited to, methods, processes, customer lists, vendor partnerships and/or relationships, sales and technical information, costs, product prices and names, software tools and applications, website and/or email design, products, services, equipment, technologies and procedures relating to the operation of the Kidokinetics Business; systems of operation, services, programs, products, procedures, policies, standards, techniques, requirements and specifications which are part of the System; the Franchise Operations Manual; methods of advertising and promotion; instructional materials; marketing plans, business methods, research, development or know-how, any other information which we may or may not specifically designate as “confidential” or “proprietary”, and the components of our System whether or not such information is protected or protectable by patent, copyright, trade secret or other proprietary rights (collectively called the “Confidential Information”). You agree that you will take all reasonable measures to maintain the confidentiality of all Confidential Information in your possession or control and that all such Confidential Information and trade secrets shall remain our exclusive property. You may never (during the initial term, any renewal term, or after the Franchise Agreement expires or is terminated) reveal any of our



Confidential Information to another person or use it for any other person or business. You may not copy any of our Confidential Information or give it to a third party except as we authorize in writing to you prior to any dissemination. Your Manager and your other management level personnel must sign our Confidentiality and Non-Compete Agreement (Franchise Agreement, Attachment F).

**ITEM 15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

You or, if the franchisee is an entity, the majority shareholder or owner of the franchisee must devote personal full-time attention and best efforts to the management and operation of the Kidokinetics Business, or you may delegate the day-to-day operation of your Kidokinetics Business to a Manager (“Manager”). If the Franchisee is an entity and the owner(s) elect to hire a Manager, then a shareholder or owner of the franchisee must dedicate a minimum of 20 hours per month to the operation of the Kidokinetics Business. You and the Manager, if different from you, must successfully complete our initial training program and all other training courses we require. You may not appoint a Manager who is not you or a principal of the Franchisee, if an entity, without our approval. The Manager must devote his or her full time and best efforts to the job, cannot have an interest or business relationship with any of our competitors, and must meet our then-current standards for Managers before assuming the position. If you are a business entity, each owner must sign a Personal Guaranty. Spouses are required to sign a Personal Guaranty. The Personal Guaranty is attached to our Franchise Agreement as Attachment E.

Your Manager and all other managerial personnel who will have access to our proprietary and Confidential Information and training must sign our Non-Disclosure and Non-Compete Agreement, which is attached to our Franchise Agreement as Attachment F. Additionally, if you are a business entity, all of your officers, directors, and direct and indirect equity holders, and those of any business entity that directly or indirectly controls you must sign the Non-Disclosure and Non-Compete Agreement.

**ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must sell or offer for sale only those products and services authorized by us, and which meet our standards and specifications. Authorized products may differ among our franchisees and may vary depending on the operating season and geographic location of your Kidokinetics Business or other factors. You must follow our policies, procedures, methods and techniques. You must sell or offer for sale all types of products and services specified by us. We may change or add to our required products and services, at our discretion, with prior notice to you. If we change or add to our required products and services, the changes or additions will remain in permanent effect unless we specify otherwise. The amount you must pay for the changes or additions will depend upon their nature and type. There are no limitations on our rights to make changes to the required products and services offered by you. You must discontinue selling and offering for sale any products and services that we disapprove. We reserve the right to establish minimum and maximum resale prices for use with multi-area marketing programs and special price promotions, in accordance with the law.

You may not establish an account or participate in any social networking sites, crowdfunding campaigns or blogs, or mention or discuss the Kidokinetics franchise, us or any of our affiliates without



our prior written consent and as subject to our online policy. Our online policy may completely prohibit you from using the Marks on social networking sites or other online use. You may not sell products through other channels of distribution such as wholesale, Internet or mail order sales. Otherwise, we place no restrictions upon your ability to serve customers, provided you do so from the location of your Kidokinetics Business in accordance with our policies.

**ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

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

**THE FRANCHISE RELATIONSHIP**

Provision	Section In the Franchise or Other Agreement	Summary
a. Length of the franchise term	Article 3	The initial term is 10 years.
b. Renewal or extension of the term	Article 4	You may renew for one additional term of 10 years, subject to our renewal requirements. If you fail to meet any one of these conditions, we may refuse to renew or extend the terms of your Franchise Agreement.
c. Requirements for franchisee to renew or extend	Article 4	Be in full compliance, provide written notice to us at least 90 days, but not more than nine months, before the end of the term, update machinery, equipment, tools and vehicles as required, not be in default of any provision of the Franchise Agreement, satisfy all monetary obligations, execute our then-current form of franchise agreement (with materially different terms and conditions than your original Franchise Agreement), comply with then-current qualifications and training requirements, including completion of additional training, pay us a Renewal Fee, execute a general release.
d. Termination by franchisee	None	Not applicable. You may not terminate the Franchise Agreement. (Subject to applicable state law).
e. Termination by Franchisor without cause	None	Not applicable.



Provision	Section In the Franchise or Other Agreement	Summary
f. Termination by Franchisor with cause	Article 16	We may terminate if you default for failure to comply with the obligations of the Franchise Agreement, or if you or an affiliate of yours defaults under any other agreement, including any other franchise agreement, with us or any of our affiliates, suppliers or landlord and do not cure the default within the time period provided in the other agreement. The Franchise Agreement describes defaults throughout. Please read it carefully.
g. "Cause" defined-curable defaults	Sections 16.3 and 16.4	<p>You have five days to cure non-payments.</p> <p>You have 15 days to cure the following defaults: your failure to immediately endorse payments that are erroneously made to you; your failure to maintain prescribed days and hours of operations; your failure to personally supervise day-to-day operations; your failure to maintain the strict quality controls reasonably required by the Franchise Agreement and/or the Franchise Operations Manuals; and your failure to obtain or maintain any required licenses, certifications or permits.</p>
h. "Cause" defined -non-curable defaults	Sections 16.1 and 16.2	<p>The Franchise Agreement will terminate automatically, without notice for the following defaults: insolvency; bankruptcy; written admission of inability to pay debts; receivership; levy; composition with creditors; unsatisfied final judgment for more than 30 days; or foreclosure proceeding that is not dismissed within 30 days.</p> <p>We may terminate the Franchise Agreement upon notice to you if you: fail to open the Kidokinetics Business within required time frames; falsify any report to us; abandon the Kidokinetics Business for five days or more, unless the premises are damaged and you apply to relocate; lose possession of the vehicles and equipment, unless as a result of a casualty event; fail to re-open the Kidokinetics Business within 120 days after a casualty; fail to comply with applicable laws; default under any lease for the premises; understate Gross Sales by 3% at any time or understate Gross Sales by any amount three or more times; attempt a transfer in violation of the Franchise Agreement; fail, or your legal representative fails to transfer as required upon your death or permanent disability; misrepresent or omit a material fact in applying for the Franchise; are</p>





Provision	Section In the Franchise or Other Agreement	Summary
		<p>convicted or plead no contest to a felony or crime that could damage the goodwill or reputation of the Marks or the System; receive an adverse judgment in any proceeding involving allegations of fraud, racketeering or improper trade practices or similar claim that could damage the goodwill or reputation of the Marks or the System; conceal revenues or maintain false books; create a threat or danger to public health or safety; refuse an inspection or audit by us; use the Marks, copyrighted material or Confidential Information in an unauthorized manner; make an unauthorized disclosure of Confidential Information; fail to comply with non-competition covenants; default in the performance of your obligations three or more times during the term or receive two or more default notices in any consecutive 12-month period; default under any other agreement with us or our affiliates; issue a press release or respond to a media inquiry without our prior approval; or terminate the Franchise Agreement without cause.</p>
<p>i. Franchisee’s obligations on termination/non-renewal</p>	<p>Article 17</p>	<p>Upon termination, you must: cease operations; cease to identify yourself as a Kidokinetics franchisee; cease to use the Marks; cancel any assumed name registration that contains any Mark; pay us and our affiliates all sums owing; pay us any damages, costs or expenses we incur in obtaining any remedy for any violation of the Franchise Agreement by you, including, but not limited to attorneys’ fees; deliver to us all Confidential Information, the Franchise Operations Manual and all records and files related to your Kidokinetics Business; comply with the non-disclosure and non-competition covenants; sell to us, at our option, all furnishing, fixtures, equipment, inventory and supplies of your Kidokinetics Business and the land and/or building where your Kidokinetics Business is located, if applicable; and assign, at our option, your telephone numbers and directory listings and the lease for the location.</p>
<p>j. Assignment of contract by Franchisor</p>	<p>Section 15.1</p>	<p>There are no restrictions on our right to assign our interest in the Franchise Agreement.</p>
<p>k. “Transfer” by franchisee-defined</p>	<p>Section 15.3</p>	<p>Any assignment, sale, transfer, gift, devise or encumbrance of any interest in the Franchise Agreement, the Kidokinetics Business, any assets of the Kidokinetics Business, or in you (if you are a business entity).</p>



Provision	Section In the Franchise or Other Agreement	Summary
l. Franchisor approval of transfer by franchisee	Sections 15.2, 15.3 and 15.4	You may not transfer your interest in any of the items listed in (k) above without our prior written consent.
m. Conditions for franchisor's approval of transfer	Sections 15.3 and 15.4	Conditions include: transferee meets our then-current standards for qualifying franchisees; transferee signs our then-current form of Franchise Agreement, which may have materially different terms from your Franchise Agreement; transferee and its Manager successfully complete our Initial Management Training Program; you have paid us and third- party creditors all amounts owed; you and the transferee sign a General Release in the form of Attachment C to the Franchise Agreement; you subordinate any claims you have against the transferee to us; we have approved the material terms and conditions of the transfer and you provide us a copy of the purchase agreement; you cure all existing defaults; and you have paid us a transfer fee, plus any actual costs, including broker fees, if applicable. We may withhold or condition our consent to any transfer as we deem appropriate based on the circumstances of the transfer or otherwise.
n. Franchisor's right of first refusal to acquire franchisee's business	Section 15.9	You must promptly notify us of any written offer to purchase your Franchise. We have 30 days to exercise our first right to buy it on the same terms and conditions, provided that (a) we may substitute cash for any other consideration (b) our credit is deemed as good as the proposed purchaser, (c) we have at least 60 days to close and (d) you shall give us all customary seller's representations and warranties.
o. Franchisor's option to purchase franchisee's business	Section 17.2	Upon termination of the Franchise Agreement, we have the option to purchase your furniture, equipment, signs, advertising materials, supplies and inventory at your cost or fair market value, whichever is less.
p. Death or disability of franchisee	Section 15.6	The Franchise Agreement may be inherited by your heirs or successors, provided they agree to guarantee all obligations of the Franchise Agreement and appoint a Manager, approved by us, within 180 days or transfer the Kidokinetics Business. If your heirs or successors do not appoint a Manager or transfer the Kidokinetics Business within 180 days, the Franchise Agreement will automatically terminate, unless prohibited by law.



Provision	Section In the Franchise or Other Agreement	Summary
q. Non-competition covenants during the term of the franchise	Section 18.5.1	You, each principal, and your and your principals' spouses shall not, either directly or indirectly, for themselves or through, on behalf of, or in conjunction with, any person or entity: (i) divert, or attempt to divert, any business or customer of the Kidokinetics Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any children's sports or fitness business or any other business offering any other goods or services offered or authorized for sale by System franchisees (" <u>Competing Business</u> "); (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize our business or the business of any Kidokinetics franchisees (Subject to applicable state law).
r. Non-competition covenants after the franchise is terminated or expires	Section 18.5.2	Upon the expiration or earlier termination of this Agreement or upon a transfer and continuing for 24 months, you and your principals, and your spouse and the spouse of each principal, shall not, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person or entity (i) divert, or attempt to divert, any business or customer of the Kidokinetics Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in Competing Business within (i) a 20-mile radius from Franchisee's Kidokinetics business (and including the premises of the approved location of Franchisee); and (ii) a 20-mile radius from all other Kidokinetics businesses that are operating or under development as of the beginning of the Restricted Period; provided, however, that if a court of competent jurisdiction determines that the foregoing Restricted Territory is too broad to be enforceable, then the "Restricted Territory" means the geographic area within a 10-mile radius from Franchisee's Kidokinetics business (and including the premises of the approved location of Franchisee). (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System;



Provision	Section In the Franchise or Other Agreement	Summary
		(iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize our business or the business of any Kidokinetics franchisee; or (v) solicit business from customers your former Kidokinetics Business or contact any of our suppliers or vendors for any competitive business purpose. (Subject to applicable state law).
s. Modification of the agreement	Section 21.4	The Franchise Agreement may not be modified except by a written agreement that both of us sign.
t. Integration/merger clause	Section 21.4	Only the terms of the Franchise Agreement are binding (subject to applicable state law). Any representations or promises made outside the Franchise Disclosure Document and Franchise Agreement may not be enforceable. Notwithstanding the foregoing, nothing in any agreement is intended to disclaim the express representations made in this Franchise Disclosure Document, its exhibits and amendments.
u. Dispute resolution by arbitration or mediation	Section 19.2	<p>You must first bring any claim that is between us to the attention of our management. You must first exhaust our internal dispute resolution procedures before you may bring your dispute before a third party. The requirement that you must first attempt to resolve disputes internally will survive the termination or expiration of your term.</p> <p>At our option, any disputes and claims that are not resolved by internal dispute resolution must, at our option, be submitted to mediation. The mediation will take place in Broward County, Florida before the American Arbitration Association (“AAA”) in accordance with the AAA’s Commercial Mediation Rules then in effect. You must notify us, with details of your claim or dispute, before commencing any legal action against us or our affiliates. Once we receive your notice, we will have 30 days to notify you as to whether we or our affiliates elect to exercise the option to submit the matter to mediation.</p> <p>You may not commence any action against us or our affiliates regarding any claim or dispute in any court unless we fail to exercise our option to submit the claim or dispute to mediation, or such mediation proceedings have been terminated under certain circumstances. This agreement to mediate will survive any termination or</p>



Provision	Section In the Franchise or Other Agreement	Summary
		<p>expiration of the Franchise Agreement.</p> <p>The parties shall not be required to first attempt to mediate a controversy, dispute, or claim through mediation if such controversy, dispute, or claim relates to an allegation that a party has violated (or threatens to violate, or poses an imminent risk of violating): (i) any federally protected intellectual property rights in the Marks, the System, or in any Confidential Information; (ii) any claims pertaining to or arising out of any warranty issue; or (iii) any of the restrictive covenants contained in the Franchise Agreement (subject to applicable state law).</p>
v. Choice of forum	Section 19.4	Subject to applicable state law, any litigation must be pursued in courts located in Broward County, Florida. (Subject to applicable state law).
w. Choice of law	Section 19.3	Subject to applicable state law, Florida law applies, except that disputes over the Marks will be governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sec. 1051 et seq.).

**ITEM 18. PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

**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 designate each Franchise as a separate “territory.” In some cases, a single franchisee may operate several Franchises and provide operating results on a combined basis. We have noted any combined results in the notes to Table 1.

As of December 31, 2023, we had 125 franchised territories and nine affiliate-owned territories operated by four affiliate-owned businesses (“Affiliate Locations”) in operation. We include information from 36 territories operated by sixteen franchisees that were open and operating for all twelve months of 2022 (“Franchised Locations”) and information from the two Affiliate Locations that were open and operating for all twelve months of 2023, including one territory operated by our KKI Affiliate (“Affiliate Location #1”) and three territories operated by our TK Affiliate (“Affiliate Location #2”) (together, the



“Reporting Affiliate Locations”). Two territories opened by another affiliate opened in 2023 and have been excluded because they did not operate for all twelve months of 2023. The tables below provide information on two Affiliates Locations and sixteen reporting Franchised Locations (“Reporting Group”) for calendar year 2023. For the three Franchise Locations in the Reporting Group that have operated for at least 24 months as of December 31, 2023 (“Mature Franchised Locations”), we also include data regarding the costs of goods sold and operating expenses incurred by these Mature Franchise Locations. We exclude the data of the 89 franchised territories that did not operate for all twelve months of 2023. The Affiliate Locations do not pay Royalty Fees, Brand Development Fund Contributions, or technology fees and are not subject to a Local Marketing Requirement, all of which a franchised Kidokinetics Businesses will have to pay. The Kidokinetics Businesses included in this financial performance representation offer similar services and faces a similar degree of competition anticipated for the Kidokinetics Businesses offered under this Franchise Disclosure Document.

Table 1

The information in Table 1 below is a historical financial performance representation for the Franchised Locations based on the number of territories operated by each Reporting Franchised Location and the same for the Reporting Affiliate Locations. Table 1 includes average Gross Sales for: (i) the Franchised Locations in the Reporting Group that operated one Kidokinetics Business in 2023 calendar year (the “Single Territory Franchised Locations”) and the Gross Sales for the Reporting Affiliate Locations; (ii) average Gross Sales for the Franchised Locations in the Reporting Group that operated two Kidokinetics Businesses in 2023 calendar year (the “Two Territory Franchised Locations”) and (iii) average Gross Sales for the Franchised Locations in the Reporting Group that operated three Kidokinetics Businesses in 2023 calendar year (the “Three Territory Franchised Locations”).

**Table 1a**  
**Average Gross Sales for the Franchised Locations in the Reporting Group**  
**During the 2023 Calendar Year**

Franchised Location Type	Average	Median	High	Low	Number Exceeding Average	Percent Exceeding Average
Single Territory	\$67,672	\$53,071	\$132,772	\$31,773	1 of 4	25%
Two Territory	\$57,987	\$51,711	\$143,181	\$16,448	2 of 9	22%
Three Territory	\$325,027	\$247,689	\$722,356	\$5,037	1 of 3	33%

**Table 1b**  
**Gross Sales for the Affiliate Locations in the Reporting Group**  
**During the 2023 Calendar Year**

Affiliate Location	Gross Sales
<b>Affiliate Location #1</b> <b>(Undefined Area - Equivalent of Six Territories)</b>	\$408,814
<b>Affiliate Location #2</b> <b>(Three Territories)</b>	\$90,884



Notes to Table 1:

1. The multiple territory data is presented on a combined basis for the number of territories operated by each franchisee. The data is disclosed on a per franchisee/affiliate basis and not on a per territory basis.
2. Affiliate Location #1 operates in one large territory in Florida and has done so since October 2000. Affiliate Location #2 operates three territories in Florida and has done so since November 2021.
3. With the exception of three Mature Reporting Outlets, all Franchised Locations in the Reporting Group were in their first full year of operation. For those new Franchised Locations that operate multiple Kidokinetics Businesses, many Franchised Locations operated primarily or exclusively in one of the territories of their Kidokinetics Businesses. One of the Three Territory Franchised Locations and all nine of the Two Territory Franchised Locations are in their first year of operation.
4. “Gross Sales” means the revenues you receive from the sales of all goods, services and products sold at, from, or through the Kidokinetics Business or made pursuant to the rights granted hereunder, and all other income of every kind and nature related to the Kidokinetics Business, whether from cash, or credit, or otherwise, and regardless of collection in the case of credit, including the full redemption value of any gift card, gift certificate or coupon sold for use in the Kidokinetics Business (fees retained by or paid to third-party sellers of such gift cards, gift certificates or coupons are not excluded from this calculation), and all proceeds from any business interruption insurance. It does not include (i) any sales tax or other taxes collected from customers for, and turned over to, the governmental authority imposing the tax, (ii) properly documented refunds to customers, or (iii) properly documented employee discounts (limited to 3% of Gross Sales). Gross Sales include sales of gift cards and gift certificates at the time the franchisee receives the funds from the purchase of such gift cards and gift certificates.
5. The financial figures in Table 1 do not reflect the costs of sales, operating expenses, or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your franchised business. Franchisees or former franchisees, listed in the Disclosure Document, may be one source of this information.

Table 2

The three Mature Franchised Locations in the Reporting Group provided expenses and cost data for the 2023 Reporting Period. The information in Tables 2A through 2C contains financial information from one franchisee that operates three territories in Dallas, Texas (“Dallas Location”), one franchisee that operates three territories in Texas (“NW Broward Location”) and one franchisee that operates in one territory in Cary, North Carolina (“North Carolina Location”). Table 2A contains the financial information of the Dallas Location during the 2023 Reporting Period. Table 2B contains the financial information of the North Carolina Location during the 2023 Reporting Period. Table 2C contains the financial information of the NW Broward Location during the 2023 Reporting Period. The Dallas Location has been in operation since February 2008 and operates in three territories. The Dallas Location began operations in two of its territories in February 2008 and operations in its third territory in June 2012. The North Carolina Location began operations in February 2011 and operates in one territory. The



NW Broward Location began operations in its first territory in January 2014 and in its second and third territories in October 2020.

<b>Table 2A Financial Information for the Dallas Location During the 2023 Reporting Period</b>		
Category	Total	% of Gross Sales
<b>Gross Sales <sup>(1)</sup></b>	<b>\$722,755</b>	<b>100%</b>
Disclosed Operating Expenses (Actual) <sup>(2)</sup>		
Advertising and Promotion	\$11,644	1.6%
Bank Service Charges	\$1,979	0.3%
Business Gifts	\$1,993	0.3%
Business Meetings	\$8,430	1.2%
Coach Supplies	\$5,243	0.7%
Computer and Internet Expenses	\$2,587	0.4%
Contract Labor	\$143,598	19.9%
Credit Card Processing Fees	\$327	0.0%
Donations	\$1,768	0.2%
Dues and Subscriptions	\$2,898	0.4%
Employee Background Services	\$1,115	0.2%
Equipment Storage Rental	\$2,279	0.3%
Facilities Rental	\$4,908	0.7%
Franchise Fees	\$48,432	6.7%
General Liability Insurance	\$4,306	0.6%
Meals and Entertainment	\$507	0.1%
Office Supplies	\$1,287	0.2%
Taxes	\$11,204	1.6%
Wages	\$132,557	18.3%
Postage and Delivery	\$119	0.0%
Printing and Reproduction	\$218	0.0%
Professional Fees	\$500	0.1%
QuickBooks Payments Fees	\$7,679	1.1%
Refund	\$125	0.0%
Summer Camp Counselor Gratuities	\$1,700	0.2%
Summer Camp Materials	\$1,632	0.2%
Tax Preparation	\$1,000	0.1%
Taxi and Uber	\$32	0.0%
Telephone Expense	\$60	0.0%
Tolls and Parking	\$1,650	0.2%
Training and Development	\$563	0.1%





Travel Expense	\$3,888	0.5%
<b>Franchise-Related Expenses</b>		
Royalties	\$57,820	8.0%
Brand Development Fund Contribution	\$14,455	2.0%
Technology Fee	\$5,700	0.8%
Local Advertising (Difference)	\$2,811	0.4%
<b>Total Expenses</b>	<b>\$487,014</b>	<b>67.38%</b>
<b>Adjusted Net Operating Income</b>	<b>\$235,741</b>	<b>32.6%</b>

<b>Table 2B</b> <b>Financial Information for the North Carolina Location</b> <b>During the 2023 Reporting Period</b>		
Category	Total	% of Gross Sales
<b>Gross Sales <sup>(1)</sup></b>	<b>\$132,773</b>	<b>100.00%</b>
<b>Disclosed Operating Expenses (Actual)<sup>(2)</sup></b>		
Advertising, Promotion and Promotional Items	\$3,255	2.45%
Automobile Expense	\$805	0.61%
Fuel	\$607	0.46%
Tolls	\$75	0.06%
Bank Charges	\$1	0.00%
Business Licenses and Permits	\$590	0.44%
Dues and Subscriptions	\$825	0.62%
Licensing Fees	\$632	0.48%
Location Fee	\$3,181	2.40%
Insurance Expense	\$944	0.71%
Liability Insurance	\$1,076	0.81%
Workers Compensation Insurance	\$944	0.71%
Royalties	\$10,060	7.58%
Meals and Entertainment	\$643	0.48%
Meals	\$1,376	1.04%
Equipment	\$393	0.30%
Supplies	\$1,325	1.00%
Payroll	\$50	0.04%
Wages	\$45,880	34.56%
Payroll taxes Expense	\$2,253	1.70%
Contract	\$10,881	8.20%
QuickBooks Payments Fees	\$1,155	0.87%
Sports Equipment	\$1,165	0.88%



<b>Table 2B Financial Information for the North Carolina Location During the 2023 Reporting Period</b>		
Clothing / Gear	\$305	0.23%
Lodging	\$1,250	0.94%
Travel	\$1,909	1.44%
Telephone Expense	\$2,458	1.85%
<b>Franchise-Related Expenses <sup>(3)</sup></b>		
Royalties (Difference)	\$562	0.42%
Brand Development Fund Contribution	\$2,655	2.00%
Technology Fee	\$5,700	4.29%
Local Advertising (Difference)	\$2,745	2.07%
<b>Total Expenses</b>	<b>\$105,702</b>	<b>79.61%</b>
<b>Adjusted Net Operating Income</b>	<b>\$27,071</b>	<b>19.21%</b>

<b>Table 2C Financial Information for the NW Broward During the 2023 Reporting Period</b>		
Category	Total	% of Gross Sales
<b>Gross Sales <sup>(1)</sup></b>	<b>\$247,549</b>	<b>100.00%</b>
<b>Disclosed Operating Expenses (Actual)<sup>(2)</sup></b>		
Insurance	\$1,350	0.55%
Royalty Fee	\$18,720	7.56%
Marketing	\$1,238	0.50%
Office Supplies /Software	\$1,682	0.68%
Other Business Expenses	\$1,076	0.43%
Payroll Expenses	\$141,884	57.32%
QuickBooks Payments Fees	\$3,089	1.25%
<b>Franchise-Related Expenses <sup>(3)</sup></b>		
Royalties (Difference)	\$17,104	8%
Brand Development Fund Contribution (Imputed)	\$4,276	2%
Technology Fee (Imputed)	\$5,700	2.30%
Local Advertising (Imputed)	\$4,762	1.92%
<b>Total Expenses</b>	<b>\$185,535</b>	<b>74.95%</b>
<b>Adjusted Net Operating Income</b>	<b>\$61,947</b>	<b>25.02%</b>

Notes to Tables 2A, 2B, and 2C:

1. “Gross Sales” is defined in the Notes to Tables 1A and 1B above.



2. The Dallas Location operates in a combined three-territory location in Texas and reports operating results on a combined basis. The NW Broward Location operates in combined three-territory location in Florida and reports operating results on a combined basis. The North Carolina Location operates in a single territory in North Carolina.
3. “Disclosed Operating Expenses” refers to the expenses disclosed in Table 2A, Table 2B, and Table 2C and does not include all operating expenses or costs of goods and/or services provided. The Disclosed Operating Expenses do not include the payroll wages of the owners and managers of these Franchise Locations and certain other expenses. The payroll taxes paid in connection with the payroll of these owners and managers was not excluded. For the Dallas Location, we have excluded reimbursements and wireless communication expenses as these included certain personal expenses of the business owner. For the NW Broward Location, we deleted equipment expenses for non-standard equipment that is not used by our other Franchised Locations. For the North Carolina Location, we excluded uncategorized discretionary operating expenses. The expenses include actual amounts paid to locations where Kidokinetics programs are held, including revenue and profit-sharing fees and other rental fees charged by these facilities. These costs for the NW Broward Location were deducted from revenue received by facilities prior to revenue being remitted by the facility to the NW Broward Location for services provided at these facilities. The North Carolina Location’s facility expenses are listed as a “Location Fee.” The Dallas Location discloses these expenses as “Facility Expenses.”
4. Franchise Related Adjustments. The Dallas Location, North Carolina Location, and NW Broward Location operate under a prior form of Franchise Agreement with alternative fee structures. These locations pay a reduced Royalty Fee and do not pay a Brand Development Fund Contribution or technology fees. We have imputed the following franchise-related adjustments based on our current form of Franchise Agreement: the difference between the Royalty Fee paid and the fee charged under the current Franchise Agreement (8% of Gross Sales), Brand Development Fund Contribution of 2% of Gross Sales, a technology fee of \$475 per month, and local advertising requirement\* of 2% of Gross Sales to reflect fees and costs that franchised Kidokinetics Businesses will pay under our current fee structure. Because the Dallas Location and North Carolina Location incurred some advertising expenses, we have deducted the amount spent from the imputed Local Marketing Requirement. We do not assess an additional technology fee or require the Local Marketing Requirement for a single franchisee entity operating up to four contiguous territories. The illustrative adjustments of adding the then-current Royalty Fee, Brand Development Fund Contribution, technology fee and balance of the Local Marketing Requirement in the table above present financial projections. These projections are based on historical information. We assumed that any additional expenses would not have a direct or indirect material effect on revenue or other expenses. Any change in these assumptions would require material alterations to the projections.

\*Franchisees are required to spend the greater of \$500 per month, or 2% of Gross Sales per month (on a rolling 12-month average) on local advertising. The amount equal to 2% of monthly Gross Sales for the Dallas Location, calculated on a rolling 12-month average, was greater than the minimum \$500 Local Marketing Requirement during the Reporting Period. Accordingly, we used the formula of 2% of Gross Sales to calculate the imputed franchise-related adjustment for the Local Marketing Requirement for the Dallas Location. The North Carolina Location and NW Broward Location did not meet the \$500 per month minimum. Accordingly, we used the \$500



per month figure and imputed the difference between the amounts these Affiliate Locations spent and the annualized \$500 per month advertising requirement.

5. “Adjusted Net Operating Income” equals Gross Sales less Disclosed Operating Expenses and Franchise Related Adjustments. Adjusted Net Operating Income is not net profit and does not include all operating expenses or any non-operating expenses such as taxes, interest, depreciation and amortization.
6. Franchisees may operate in up to four territories. We allow franchisees who have purchased a Multi-Franchise to provide combined financial information to us. We do not collect or require franchisees to provide us with separate numbers for each Kidokinetics Business they operate. Because the figures above for the Dallas Location and NW Broward Location include aggregate totals for multiple Kidokinetics Businesses, these figures may include significantly higher Gross Sales and Net Operating Income than a franchisee would generate operating a single territory. A breakdown of these numbers by each Kidokinetics Business would result in significantly lower numbers.
7. The financial performance representations in Table 2 do not reflect all expenses such as taxes and amortization that must be deducted from the Gross Sales figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your franchised business. Franchisees or former franchisees, listed in the Franchise Disclosure Document, may be one source of this information.

Table 3

In Table 3 we describe the range of certain Gross Sales metrics reported by the Franchised Locations in 2023 for specific services offered by the Franchised Locations. This data includes data from all Franchised Locations that operated during 2023. These metrics reflect the Gross Sales reported by all Franchised Locations during calendar year 2023.

Gross Sales Source	Gross Sales Range
Enrichment Monthly Subscription	\$59 - \$112
Physical Education Hourly Rate	\$90 - \$200

Notes to Table 3:

1. “Enrichment Monthly Subscription” refers to the low to high range of monthly subscription fees charged to attendees that subscribe to weekly class. These courses are typically 30 – 45 minutes per class and the subscription includes one class per week during each monthly billing period.
2. “Physical Education Hourly Rate” refers to the hourly rate charged by Franchised Locations for hourly physical education services. Physical Education Hourly Rate includes the high and low amount paid to the coaches employed by the Franchised Locations. Franchised Locations charge



this fee to approved third parties' clients, such as schools and community centers, for physical education programs hosted at their location.

**Some Kidokinetics Businesses have earned this amount. Your individual results may differ. There is no assurance you'll earn as much.**

Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

Other than the preceding financial performance representation, Kidokinetics Franchise LLC does not make any financial performance representations. 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 Terri Braun, President, 10428 West SR 84, Unit 1, Davie, Florida 33324, (954) 385-8511, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20. OUTLETS AND FRANCHISEE INFORMATION**

Table No. 1  
System-wide Outlet Summary  
For Years 2021 - 2023

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised Outlets*	2021	7	7	0
	2022	7	36	+29
	2023	36	121	+85
Company-Owned**	2021	1	4	+3
	2022	4	6	+2
	2023	6	9	+3
Total Outlets	2021	8	11	+3
	2022	11	42	+31
	2023	42	130	+88

\* We designate each franchised territory as a separate "outlet." A single franchisee may operate multiple outlets.

\*\*One Company-Owned Kidokinetics Business referred to in this table is owned and operated by our KKI Affiliate in the following counties in the state of Florida: Dade, Broward (excluding Southeast Broward), Palm Beach. The total population of the zip codes in these counties in which our KKI Affiliate operates includes approximately 1,400,000 people. This would equate to approximately six separate Territories (each consisting of approximately 220,000 in population). Three of the Company-Owned Kidokinetics Businesses referred to in this table are owned and operated by our TK Affiliate in Hillsborough County, Florida. Our TK Affiliate operates three Kidokinetics Businesses under three Kidokinetics franchise agreements and was granted a territory under each agreement. Two of the Company-Owned Kidokinetics Businesses referred to in this table are owned and operated by an officer-owned entity in Smyrna, Georgia.



Table No. 2  
Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)  
For Years 2021 - 2023

State	Year	Number of Transfers
Totals	2021	0
	2022	0
	2023	12

Table No. 3  
Status of Franchised Outlets  
For Years 2021 - 2023

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
Arizona	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	4	0	0	0	0	4
California	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	8	0	0	0	0	8
Colorado	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	2023	2	3	0	0	0	0	5
Florida	2021	3	0	0	0	0	0	3
	2022	3	2	0	0	0	0	5
	2023	5	2	0	0	0	0	7
Georgia	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	2023	2	2	0	0	0	0	4
Idaho	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
Indiana*	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	3	0	0	0	0	3



State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
Massachusetts	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	6	0	0	0	0	6
Michigan	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	3	0	0	0	0	3
New York	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	2023	2	4	0	0	0	0	6
Nebraska	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	2	0	0	0	0	2
New Jersey	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	6	0	0	0	0	6
North Carolina	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	3	0	0	0	0	4
Ohio	2021	0	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
	2023	3	5	0	0	0	0	8
Oklahoma	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	5	0	0	0	0	5
Oregon	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	2	0	0	0	0	2
Pennsylvania	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2023	1	3	0	0	0	1	3
Tennessee	2021	0	0	0	0	0	0	0
	2022	0	5	0	0	0	0	5
	2023	5	0	0	0	0	0	5



State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
Texas	2021	3	0	0	0	0	0	3
	2022	3	7	0	0	0	0	10
	2023	10	18	0	0	0	0	28
Utah	2021	0	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
	2023	3	0	0	0	0	0	3
Virginia	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	2023	2	4	0	0	0	0	6
Washington	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	3	0	0	0	0	3
Wisconsin	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	2	0	0	0	0	2
Total	2021	7	0	0	0	0	0	7
	2022	7	29	0	0	0	0	36
	2023	36	89	0	0	0	0	125

\*The Indiana franchisee's three outlets ceased operations in 2024 prior to the issuance of this Disclosure Document.

Table No. 4  
Status of Company-Owned Outlets  
For Years 2021 - 2023

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
Florida	2021	1	3	0	0	0	4
	2022	4	0	0	0	0	4
	2023	4	2	0	0	0	6
Georgia	2021	0	0	0	0	0	0
	2022	0	2	0	0	0	2





State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
	2023	2	1	0	0	0	3
Total Outlets	2021	1	3	0	0	0	4
	2022	4	2	0	0	0	6
	2023	6	3	0	0	0	9

Table No. 5  
Projected Openings as of  
December 31, 2023

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
Arizona	0	2	0
California	3	4	0
Colorado	0	0	0
Florida	0	3	0
Georgia	0	2	0
Idaho	0	0	0
Illinois	0	2	0
Indiana	0	0	0
Massachusetts	0	2	0
Minnesota	0	3	1
North Carolina	0	4	1
New Jersey	3	3	0
New York	0	3	0
Oregon	3	0	0
South Carolina	0	2	0
Texas	0	3	0
Virginia	0	2	0
Total	9	35	2

### Franchisee Information

The names, addresses and telephone numbers of our current franchisees are attached to this Franchise Disclosure Document as Exhibit E. The name and last known address and telephone number of



every current franchisee and every franchisee who has had a Kidokinetics Franchise terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under our Franchise Agreement during the one-year period ending December 31, 2023, or who has not communicated with us within ten weeks of the Issuance Date of this Franchise Disclosure Document, is listed in Exhibit E. In some instances, current and former franchisees may sign provisions restricting their ability to speak openly about their experiences with the Kidokinetics System. During the last three years, we had one current franchisee sign confidentiality provisions that would restrict the franchisee’s ability to speak openly about their experience with the Kidokinetics Franchise System. You may wish to speak with current and former franchisees but know that not all such franchisees can communicate with you. If you buy a Kidokinetics Franchise, your contact information may be disclosed to other buyers when you leave the Franchise System.

As of the Issuance Date of this Franchise Disclosure Document, there are no franchise organizations sponsored or endorsed by us and no independent franchisee organizations have asked to be included in this Franchise Disclosure Document. We do not have any trademark specific franchisee organizations.

## **ITEM 21. FINANCIAL STATEMENTS**

Attached as Exhibit D to this Franchise Disclosure Document are our audited financial statements for the fiscal years ending December 31, 2023, 2022 and 2021. Our fiscal year end is December 31.

## **ITEM 22. CONTRACTS**

Exhibit B	Franchise Agreement
Exhibit F	Franchise Disclosure Questionnaire
Exhibit G	State Addenda and Agreement Riders
Exhibit H	Contracts for Use with the Kidokinetics Franchise

## **ITEM 23. RECEIPT**

The last pages of this Franchise Disclosure Document, Exhibit J, are a detachable document, in duplicate. Please detach, sign, date and return one copy of the Receipt to us, acknowledging you received this Franchise Disclosure Document. Please keep the second copy for your records.



**EXHIBIT A**

**STATE ADMINISTRATORS AND  
AGENTS FOR SERVICE OF PROCESS**

**STATE ADMINISTRATORS AND  
AGENTS FOR SERVICE OF PROCESS**

<p><b><u>CALIFORNIA</u></b></p> <p>State Administrator and Agent for Service of Process: Commissioner Department of Financial Protection and Innovation 320 W. 4<sup>th</sup> Street, #750 Los Angeles, CA 90013 (213) 576-7500 (866) 275-2677</p> <p><b><u>HAWAII</u></b></p> <p>Commissioner of Securities of the State of Hawaii 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722</p> <p><u>Agent for Service of Process:</u> Commissioner of Securities of the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722</p> <p><b><u>ILLINOIS</u></b></p> <p>Illinois Attorney General Chief, Franchise Division 500 S. Second Street Springfield, IL 62706 (217) 782-4465</p> <p><b><u>INDIANA</u></b></p> <p>Secretary of State Securities Division Room E-018 302 W. Washington Street Indianapolis, IN 46204 (317) 232-6681</p> <p><b><u>MARYLAND</u></b></p> <p>Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202 (410) 576-6360</p>	<p><b><u>MARYLAND CONTINUED</u></b></p> <p><u>Agent for Service of Process:</u> Maryland Securities Commissioner 200 St. Paul Place Baltimore, MD 21202-2020</p> <p><b><u>MICHIGAN</u></b></p> <p>Michigan Department of Attorney General Consumer Protection Division 525 W. Ottawa Street Lansing, MI 48913 (517) 373-7117</p> <p><b><u>MINNESOTA</u></b></p> <p>Department of Commerce Commissioner of Commerce 85 Seventh Place East, Suite 280 St. Paul, MN 55101-3165 (651) 539-1600</p> <p><b><u>NEW YORK</u></b></p> <p><u>Administrator:</u> NYS Department of Law Investor Protection Bureau 28 Liberty Street, 21<sup>st</sup> Floor New York, NY 10005 (212) 416-8222</p> <p><u>Agent for Service of Process:</u> Secretary of State 99 Washington Avenue Albany, NY 12231</p> <p><b><u>NORTH DAKOTA</u></b></p> <p><u>Administrator:</u> North Dakota Securities Department 600 East Boulevard Avenue State Capitol, Fourteenth Floor, Dept. 414 Bismarck, ND 58505-0510 (701) 328-4712</p> <p><u>Agent for Service of Process:</u> Securities Commissioner 600 East Boulevard Avenue State Capitol, Fourteenth Floor, Dept. 414 Bismarck, ND 58505-0510</p>	<p><b><u>RHODE ISLAND</u></b></p> <p>Department of Business Regulation 1511 Pontiac Avenue, Bldg. 68-2 Cranston, RI 02920 (401) 462-9527</p> <p><b><u>SOUTH DAKOTA</u></b></p> <p>Division of Insurance Securities Regulation 124 South Euclid, Suite 104 Pierre, SD 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, 9<sup>th</sup> Floor Richmond, VA 23219</p> <p><u>Agent for Service of Process:</u> Clerk of the State Corporation Commission 1300 E. Main Street, 1<sup>st</sup> Floor Richmond, VA 23219</p> <p><b><u>WASHINGTON</u></b></p> <p><u>State Administrator:</u> Washington Department of Financial Institutions Securities Division P.O. Box 41200 Olympia, WA 98504-1200 (360) 902-8760</p> <p><u>Agent for Service for Process:</u> Director of Department of Financial Institutions Securities Division 150 Israel Road SW Tumwater, WA 98501</p> <p><b><u>WISCONSIN</u></b></p> <p>Department of Financial Institutions Division of Securities 201 W. Washington Avenue Madison, WI 53703 (608) 266-3364</p>
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Rev. 090723



**EXHIBIT B**

**KIDOKINETICS FRANCHISE LLC**

**FRANCHISE AGREEMENT**





**KIDOKINETICS FRANCHISE LLC  
FRANCHISE AGREEMENT**

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## KIDOKINETICS FRANCHISE LLC FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (herein “Agreement” or “Franchise”) is being entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Kidokinetics Franchise LLC, a Florida limited liability company, with its principal office at 10428 West SR 84, Unit 1, Davie, Florida 33324 (herein “Franchisor”) and \_\_\_\_\_, a \_\_\_\_\_, with an address of \_\_\_\_\_ (“Franchisee”).

### BACKGROUND

A. Through the expenditure of considerable time, effort and money, Franchisor has designed, developed and established a business offering physical fitness programs for young children through an introduction to sports and a variety of other related activities and services, referred to as “Kidokinetics Businesses”, using Franchisor’s specifications, standards, operating procedures, specialized equipment, methods of marketing and presentation, training and assistance and using Franchisor’s confidential operations manual of business practices and policies (the “Franchise Operations Manual”), and Franchisor’s products and quality standards; instructional materials, any other operations manuals and training courses (the “System”).

B. The System is identified by certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including but not limited to the “KIDOKINETICS<sup>®</sup>” service mark, shown in Attachment “A”, and such other trade names, service marks, and trademarks as are now designated and may be designated or substituted by Franchisor for use in connection with the System (the “Marks”).

C. Franchisor continues to develop, use, and control the use of the Marks in order to identify for the public the source of services and products marketed under the Marks and the System, and to represent the System’s high standards of quality, appearance, and service.

D. Franchisee understands and acknowledges the importance of Franchisor’s high and uniform standards of quality, service, and appearance, and the necessity of operating the business franchised in this Agreement in conformity with Franchisor’s standards and specifications.

E. Franchisee has determined to enter into this Agreement because Franchisee desires to operate a high-quality youth fitness business utilizing the System. Franchisee understands and accepts the terms, conditions and covenants 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 other intellectual property licensed to Franchisee in this Agreement or which may be added to the System from time to time.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, commitments and understandings contained herein, the parties hereby agree as follows:

### AGREEMENT

1. **GRANT OF FRANCHISE.** Franchisor hereby grants to Franchisee and Franchisee accepts, upon the terms and conditions herein contained, the license to operate a Kidokinetics franchise (the “Kidokinetics Business” or the “Franchised Business”), using only the Marks licensed hereunder, in strict conformity with the System, which may be changed, improved and further developed by Franchisor from time to time. This grant applies only to the territory which will be selected by Franchisee and approved by Franchisor, which is more particularly described in Section 2 herein and in Attachment “B” (the “Territory”). Franchisee understands and acknowledges that present or future franchisees of Franchisor may operate under different forms of franchise agreements and consequently that Franchisor’s obligations and rights with respect to its various franchisees may differ materially in certain circumstances.





## 2. TERRITORY

2.1. Territory. This Agreement grants Franchisee the right to operate the Kidokinetics Business from a single location within a Territory (“Kidokinetics Business Location”) described and/or mapped in Attachment “B” to this Agreement and incorporated into this Agreement. Except as otherwise provided for in this Agreement, as long as Franchisee is in compliance with the terms and conditions hereof, Franchisor agrees it will not operate, nor permit any other franchisee to operate, a Kidokinetics Business within the Territory using the same Marks. Franchisee acknowledges that other franchisees may operate their Kidokinetics Businesses from home offices located within the Territory, however, such Franchisee shall not be granted the right to operate within the Territory. Franchisee may not operate outside the Territory without express written authorization from Franchisor.

2.2. Reservation of Rights. Franchisee acknowledges and agrees that Franchisor and any parties Franchisor designates will have the right to: (i) establish and operate, and license third parties the right to establish and operate, other franchised businesses using the Marks and System at any location outside of the Territory; (ii) acquire, merge with, engage in joint ventures with, or otherwise affiliate with, and thereafter own and operate and franchise others the right to own and operate, any business of any kind, including businesses that offer products that are similar to those provided by a Franchised Business, within or outside the Territory; (iii) open and operate, or license third parties the right to open or operate, businesses that offer products and services similar to the Franchised Business under marks other than the Marks at any location; (iv) sell and distribute, directly or indirectly, or license others to sell and distribute, directly or indirectly, any products, services or merchandise, from any location or to any purchaser, through any channel or method of distribution (including, but not limited, to virtual classes, sales made by or through telemarketing, and/or on the Internet); (v) provide the services or sell products authorized for Kidokinetics Businesses to customers whose principal residence (or principal business office, if the customer is a business entity) is within Franchisee’s Territory if contact with the customer is initiated by the customer and not Franchisor; (vi) to use and license the use of technology to non-franchisee locations inside and outside the Territory; and (vii) engage in any other activities not expressly prohibited under this Agreement. Franchisee acknowledges and agrees that this Agreement does not grant it any right to (a) offer any product or service via e-commerce without prior approval by Franchisor, (b) establish an independent website or to establish a URL incorporating the Marks or any variation thereof, or (c) distribute, market, or implement Franchisor’s products and services in any channel of distribution not specifically identified in this Agreement. Franchisee may not sell products through other channels of distribution such as wholesale, Internet or mail order sales. Franchisor is not required to pay Franchisee if Franchisor exercises any of its rights within the Territory. Franchisor will not be required to pay any compensation for soliciting or accepting orders inside the Territory.

3. **TERM**. The term of this Agreement will commence on the date that Franchisor signs this Agreement and will continue for 10 years, unless sooner terminated as provided in this Agreement (the “Term”).

4. **RENEWAL**. Franchisee has the right to renew this Agreement for one successive, additional 10-year period, provided Franchisee has met the following conditions:

4.1.1 Franchisee has notified Franchisor of Franchisee’s intention to renew this Agreement in writing at least 90 days, and no more than nine months, prior to expiration of the current term;

4.1.2 Franchisee has completed, to Franchisor’s satisfaction, no later than 90 days prior to the expiration of the then-current term, any updates to required equipment, hardware and software necessary to bring the Franchised Business into full compliance with Franchisor’s then-current System standards and specifications;

4.1.3 Franchisee is not in breach of any provision of this Agreement, or any other agreement between Franchisee and Franchisor, Franchisor’s affiliates, or Franchisor’s designated suppliers and



vendors, and Franchisee has substantially complied with all such agreements during their respective terms;

- 4.1.4 Franchisee has satisfied all monetary obligations Franchisee owes Franchisor, Franchisor's affiliates, or Franchisor's designated suppliers and vendors;
  - 4.1.5 Franchisee executes Franchisor's then-current form of franchise agreement, the terms of which may vary materially from the terms of this Agreement (which may include, without limitation, increased Royalty and other fees and insurance requirements).
  - 4.1.6 Franchisee satisfies Franchisor's then-current training requirements for renewing franchisees, if any, at Franchisee's sole expense;
  - 4.1.7 Franchisee and each of its principals execute a general release of all claims known and unknown against Franchisor and its affiliates and subsidiaries, and Franchisor and its respective members, officers, directors, agents and employees, in both their corporate and individual capacities in the form Franchisor prescribes, the current form of which is attached hereto as Attachment C; and
  - 4.1.8 Franchisee pays a renewal fee equal to \$7,500.
5. **FEES.** As part of the consideration for the right to operate the Franchised Business, Franchisee must pay to Franchisor the following fees:
- 5.1. Initial Franchise Fee. Franchisee acknowledges and agrees that the grant of this Franchised Business and the rights and obligations of the parties under this Agreement constitute the sole and only consideration for the initial franchise fee described in Schedule 1 of this Agreement (the "Initial Franchise Fee" or "Franchise Fee"). **The Initial Franchise Fee is fully earned upon execution of this Franchise Agreement and is not refundable under any circumstances. The Initial Franchise Fee shall be paid in a lump sum when Franchisee signs the Franchise Agreement.**
  - 5.2. Initial Marketing Package. If this is the first Franchise Agreement that Franchisee enters into with Franchisor, Franchisee must pay Franchisor \$5,000 for an initial marketing package ("Initial Marketing Package"). If this Agreement is for an additional Territory, Franchisee must pay \$1,000 for an Initial Marketing Package for an additional territory. The Initial Marketing Package is due upon execution of this Agreement.
  - 5.3. Software License Fee. Franchisee must pay Franchisor a "Software License Fee" of \$3,000 for use of Franchisor's proprietary software when Franchisee signs this Agreement. This fee is uniform and non-refundable. Franchisee must also sign the "Software License Agreement," the form of which is attached to Franchisor's Franchise Disclosure Document in Exhibit H<sub>2</sub> when Franchisee signs the Franchise Agreement. If this Agreement is for an additional Kidokinetics Business, Franchisee shall pay Franchisor a reduced Software License Fee of \$1,000 when Franchisee signs this Agreement.
  - 5.4. Business Coaching and Training Services. If this Franchise Agreement is for Franchisee's first Kidokinetics Business or if Franchisor approves Franchisee's request to do so in connection with the launch of an additional Kidokinetics Business, Franchisor or its affiliate will provide certain in-person business coaching and training services initial launch of the Kidokinetics Business. Franchisee shall pay a fee of \$7,500. This fee is due upon signing the Franchise Agreement and is not refundable under any circumstances. Franchisor will determine when this service within 6 months after the Kidokinetics Business opens, subject to the parties' mutual availability.
  - 5.5. Recurring Fees.



- 5.5.1. Royalty. On Wednesday of each week (or such other date as we designate, you agree to pay us a royalty fee equal to eight percent (8%) of Gross Sales during the previous week (Monday through Sunday) (“Percentage Royalty”). At the end of the month, if the Percentage Royalty for that month is less than the minimum royalty in the chart below, you will pay us the difference (“Minimum Royalty”) to meet your Minimum Royalty obligation. You will receive a 90-day grace period (“Grace Period”), beginning on the day you successfully complete the initial training class, before you are required to begin paying the Minimum Royalty, but the Percentage Royalty will be in effect immediately. The Minimum Royalty is as follows:

Timeframe	Minimum Royalty
First 12 months (Beginning after the Grace Period)	\$600 per month
Months 13 to 24	\$800 per month
Months 25+	\$1,000 per month

If you purchased multiple franchises at the same time and this is your second, third or fourth franchise in that purchase, you will receive an increased Grace Period according to the following table:

Franchise Number	Additional Minimum Royalty Grace Period after expiration of the first franchise’s Grace Period
2	12 months
3	24 months
4	36 months

The total amount you contribute is referred to herein as the (“Royalty”). “Gross Sales” means the revenues you receive from the sales of all goods, services and products sold at, from, or through the Kidokinetics Business or made pursuant to the rights granted hereunder, and all other income of every kind and nature related to the Kidokinetics Business, whether from cash, or credit, and regardless of collection in the case of credit, including the full redemption value of any gift card, gift certificate or coupon sold for use in the Kidokinetics Business (fees retained by or paid to third-party sellers of such gift cards, gift certificates or coupons are not excluded from this calculation), and all proceeds from any business interruption insurance. It does not include (i) any sales tax or other taxes collected from customers for, and turned over to, the governmental authority imposing the tax, (ii) properly documented refunds to customers, or (iii) properly documented employee discounts (limited to 3% of Gross Sales). Gross Sales include sales of gift cards and gift certificates at the time Franchisee receives the funds from the purchase of such gift cards and gift certificates. For purposes of clarification and not by way of limitation, there are no deductions, discounts, refunds, or allowances from the definition of Gross Sales except as expressly set forth in the preceding sentence. By way of example, each of the following expenses do not reduce the calculation of Gross Sales: (1) any facility fees incurred by the Franchised Business; and (2) revenue shares paid to schools or third parties.

- 5.5.2. Technology Fee. Franchisee agrees to pay Franchisor the then-current technology fee in the amount Franchisor designates each month for technology-related services (“Technology Fee”). The Technology Fee includes services for up to four Kidokinetics Businesses if they are operated by the same legal entity and have adjacent territories. You will pay the then-current additional monthly fee any additional email addresses (over and above the four included with your Technology Fee). Franchisee shall pay the Technology Fee via ACH electronic transfer on the date designated by Franchisor. The Technology Fee is not refundable under any circumstances. Franchisor reserves the right to increase the rate and/or payment frequency of the Technology Fee at any time.



- 5.5.3. Brand Development Fund Contribution. Franchisee shall pay to Brand Development Fund (as defined in Section 12.8) without offset, credit, or deduction of any nature, two percent (2%) of Gross Sales (“Brand Development Fund Contribution”). Brand Development Fund Contributions shall be paid at the same time and in the same manner as Royalty as provided in Section 5.2.1.
- 5.5.4. Annual Conference Fee. Franchisee shall pay to Franchisor the then-current annual conference fee. Payment is due upon receipt of written notice that such conference is being held. Franchisee shall pay the Annual Conference Fee regardless of whether Franchisee registers for or attends the annual conference. The annual conference fee may be increased system wide, in our discretion, should costs to conduct the annual conference increase. Franchisee is responsible for its representatives’ travel costs and accommodations.
- 5.5.5. Sales Support Fee. If requested by Franchisee, Franchisor will provide sales support for the Kidokinetics Business and contact various potential customers in an effort to drive sales for the Kidokinetics Business. Franchisee shall pay Franchisor a fee for all potentials customer that Franchisor contacts using its sales support services becomes a customer of the Kidokinetics Business equal to 5% of the Gross Sales generated for a period of 90 days (“Sales Support Fee”. Franchisee may terminate these services upon written notice to Franchisor; however, Franchisee will continue to pay the Sales Support Fee for any customers generated during the period when Franchisor provided the sales support to Franchisee.
- 5.6. Late Fee, Interest, and Insufficient Funds Fee.
- 5.6.1. Late Fee. If the Royalty, Brand Development Fund, Technology Fee or any amounts due to us or our affiliates, or Gross Sales Reports are not received by Franchisor as required by this Agreement, Franchisee shall pay to Franchisor, in addition to the overdue amount, a late fee of twenty-five dollars (\$25.00) per week for each payment of any amounts owed to Franchisor under this Agreement, or any report due under this Agreement not received when due. This late fee is reasonably related to Franchisor’s costs resulting from the delay in payment and/or receipt of any report, is not a penalty, and is in addition to any other remedy available to Franchisor under this Agreement for Franchisee’s failure to pay the Royalty, the Brand Development Fund, Technology Fee and/or submit Gross Sales Reports in accordance with the terms of this Agreement.
- 5.6.2. Interest. Any and all amounts that are unpaid at the time they are due and owing from Franchisee to Franchisor under the terms of this Agreement will bear interest from the date due until paid at the rate of 1.5% per month or at the highest rate permitted by law, whichever is lower.
- 5.6.3. Insufficient Funds Fee. In the event any of Franchisee’s checks are returned, or an electronic funds transfer from Franchisee’s bank account is denied for insufficient funds, Franchisee will pay Franchisor, in addition to the amount due, an Insufficient Funds Fee of fifty dollars (\$50.00) or an amount equal to that charged to Franchisor by the bank, whichever is higher, per occurrence. This Insufficient Funds Fee is reasonably related to Franchisor’s costs resulting from the delayed and declined payment, is not a penalty, and is in addition to any other remedy available to Franchisor under this Agreement.
- 5.7. Gross Sales Reports. Franchisee shall, on the Monday following the close of each reporting week (Saturday through Friday) by no later than 11:00 a.m., furnish Franchisor with a report showing Franchisee’s Gross Sales and Sales Collected at or from the Kidokinetics Business and/or made pursuant to the rights granted hereunder during such period (the “Gross Sales Report”), whether or not Franchisee



has had Gross Sales during the period. The Gross Sales Report will be in such form and will contain such information as Franchisor may from time to time prescribe. At Franchisor's discretion, Franchisee will submit the Gross Sales Report by an electronic transfer of data using the management software we require (currently Kidolink), or any other such software that Franchisor may require Franchisee use in the operation of the Kidokinetics Business.

- 5.8. Method of Payment. Franchisee will, together with the submission of the Gross Sales Report, pay to Franchisor each Wednesday, via an electronic funds transfer program ("EFT Program") the Royalty and the Brand Development Fund, as defined and more particularly described in Article 13, then due. Franchisee must deposit all revenues from the operation of Franchisee's Kidokinetics Business into one bank account within three days of receipt, including cash, checks, and credit card receipts. Before opening Franchisee's Kidokinetics Business, Franchisee must provide Franchisor with Franchisee's bank name, address and account number, a voided check from the bank account, and sign and give to Franchisor and Franchisee's bank, all documents, including Attachment "G" to this Agreement, necessary to effectuate the EFT Program and Franchisor's ability to withdraw funds from such bank account via electronic funds transfer. Franchisee will immediately notify Franchisor of any change in Franchisee's banking relationship, including changes in account numbers. Franchisor reserves the right to require Franchisee to pay any fees due under this Agreement by such other means as Franchisor may specify from time to time. Franchisee's failure to allow electronic funds transfers on an ongoing basis is a breach of this Agreement.
- 5.9. Consumer Price Index. All fees expressed as a fixed dollar amount in this Franchise Agreement are subject to adjustment based on changes to the Consumer Price Index in the United States. Franchisor may periodically review and increase these fees based on changes to the Consumer Price Index, but only if the increase to the Consumer Price Index is more than 5% higher than the corresponding Consumer Price Index in effect on: (a) the effective date of the Franchise Agreement (for the initial fee adjustments); or (b) the date Franchisor implemented the last fee adjustment (for subsequent fee adjustments). Franchisor will notify Franchisee of any CPI adjustment at least 60 days before the fee adjustment becomes effective. Franchisor will implement no more than one fee adjustment during any calendar year. Notwithstanding the foregoing, the fee adjustments in this Section shall not impact fees which we reserve the right to increase in higher amounts or to adjust more frequently, including but not limited to the Technology Fee.

## 6. **TRAINING.**

- 6.1. Initial Management Training Program. Franchisee, or if Franchisee is an entity, Franchisee's principals (defined as all holders of an ownership interest, office or directorship in Franchisee and of any entity directly or indirectly controlling Franchisee, and any other person or entity controlling, controlled by or under common control with Franchisee and hereinafter referred to collectively as "Principals") having management responsibility for the Kidokinetics Business and Franchisee's Manager (if different from the Principal) shall attend and complete, to Franchisor's sole and absolute satisfaction, Franchisor's next scheduled initial management training program ("Initial Management Training Program") unless the next scheduled Initial Management Training Program is scheduled within 15 days of the Effective Date of this Agreement in which event Franchisee will attend the next scheduled training program. The Initial Training Program pertains to operation of the Franchised Business. The Initial Management Training Program consists of a course conducted at Franchisor's headquarters, currently in Davie, Florida, or at a location within the vicinity of Franchisor's headquarters. Franchisor reserves the right to designate an alternate location for the Initial Management Training Program. If Franchisee is an entity, it must at all times during the term of this Agreement have a Principal and a Manager who have successfully completed the Initial Management Training Program to Franchisor's sole and complete satisfaction. Franchisee, Franchisee's Principals with management responsibility, and Franchisee's Manager may attend the Initial Management Training Program at no charge prior to opening the Kidokinetics Business ("Initial



Trainees”). Notwithstanding the foregoing, Franchisee will be required to pay all of the expenses of the Initial Trainees, including, without limitation, costs of travel, lodging, meals and wages.

- 6.2. Modification of the Initial Management Training Program. Franchisor may modify the length, content and manner of conducting the Initial Management Training Program in its discretion from time to time. Franchisor also reserves the right to waive a portion of the training program or alter the training schedule, if in Franchisor’s sole discretion, Franchisor determines that Franchisee or Franchisee’s Manager has sufficient prior experience or training.
- 6.3. Satisfactory Completion. Franchisor will determine, in Franchisor’s sole discretion, whether the Initial Trainees have satisfactorily completed the Initial Management Training Program. If the Initial Management Training Program is not satisfactorily completed by the Initial Trainees, or if Franchisor, in Franchisor’s reasonable business judgment based upon the performance of the Initial Trainees, determines that the Initial Management Training Program cannot be satisfactorily completed by any such person, Franchisee will designate a replacement person, who meets the qualifications set forth in this Agreement, to satisfactorily complete such training. Any Manager subsequently designated by Franchisee will also receive and satisfactorily complete such initial training.
- 6.4. Fee for Training. Franchisor reserves the right to charge a reasonable fee for any initial training provided by Franchisor to any additional trainee beyond the first two, and any replacement of an Initial Trainee who does not complete the Initial Management Training Program to Franchisor’s sole and complete satisfaction. Franchisor also reserves the right to charge a reasonable fee for any initial training provided by Franchisor to any replacement or successor Manager, if Franchisee is not approved by Franchisor to provide such training. Franchisor’s current training tuition fee is \$500 per person per day, but may be adjusted at Franchisor’s sole discretion. Franchisee further will be responsible for any and all incidental expenses incurred by Franchisee or Franchisee’s personnel in connection with initial or subsequent training, including, without limitation, costs of travel, lodging, meals and wages.
- 6.5. Additional Training. Franchisor may offer mandatory and/or optional additional training programs from time to time. If required by Franchisor, Franchisee, Franchisee’s principals, if any, and Manager shall participate in refresher training for up to five (5) days per year, at a location designated by Franchisor. Franchisor reserves the right to charge its then-current additional training fee for any additional training provided by Franchisor. Currently, the additional training fee is equal to \$500 per person per day of training. Franchisor may also require Franchisee to attend a national business meeting or annual convention for up to three days per year, at a location designated by Franchisor and Franchisor reserves the right to require Franchisee to pay a registration fee for each national business meeting and/or annual convention, which fee will be due and payable regardless of whether Franchisee actually attends such meeting or convention, as applicable. Franchisee will be responsible for any and all incidental expenses incurred by Franchisee or Franchisee’s personnel in connection with additional training, or attendance at Franchisor’s national business meeting or annual convention, including, without limitation, costs of travel, lodging, meals and wages. Failure to attend and/or complete mandatory additional training by Franchisee, Franchisee’s Principal and/or Manager, or failure of Franchisee to attend Franchisor’s national business meeting or annual convention is an event of default of this Agreement.
- 6.6. On-Site Additional Training. Upon Franchisee’s reasonable request or as Franchisor deems appropriate, Franchisor will, during the term hereof, subject to the availability of personnel, provide Franchisee with additional trained representatives who will provide on-site additional or remedial training and assistance to Franchisee’s personnel at the Kidokinetics Business Location. For such additional training and assistance requested by Franchisee, Franchisee will pay the per diem fee then being charged to franchisees under the System for the services of such trained representatives, plus their costs of travel, lodging, and meals. The per diem fee is currently set at \$500, but may be adjusted or waived at Franchisor’s sole discretion; it is payable in advance, and is non-refundable.



- 6.7. Counseling and Assistance. In addition to visits by Franchisor’s field representatives, as Franchisor deems appropriate, Franchisor will, within reasonable limits and subject to the availability of Franchisor’s personnel, upon Franchisee’s request and at no charge, unless such assistance is provided at the Kidokinetics Business Location pursuant to Section 6.6, furnish consultation and assistance to Franchisee, either in person or by telephone, fax, electronic mail or postal service, as determined by Franchisor, in Franchisor’s sole discretion, with respect to the operation of the Kidokinetics Business, including consultation and advice regarding employee training, marketing, operation issues, bookkeeping and System improvements. Advice will be given during our regular business hours. Franchisor maintains a staff to manage and operate the Kidokinetics System and its staff members can change as employees come and go. Franchisor cannot guarantee the continued participation by or employment of any of its shareholders, directors, officers, employees or staff.

## 7. **FRANCHISED BUSINESS REQUIREMENTS**

- 7.1. Site Selection. The Kidokinetics Business is a home-based business. Franchisor does not have specifications for an office location outside of the home. Should Franchisee choose to operate from a location other than a home office, such location must be within the Territory and Franchisee must request approval from Franchisor, which it may grant or refuse in its sole discretion and submit to it a copy of the lease prior to signing such lease.
- 7.2. Time to Open. Franchisee acknowledges that time is of the essence in this Agreement. Subject to Franchisee’s compliance with the conditions stated below, Franchisee shall open the Kidokinetics Business and commence business within 90 days after Franchisee has satisfactorily completed training. The date the Kidokinetics Business opens for business to the public is defined as the “Opening Date.” Prior to the Opening Date, Franchisee will (i) complete all preparations for the Kidokinetics Business, including the purchase of all required supplies, equipment and vehicles, in accordance with System requirements, (ii) satisfactorily complete Franchisor’s Initial Management Training Program, as further set forth in Article 7 above, and (iii) hire staff positions, as required by Franchisor. If Franchisee fails to comply with any of such obligations, Franchisor will have the right to prohibit Franchisee from opening for business. Franchisee’s failure to open the Kidokinetics Business and commence business in accordance with this Section 7.2 will be deemed an event of default under this Agreement.
- 7.3. Relocation. Franchisee may not relocate the Kidokinetics Business without Franchisor’s prior written consent, which shall not be unreasonably withheld. In the event Franchisee elects to relocate the Kidokinetics Business to a new location, Franchisee may relocate the Kidokinetics Business, at Franchisee’s sole expense, to a new location selected by Franchisee within the Territory. In the event Franchisee wishes to relocate the Business, Franchisee:
- 7.3.1. must provide written notice of its intention to relocate to Franchisor at least 90 days prior to the date on which Franchisee elects to relocate;
  - 7.3.2. shall remove, at Franchisee’s sole cost and expense, any signs or other property from the original Kidokinetics Business Location which identified the original Kidokinetics Business Location as part of the System;
  - 7.3.3. agrees that, during the transition to the new location, and at Franchisor’s sole and absolute discretion: (i) the term of this Agreement will not be abated, and (ii) Franchisee remains liable to pay weekly Royalty and Brand Development Fund Contributions that equal the average amount paid by Franchisee during the four calendar quarters immediately preceding the date that operations cease or the shorter period that Franchisee had been in business at the original Kidokinetics Business Location, and the annual Technology Fee; and



7.3.4. Schedule 1 of this Agreement shall be amended to reflect the address of the new Kidokinetics Business Location.

## 8. MAINTENANCE AND IMPROVEMENT OF THE FRANCHISED BUSINESS AND SYSTEM

- 8.1. Franchise Operations Manual. Franchisor has created and developed special procedures, standards and methods for operating and maintaining the Kidokinetics Business, which standards are incorporated into our Franchise Operations Manual. Franchisor will loan a copy of the Franchise Operations Manual to Franchisee. The Franchise Operations Manual and other documents are subject to modification from time to time as Franchisor determines, in its sole discretion. Franchisee agrees to operate the Kidokinetics Business in accordance with the Franchise Operations Manual. Franchisor will notify Franchisee of updates, revisions, modifications or amendments to the Franchise Operations Manual. Franchisee must comply with all updates, revisions, modifications or amendments to the Franchise Operations Manual no later than 30 days after notification at Franchisee's sole expense. The Franchise Operations Manual contains Franchisor's Trade Secrets and other Confidential Information and it shall be kept confidential by Franchisee during the term of the Franchise and subsequent to the expiration and non-renewal, termination, or transfer of this Agreement. Franchisee may provide the services Franchisor designates to all Accounts located within the Territory. The term "Accounts" means any and all schools, parks, community centers, summer camps, hotels, gyms, health centers and similar establishments that wish to contract for the services of a Kidokinetics Business where the site at which the services are to be provided is located within the Territory.
- 8.2. Maintenance of Kidokinetics Business. Franchisee will maintain the Kidokinetics Business and Kidokinetics Business Location to the standards of sanitation, repair and condition required by Franchisor, which standards are specified in the Franchise Operations Manual and other written directives, standards and specifications. Franchisee, at Franchisee's expense, will make such additions, alterations, repairs, refurbishing and replacements as may be required to comply with Franchisor's standards, including, without limitation, periodic repairs or replacement of worn or impaired supplies, equipment, vehicles and signage as Franchisor may direct. Franchisor reserves the right to require Franchisee to wrap the vehicle used in connection with the operation of the Franchised Business in accordance with Franchisor's designated specifications at Franchisee's sole cost and expense.
- 8.3. Equipment and Technology Updates. Franchisee shall make any and all upgrades to equipment, machinery, tools, including, but not limited to, QuickBooks Pro online or such other management software as Franchisor designates, and computer hardware (including an office computer, a tablet computer, a telephone, a fax machine, and a smartphone), software and applications, and any technology used in conjunction therewith, as Franchisor requires in its sole and absolute discretion.
- 8.4. Trade Dress Modifications. Franchisee is aware that, to maintain and improve the image and reputation of the System, Franchisor, in its sole and absolute discretion, may change and modify identifying elements of the System, including but not limited to, the adoption and use of new vehicle wraps, new color schemes, and new or modified marks (collectively, "Trade Dress Modifications"). Franchisee, upon notice by Franchisor, shall immediately discontinue the use of any Mark that is no longer available to Franchisor or that Franchisor has otherwise discontinued, and substitute a different Mark or Marks as Franchisor directs. Franchisee will accept, use and display any such Trade Dress Modifications as if they were a part of this Franchise Agreement at the time of execution.
- 8.5. No Liability/Waiver of Claims. Franchisor will not be liable to Franchisee for any expenses, losses or damages sustained by Franchisee as a result of any of the modifications, including Trade Dress Modifications, required by this Article 8. Franchisee hereby covenants not to commence or join in any litigation or other proceeding against Franchisor or any third party, complaining of any such or seeking expenses, losses or damages caused thereby. Further, Franchisee expressly waives any claims, demands or damages arising from or related to the modifications contemplated by this Article 8, including, without





limitation, any claim of breach of contract, breach of fiduciary duty, fraud, and/or breach of the implied covenant of good faith and fair dealing.

- 8.6. Franchisee Advisory Council. Franchisor reserves the right to create (and if created, the right to change or dissolve) a franchisee advisory council as a formal means for System franchisees to communicate ideas. In the event a franchisee advisory council is created, Franchisor may require Franchisee to participate in council-related activities and meetings and to pay any fees assessed for the administration of the council.

## 9. **FRANCHISOR'S OBLIGATIONS**

Franchisor and/or its designated representative may provide some or all of the following services as it deems necessary in its sole discretion:

- 9.1. Franchise Operations Manual. A loan of one set of the confidential Franchise Operations Manuals and such other manuals and written materials as Franchisor may hereafter develop for use by franchisees, as the same may be revised by Franchisor from time to time. Such documents may be provided electronically or via the Internet, at Franchisor's sole and absolute discretion.
- 9.2. Inspection/Site Visit. Franchisor's representative may visit the Kidokinetics Business Location and inspect the equipment, vehicles, and Kidokinetics Business Location, and evaluate the operations of the Kidokinetics Business and the services rendered by Franchisee whenever reasonably determined by Franchisor. Franchisor will also, at its reasonable discretion, observe Franchisee and all employees in the performance of Kidokinetics Business services and contact and interview customers of Franchisee. Franchisor will provide a report of the visit containing instruction for the efficient operation of the Kidokinetics Business. This report is part of the System and Franchisee is obligated to implement operational changes as required by the report.
- 9.3. Pre-Opening Requirements. Provide a written list of supplies, equipment, vehicles, signage, and products that will be required to open the Kidokinetics Business for business.
- 9.4. Advertising Materials. Provide samples or camera-ready artwork of certain advertising and promotional materials and information developed by Franchisor from time to time for use by Franchisee in marketing and conducting local advertising for the Kidokinetics Business.
- 9.5. List of Suppliers. Make available from time to time, and amend as deemed appropriate by Franchisor, a list of approved suppliers and manufacturers of supplies, equipment and vehicles for System franchisees.
- 9.6. Training. The training programs specified in Article 6 herein.
- 9.7. Post-Opening Assistance. Post-opening assistance via telephone or at the Kidokinetics Business Location in accordance with the provisions of Article 6.
- 9.8. Website and Email. Maintain a website with a dedicated page for each Franchisee along with an e-mail address or addresses for Franchisee's use in the operation of the Kidokinetics Business.
- 9.9. Toll Free Telephone Number. Franchisor has the right, but not the obligation, to establish and maintain a toll-free telephone number for the purpose of dealing with prospective customers, customer service, customer follow-up and satisfaction surveys. If Franchisor establishes a toll-free number, Franchisee must comply with Franchisor's procedures for implementing the nationwide service as Franchisor specifies in the Franchise Operations Manual or otherwise in writing, and Franchisee may be required to pay a fee related to the establishment, operation and maintenance of the toll-free telephone number.



## 10. **FRANCHISEE'S REPRESENTATIONS, WARRANTIES AND COVENANTS**

- 10.1. Best Efforts. Franchisee, if a natural person, covenants and agrees that he or she will devote his or her full-time and make all commercially reasonable efforts to operate the Kidokinetics Business so as to achieve optimum sales. If Franchisee is an entity, each of Franchisee's Principals covenants and agrees to make all commercially reasonable efforts to operate the Kidokinetics Business so as to achieve optimum sales.
- 10.2. Corporate Representations. If Franchisee is a corporation, partnership, limited liability company, or other legal entity, Franchisee and each Principal represent, warrant and covenant that:
- 10.2.1. Franchisee is duly organized and validly existing under the state law of its formation;
  - 10.2.2. Franchisee is duly qualified and is authorized to do business in the jurisdiction of the Kidokinetics Business Location and the Territory;
  - 10.2.3. Franchisee's organizational documents will, at all times, provide that the activities of Franchisee are confined exclusively to the operation of the Franchised Business granted herein, unless otherwise consented to in writing by Franchisor, which consent may be withheld by Franchisor in Franchisor's sole discretion;
  - 10.2.4. The execution of this Agreement and the consummation of the transactions contemplated in this Agreement are within Franchisee's power and have been duly authorized by Franchisee;
  - 10.2.5. Copies of Franchisee's organizational documents, other governing documents, resolutions or consents of the governing board authorizing entry into and performance of this Agreement, and any certificates, buy-sell agreements or other documents restricting the sale or transfer of equity interests in Franchisee, and any other documents as may be reasonably required by Franchisor will be furnished to Franchisor prior to the execution of this Agreement;
  - 10.2.6. The ownership interests in Franchisee are accurately and completely described on Attachment D of this Agreement. Upon the occurrence of any change of ownership, Franchisee will immediately provide Franchisor with a copy of the updated list of all owners of the entity. Franchisee will make a list of its owners available to Franchisor at any time upon request;
  - 10.2.7. Franchisee and, at Franchisor's request, each Principal, has provided Franchisor with the most recent financial statements and tax returns of Franchisee and such Principal. Such financial statements and tax returns shall present fairly the financial position of Franchisee and each Principal, as applicable, at the dates indicated therein and, with respect to Franchisee, the results of its operations and its cash flow for the years then ended. Franchisee will, at all times, maintain sufficient working capital to fulfill its obligations under this Agreement; and
  - 10.2.8. Each Principal and each Principal's spouse will personally execute and bind himself or herself to the Guaranty and Confidentiality and Non-Compete Agreement, in the forms of Attachments E and F to this Agreement, respectively. Each shall jointly and severally guarantee Franchisee's performance of all of Franchisee's obligations, covenants and agreements under the Agreement, and otherwise bind themselves to the terms of this Agreement as stated herein, pursuant to the terms and conditions of the Guaranty and Confidentiality and Non-Compete Agreement.
- 10.3. Appointment of Manager. Franchisee, or its shareholder or member if Franchisee is an entity, must devote his/her full-time attention and best efforts to the management and operation of the Franchised Business,



or may delegate the day-to-day operations of the Franchised Business to a manager (“Manager”). Franchisee may not appoint a Manager who is not the Franchisee or Principal of the Franchisee, if an entity, without the approval of Franchisor. All requests regarding appointment of a Manager must be in writing. The Manager shall meet Franchisor’s standards and criteria, as set forth in the Franchise Operations Manual or otherwise in writing by Franchisor, and will be an individual otherwise acceptable to Franchisor in its sole discretion. The Manager will devote his or her full time and best efforts to the supervision and management of the Kidokinetics Business, and may not engage in any other business activity without the Franchisor’s consent, which may be withheld in Franchisor’s sole discretion. The Manager will satisfy the training requirements set forth in Article 6. If the Franchised Business is operated by a Manager, then a Principal of Franchisee must devote at least 20 hours of work per month to the operation of the Franchised Business.

- 10.3.1. If the Manager is not able to continue to serve in such capacity, or no longer qualifies to act as such in accordance with this Agreement, Franchisee will promptly notify Franchisor and request approval for a replacement within 30 days after the Manager ceases to serve, such replacement being subject to the same qualifications required by this Agreement (including, but not limited to, completing all training and obtaining all certifications required by Franchisor). Franchisor will approve or disapprove of the replacement Manager within 30 days. Until such replacement is designated, Franchisee will provide for interim management of the Kidokinetics Business, who will act in accordance with the terms of this Agreement. Any failure to comply with the requirements of this Section is deemed an event of default under this Agreement.
- 10.3.2. Franchisor, in Franchisor’s sole discretion, may provide interim management support and charge Franchisee an interim management support fee (“Interim Management Fee”) until such Manager is properly trained or certified in accordance with Franchisor’s requirements. The Interim Management Fee will be in the amount of 10% percent of Gross Sales earned during the interim management period plus the subsequent three weeks, payable in addition to all regularly occurring fees including Royalty and Brand Development Fund Contributions, plus any and all costs of travel, lodging, meals and other expenses reasonably incurred by Franchisor, and be withdrawn from Franchisee’s designated bank account.
- 10.4. Legal Compliance. Franchisee shall comply with all federal, state and local laws, rules, regulations and ordinances and timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of the Kidokinetics Business. Such laws, rules and regulations will include, without limitation, licenses to do business, fictitious name registrations, sales and other tax permits, any permits, certificates and/or licenses required by any federal, state or local law, rule or regulation and any other requirement, rule, law or regulation of any federal, state or local jurisdiction. Franchisee shall pay all taxes and other fees owed to any federal, state and local government when due.
- 10.5. Privacy. Franchisee agrees to comply with all applicable international, federal, state and local laws pertaining to the privacy of customer, employee, and transactional information (“Privacy Laws”). Franchisee agrees to research and proactively ensure that the Kidokinetics Business is in compliance with Privacy Laws, which may vary by location. Franchisee also agrees to comply with Franchisor’s standards and policies pertaining to Privacy Laws. If there is a conflict between Franchisor’s standards and policies pertaining to Privacy Laws and actual applicable law, Franchisee will: (i) comply with the requirements of applicable law; (ii) immediately give Franchisor written notice of said conflict; and (iii) promptly and fully cooperate with Franchisor and its counsel in determining the most effective way, if any, to meet Franchisor’s standards and policies pertaining to Privacy Laws within the bounds of applicable law. Franchisee agrees not to publish, disseminate, implement, revise, or rescind a data privacy policy without Franchisor’s prior written consent as to said policy.
- 10.6. Claims. Franchisee will notify Franchisor in writing within three calendar 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, in any way relating to or affecting the operation or financial condition of the Kidokinetics Business.

- 10.7. Assignment of Numbers and Listings. At Franchisor's request, Franchisee will execute such forms and documents as Franchisor deems necessary to appoint Franchisor its true and lawful attorney-in-fact, with full power and authority, for the sole purpose of assigning to Franchisor, Franchisee's Kidokinetics Business telephone numbers and listings. Upon the expiration or termination of this Agreement, Franchisor may exercise its authority, pursuant to such documents, to obtain any and all of Franchisee's rights to the telephone numbers of the Kidokinetics Business and all related business listings, and all Internet listings, domain names, Internet advertising, websites, listings with search engines, electronic mail addresses or any other similar listing or usages related to the Kidokinetics Business.
- 10.8. Access to Tax Filings. Upon execution of this Agreement, and at any time after upon Franchisor's request, Franchisee will execute such forms and documents as Franchisor deems necessary, to appoint Franchisor its true and lawful attorney-in-fact with full power and authority, for the sole purpose of obtaining any and all returns and reports filed by Franchisee with any state or federal taxing authority.
- 10.9. Continuing Obligation. Franchisee and each Principal acknowledge and agree that the representations, warranties and covenants set forth in this Article 10 are continuing obligations of Franchisee and each Principal, as applicable, and that any failure to comply with such representations, warranties and covenants constitutes an event of default under this Agreement. Franchisee and each Principal will cooperate with Franchisor in any efforts made by Franchisor to verify compliance with such representations, warranties and covenants.

## 11. **FRANCHISEE'S OPERATIONS**

- 11.1. Operation of Kidokinetics Business. In order to maintain the highest degree of quality and service on a uniform System-wide basis, Franchisee shall operate the Kidokinetics Business in conformity with the methods, standards, specifications and operating procedures prescribed by Franchisor. Franchisee agrees to comply with the Franchise Operations Manual, as it is modified from time to time, and all directives, rules and procedures specified by Franchisor, and will, among other things:
  - 11.1.1. Use only such supplies, equipment and vehicles which comply with Franchisor's specifications;
  - 11.1.2. Maintain and operate the Kidokinetics Business in good condition and repair and in a proper and businesslike manner, using Franchisee's best efforts to maintain the Kidokinetics Business in accordance with current System standards, the Franchise Operations Manual and all other directives and requirements of Franchisor, as they may be amended from time to time, and do such repairing, refurbishing and restoration as from time to time may be reasonably required to meet System standards and Franchisor's requirements as they may be modified from time to time;
  - 11.1.3. Comply with all applicable governmental laws, ordinances, rules and regulations, including prompt payment of taxes when due;
  - 11.1.4. Adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct in all dealings with customers, suppliers, and Franchisor;
  - 11.1.5. Require all employees of the Kidokinetics Business to wear uniforms or clothes conforming to Franchisor's specifications as to style, color, and design, as Franchisor may, from time to time, reasonably designate so as to maintain the goodwill and reputation of Franchisor, the System and the Marks;



- 11.1.6. Employ only qualified individuals who are trained in accordance with Franchisor's standards and who will at all times conduct themselves in a competent and courteous manner in accordance with this Agreement and the image and reputation of the System. Franchisee shall use its best efforts to insure that Franchisee's employees maintain a neat and clean appearance and render competent and courteous service to patrons of the Kidokinetics Business. Franchisee acknowledges and agrees that poorly trained employees, sloppy or unclean appearances and incompetent or discourteous service are extremely damaging to the goodwill of the System and the Marks and are a default of this Agreement;
- 11.1.7. Obtain and use only equipment, vehicles, products, supplies, business forms, signs, stationery, and services that conform to the current standards and specifications for the System as required by Franchisor and obtained from Franchisor's previously approved suppliers. Franchisor has the right to terminate this Agreement if Franchisee uses any equipment, vehicles or products that do not conform to such standards and specifications, if Franchisee fails to obtain any equipment required by Franchisor, or if Franchisee purchases from suppliers that have not been previously approved in writing by Franchisor. Franchisee agrees to maintain an adequate inventory of all items in accordance with the Franchise Operations Manual;
- 11.1.8. Prominently display signs in and upon the Kidokinetics Business Location and service vehicles using the Marks and/or other advertising of such nature, form, color, number, location and size, and containing such material, as Franchisor may from time to time reasonably direct or approve in writing; and to not display in or upon the Kidokinetics Business Location or elsewhere any sign or advertising media of any kind to which Franchisor reasonably objects, including signs and advertising media which have been outdated. Upon giving Franchisee notice of its objection to same or upon termination of this Agreement, Franchisor may at any time enter upon the Kidokinetics Business Location or elsewhere and remove any objectionable or non-approved signs or advertising media and keep or destroy same without reimbursing Franchisee or without being deemed guilty of trespass or any other tort;
- 11.1.9. Conduct all advertising programs in a dignified manner that will not detract from the reputation of the System or the Marks;
- 11.1.10. Submit all advertising, print materials (including, but not limited to, signs, brochures, websites, etc.), press releases, media packets and media information and any other information to be released for publication relating to the Kidokinetics Business, to Franchisor for written approval, prior to their being printed or published;
- 11.1.11. Offer all and only such services as may from time to time be previously approved and required by Franchisor and only using the equipment approved by Franchisor;
- 11.1.12. Devote Franchisee's full time, energy and best efforts to the efficient and effective management and operation of the Kidokinetics Business and avoid any activities that would conflict or interfere with or be detrimental to such purposes;
- 11.1.13. Not use the Marks except as they relate to the System, and then only as previously approved by Franchisor in writing;
- 11.1.14. Have at all times a Manager who has been properly trained as required herein;
- 11.1.15. Operate Franchisee's Kidokinetics Business for at least those hours, days, and months that Franchisor specifies in the Franchise Operations Manual;



11.1.16. At all times, maintain such working capital as may be reasonably necessary to enable Franchisee to properly and fully carry out and perform all of Franchisee's duties, obligations and responsibilities hereunder and to operate the Kidokinetics Business in a businesslike, proper and efficient manner; and

11.1.17. Employ the number of staff and offer the services described in Schedule 1 to this Agreement.

11.2. Bookkeeping and Reports.

11.2.1. Franchisee agrees to keep and maintain complete and accurate books and records of its transactions and business operations utilizing the accounting procedures specified by Franchisor. Franchisee agrees to: (i) purchase the computer systems in accordance with the requirements of this Agreement; and (ii) maintain the records and accounts of the Franchisee to the standards of the Franchisor. Franchisor reserves the right to require Franchisee hire an outside accounting or bookkeeping firm to maintain the records and accounts of the Franchisee should it find, in its sole discretion, that Franchisee is not maintaining the records and accounts in accordance with the standards of the Franchisor. Franchisee is required to use the bookkeeping service that Franchisor chooses.

11.2.2. Franchisee must maintain, for at least five fiscal years from their preparation, complete financial records for the operation of the Kidokinetics Business in accordance with the then current Internal Revenue Service Publication and must provide Franchisor, at Franchisor's request, with: (i) a weekly Sales Report signed by Franchisee and in the form Franchisor specifies that contains the sales information pertaining to the preceding week including, without limitation, a summary of all monies received during the relevant period, any other additional information which Franchisor deems necessary to properly evaluate Franchisee's progress; (ii) a quarterly income statement and profit and loss statement, reflective of the three individual months in the quarter, in a format specified by Franchisor, including a standard chart of accounts, within 20 days after the end of each quarter; (iii) annual financial reports and operating statements in the form Franchisor specifies within 50 days after the close of each of Franchisee's fiscal years; (iv) state and local sales tax returns or reports and federal, state and local income tax returns for each year in which Franchisee's Kidokinetics Business is operated, within 30 days after their timely completion; and (v) such other reports as Franchisor may from time to time require, in the form and at the time Franchisor prescribes. Franchisee's fiscal year must be on a calendar year basis. To assist Franchisee in recording and keeping accurate and detailed financial records for reports and tax returns, Franchisor, at Franchisor's discretion, may specify the form in which the business records are to be maintained and provide a uniform set of business records for Franchisee to use. Franchisor will have full access to all of Franchisee's data, system, and related information by means of direct access, whether in person, or by telephone/modem installed and maintained at Franchisee's sole expense.

11.2.3. The financial statements required hereunder are in such form and contain such information as Franchisor may from time to time reasonably designate.

11.2.4. Franchisor has the right, at all reasonable times, to examine or audit, at its expense, Franchisee's books, records, and tax returns. If Franchisor's examination finds that any Gross Sales Report was understated by more than 3%, or Franchisee fails to submit required reports, Franchisee shall reimburse Franchisor for the cost of such examination, any understated amounts, and any related accounting, legal and travel expenses. Franchisee shall pay the Franchisor any amounts due, together with interest thereon, at the rate provided herein, upon finding of any understated Gross Sales. Understatement of Gross Sales of more than 3% may be considered an incurable default and thereby subject to immediate termination. Three understatements of any amount during the



term of this Agreement may, at the option of Franchisor, be considered an incurable default and thereby subject to termination as provided herein.

### 11.3. Computer Systems.

- 11.3.1. Franchisee, at Franchisee's sole expense, shall install and maintain the management software, required applications and a computer system that complies with Franchisor's standards and specifications, including: (i) an office computer, a tablet computer, a telephone, a fax machine, and a smartphone; (ii) a custom and proprietary point of sale system (the "POS System"), if Franchisor makes such a POS System part of its proprietary operating system in the future; (iii) printers and other peripheral hardware or devices; (iv) archival back-up systems; (v) Internet access mode and speed; and (vi) physical, electronic, and other security systems (collectively, the "Computer System"); and Franchisee shall follow the procedures related thereto that Franchisor specifies in the Franchise Operations Manual or otherwise in writing.
- 11.3.2. Franchisor may require Franchisee, at Franchisee's sole expense, to install and maintain systems that permit Franchisor to electronically access and retrieve any information stored in Franchisee's management software and other computer systems, including, without limitation, information concerning Gross Sales. Upon Franchisor's request, Franchisee shall execute such documents as Franchisor deems necessary to permit Franchisor to electronically access and retrieve all information stored on Franchisee's office computer, tablet computer, and smartphone, and in Franchisee's management software and other computer systems. There are no contractual limitations on Franchisor's right to access the information and data on Franchisee's POS System and Computer System. Franchisee shall deliver to Franchisor a separate and distinct full access user name and temporary password, as well as all access codes, static internet protocol ("IP") addresses and other information to facilitate Franchisor's access to the data generated by and stored in Franchisee's computer, tablet or smartphone.
- 11.3.3. Franchisor shall have the right, but not the obligation, to develop or designate: (i) computer software programs Franchisee must use in connection with any component of the Computer System (the "Required Software"), which Franchisee shall install at Franchisee's expense; (ii) updates, supplements, modifications, or enhancements to the Required Software, which Franchisee shall install at Franchisee's expense; (iii) the tangible media upon which Franchisee records data; and (iv) the database file structure of the Computer System. Franchisee shall be responsible for the payment of all fees associated with the Required Software, Computer System and POS System.
- 11.3.4. At Franchisor's request, Franchisee shall purchase or lease, and thereafter maintain, the Computer System and, if applicable, the Required Software. Franchisee agrees to pay all fees associated with the use of Required Software, which may be payable to Franchisor or Franchisor's approved or designated suppliers. Franchisee expressly agrees to strictly comply with Franchisor's standards and specifications for all items associated with Franchisee's Computer System and any Required Software. Franchisee agrees, at its own expense, to keep its Computer System in good maintenance and repair and install such upgrades, additions, changes, modifications, substitutions, and/or replacements to Franchisee's Computer System or Required Software as Franchisor directs from time to time in writing. Franchisee agrees its compliance with this Section 11.3.4 shall be at Franchisee's sole cost and expense.
- 11.3.5. Franchisor may now or in the future create or designate a proprietary software program, and Franchisor will retain a proprietary interest in all databases, lists, templates, programs and any other software components that have been created and/or customized by Franchisor using the Computer System and/or Required Software (the "Proprietary Software"). Proprietary Software

may conduct, among other things, scheduling, accounting, inventory, and related activities. Franchisee must obtain the computer hardware necessary to implement the Proprietary Software into the Kidokinetics Business, and comply with all specifications and standards prescribed by Franchisor regarding the Proprietary Software as provided in the Franchise Operations Manual. This Proprietary Software will be Franchisor's proprietary product, and the information collected therefrom will be deemed Franchisor's confidential information. Franchisee agrees to sign Franchisor's then-current form of software license agreement for any Proprietary Software Franchisor may now or in the future create, pay any license fees associated with use of Proprietary Software, and upgrade the Proprietary Software as Franchisor designates.

- 11.3.6. Franchisee is required to participate in any System-wide computer network, intranet system, or extranet system that Franchisor implements and may be required by Franchisor to use such computer network, intranet system, or extranet system to, among other things: (i) submit Franchisee's reports due under this Agreement to Franchisor online; (ii) view and print portions of the Franchise Operations Manual, including any updates or modifications thereto; (iii) download approved local advertising materials; (iv) communicate with Franchisor and other System franchisees; and (v) to complete any initial or ongoing training. Franchisee agrees to use the facilities of any such computer network, intranet system or extranet system in strict compliance with the standards, protocols, and restrictions that Franchisor included in the Franchise Operations Manual, including those related to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements.
- 11.3.7. Franchisee shall have and maintain adequate hardware and software in order to access the Internet at the speed required by Franchisor from time to time. Franchisee shall maintain an electronic mail account with an Internet service provider acceptable to Franchisor. Franchisee shall read all electronic mail related to the Kidokinetics Business on a daily basis and shall accept and acknowledge receipt of all electronic mail sent by Franchisor. Franchisee shall not establish any website or other listing on the Internet except as provided and specifically permitted herein.
- 11.3.8. Franchisor has established a website that provides information about the System and the services offered by the Kidokinetics franchises (the "Website"). Franchisor has sole discretion and control over the Website, including whether to discontinue the Website. Franchisor will provide Franchisee with a dedicated page on the Website for Franchisee's Kidokinetics Business. Franchisor may require Franchisee, at Franchisee's expense, to prepare all or a portion of the page using a template that Franchisor provides. All such information will be subject to Franchisor's approval prior to posting. Franchisee has no ownership or other proprietary rights to such page and will lose all rights to such page upon expiration or termination of this Agreement for any reason.
- 11.3.9. Franchisor may use a portion of the Brand Development Fund Contributions or the Technology Fee to pay or reimburse itself for the costs incurred in connection with the development, maintenance and update of its website.
- 11.3.10. Franchisee acknowledges that Franchisor and/or Franchisor's affiliates are the lawful, rightful and sole owner of the Internet domain name [www.kidokinetics.com](http://www.kidokinetics.com) as well as any other Internet domain names registered by Franchisor and/or Franchisor's affiliates, and unconditionally disclaims any ownership interest in such Internet domain names and any Internet domain names similar thereto. Franchisee agrees not to register any Internet domain name in any class or category that contains words used in or similar to any brand name owned by Franchisor or Franchisor's affiliates or any abbreviation, acronym, phonetic variation or visual variation of those words.





- 11.3.11. Franchisee shall pay all fees and expenses for technology required by this Agreement, including but not limited to, the costs of computer hardware and software, Internet access, license fees, help desk fees, licensing or user-based fees for a franchise portal or a benchmarking platform, web page design, and fees related to exposure on Franchisor's website.
- 11.4. Volume Rebates. If Franchisor receives any cash rebates, volume discounts, concessions, advertising allowances, or discount bonuses (collectively "Discounts"), whether by way of cash, kind or credit, from any manufacturer or supplier designated by Franchisor, whether or not on account of purchases made (i) by Franchisor for its own account or for Franchisee's account, or franchisees generally, or (ii) by Franchisee directly for its own account, Franchisor reserves the right to retain the whole or any partial amount of such Discounts.
- 11.5. Unapproved Suppliers. If Franchisee desires to purchase, lease or use any supplies, equipment, vehicles or other items of any nature or kind from an unapproved supplier, Franchisee will submit to Franchisor a written request for such approval prior to utilizing such supplier. Franchisee will not purchase or lease from any supplier until and unless such supplier has been approved in writing by Franchisor. Franchisor will have the right to require that its representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered, either to Franchisor or to an independent laboratory designated by Franchisor for testing. If the supplier or manufacturer meets Franchisor's specifications, as determined in Franchisor's sole discretion, Franchisor will approve it as an additional supplier or manufacturer. Franchisor will notify Franchisee whether Franchisor approves or disapproves of the proposed supplier or manufacturer within 60 calendar days after Franchisor receives all required information to evaluate the product or service. Franchisor reserves the right, at its option, to re-inspect from time to time the facilities and products of any such approved supplier and to revoke its approval upon the supplier's failure to continue to meet any of Franchisor's then-current criteria. Nothing in the foregoing should be construed to require Franchisor to approve any particular supplier. Franchisor reserves the right to require Franchisee to pay to Franchisor all reasonable costs of evaluation of any proposed supplier or proposed product or service.
- 11.6. Variations in Standards. Notwithstanding anything to the contrary contained in this Agreement, and this Section in particular, Franchisee acknowledges and agrees that, because complete and detailed uniformity under many varying conditions may not be possible or practical, Franchisor specifically reserves the right and privilege, at its sole discretion and as it may be deemed in the best interests of all concerned in any specific instance, to vary performance standards for some franchisees based upon the peculiarities and characteristics of the particular site or circumstance, business potential, existing business practices or any other condition which Franchisor deems to be of importance to the successful operation of such particular franchise business. Franchisor has full rights to vary standard specifications and practices for any other franchisee at any time without giving Franchisee comparable rights. Franchisee will not be entitled to require Franchisor to disclose or grant to Franchisee a like or similar variation.
- 11.7. Payment of Debts. Franchisee is solely responsible for: (i) selecting, retaining and paying Franchisee's employees; (ii) the payment of all invoices for the purchase of goods and services used in connection with operating the Kidokinetics Business; and (iii) determining whether, and on what terms, to obtain any financing or credit that Franchisee deems advisable or necessary for the conduct of the Kidokinetics Business. Franchisee agrees to pay all current obligations and liabilities to suppliers, lessors, and creditors on a timely basis. Franchisee agrees to indemnify Franchisor in the event that Franchisor is held responsible for debts owed by Franchisee if Franchisor elects to pay any of Franchisee's obligations in order to preserve the relationship between any System suppliers and System franchisees. Franchisee agrees to make prompt payment of all federal, state and local taxes, including individual and corporate taxes, sales and use taxes, franchise taxes, gross receipts taxes, employee withholding taxes, FICA taxes,

personal property and real estate taxes arising from Franchisee's operation of the Kidokinetics Business. Franchisee agrees to indemnify Franchisor in the event that Franchisor is held responsible for these taxes.

- 11.8. Telephone. Franchisee must obtain a new telephone number and telephone listing at Franchisee's expense, to be listed under the "Kidokinetics" name and not under Franchisee's corporate, partnership, or individual name, and to be used exclusively in connection with Franchisee's operation of the Kidokinetics Business. Upon the expiration, transfer or termination of this Agreement for any reason, Franchisee must terminate Franchisee's use of such telephone number and listing and assign the same to Franchisor or Franchisor's designee. Franchisee must answer the telephone in the manner Franchisor specifies in the Franchise Operations Manual.
- 11.9. Personal Conduct. Franchisee agrees to refrain from committing any act or pursuing any course of conduct that tends to bring Franchisor's Marks into disrepute.
- 11.10. Image. Franchisee acknowledges that Franchisor has developed the System to offer and sell services that will distinguish the Kidokinetics Business from other youth fitness programs that offer similar services valued at different prices and with less attention paid to service quality and customer service. Franchisee agrees to offer services and to operate the Kidokinetics Business in such a manner that emulates and enhances the image Franchisor intends for the System. Franchisee further acknowledges and agrees that each aspect of the System is important not only to Franchisee but also to Franchisor and to other System franchisees in order to maintain the highest operating standards, achieve system-wide uniformity and increase the demand for the services rendered by System franchisees. Franchisee agrees to comply with the standards, specifications and requirements Franchisor set forth in order to uniformly convey the distinctive image of a Kidokinetics Business. Franchisee will, in the operation of the Kidokinetics Business, use only signs, supplies, vehicles, equipment, invoices, business cards and the like, imprinted with the Marks and colors as prescribed from time to time by Franchisor.
- 11.11. Pending Actions. Franchisee must notify Franchisor, in writing, within five days of the commencement of any action, suit or proceeding and the issuance of any order, suit or proceeding of any court, agency or other government instrumentality, including the receipt of any notice or citation, which may adversely affect the operation or financial condition of Franchisee or the Kidokinetics Business.
- 11.12. User Names and Passwords. Franchisee will provide, upon request by Franchisor, user names and passwords for services used in the operation of the Kidokinetics Business, including, but not limited to, social media accounts, and QuickBooks. This does not include any passwords to online banking or other financial accounts.

## 12. **ADVERTISING, PROMOTIONS AND RELATED FEES**

- 12.1. Advertising Programs. Franchisor may, from time to time, develop and administer advertising and sales promotion programs designed to promote and enhance the collective success of all Kidokinetics franchises operating under the System. Franchisee shall participate in all such advertising and sales promotion programs in accordance with the terms and conditions established by Franchisor from time to time for each program. In all aspects of these programs, including, without limitation, the type, quantity, timing, placement and choice of media, market areas and advertising agencies, the standards and specifications established by Franchisor, as modified from time to time, will be final and binding upon Franchisee.
- 12.2. Local Marketing.

- 12.2.1. In addition to the ongoing advertising contributions set forth herein, Franchisee shall spend annually, throughout the term of this Agreement, the greater of \$500 or 2% of Gross Sales per



month on a rolling 12-month average (“Local Marketing Requirement”) on advertising for the Kidokinetics Business within the Territory (“Local Marketing”). Franchisee is not required to spend more than the Local Marketing Requirement, but there is no limit on the amount Franchisee may spend on local advertising. Franchisor does not impose an additional Local Marketing Requirement for a single franchisee operating up to four outlets if they are operated by the same legal entity and have adjacent territories. On or before the 1<sup>st</sup> day of February each year, Franchisee must submit to Franchisor a Local Marketing expenditure report accurately reflecting such expenditures for the preceding annual period. If that day is not a business day, then such report will be due on the next business day. The following costs and expenditures incurred by Franchisee will not be included in Franchisee’s expenditures on Local Marketing for purposes of this Section, unless approved in advance by Franchisor in writing: (i) incentive programs for employees or agents of Franchisee; (ii) research expenditures; (iii) salaries and expenses of any of Franchisee’s personnel to attend advertising meetings, workshops or other marketing activities; or (iv) charitable, political or other contributions or donations. We may require you to subscribe to the email marketing subscription program we designate, such as Constant Contact or other similar email marketing programs, at your sole cost and expense. The fee for this is determined by the provider.

12.2.2. In addition to the requirements of Section 12.2.1, Franchisee must: (a) before Franchisee commences operation of the Kidokinetics Business on the date designated by Franchisor, pay to Franchisor the sum of: (i) \$5,000 for the Initial Marketing Package, if this is Franchisee’s first Territory; or (ii) \$1,000 for the Initial Marketing Package, if this is a Franchise Agreement for an additional Territory).

12.3. Regional Advertising and Promotional Cooperatives. Franchisor will have the right, in Franchisor’s discretion, to designate any geographical area for purposes of establishing a regional advertising and promotional cooperative (“Cooperative”), and to determine whether a Cooperative is applicable to the Kidokinetics Business. If a Cooperative is established applicable to the Kidokinetics Business, Franchisee must participate in the Cooperative. Cooperative contributions will be credited towards the Local Marketing discussed in Section 12.2 above. Cooperative contributions will not exceed the Local Marketing Requirement unless a majority of the Cooperative votes to increase that requirement. The following provisions will apply to each Cooperative:

12.3.1. Each Cooperative will be organized and governed in a form and manner, and will commence operation on a date, approved in advance by Franchisor;

12.3.2. Each Cooperative will be organized for the exclusive purpose of administering regional advertising programs and developing, subject to Franchisor’s approval, standardized advertising materials for use by the members in local advertising;

12.3.3. No promotional or advertising plans or materials may be used by a Cooperative or furnished to its members without Franchisor’s prior approval. All such plans and materials must be submitted to Franchisor for prior review and approval;

12.3.4. The Cooperative’s activities will be agreed upon by a majority vote of the member franchisees in the Cooperative. All Cooperative contributions will be credited against the Local Marketing Requirement. The Cooperative may, by the majority vote of its members, require a Cooperative contribution in excess of the Local Marketing requirement;



- 12.3.5. Each member franchisee must submit to the Cooperative, no later than Wednesday of each week, for the preceding business week, its respective contribution as provided in this Agreement together with such other statements or reports as Franchisor may require or as may be required by the Cooperative with Franchisor's approval; and
- 12.3.6. Franchisor may grant to Franchisee, in its sole discretion, an exemption for any length of time from the requirement of membership in a Cooperative, upon written request from Franchisee stating reasons supporting such exemption. Franchisor's decision concerning such request for exemption will be final.
- 12.4. Internet Advertising. At Franchisee's sole cost and expense, Franchisee must have paid advertising on the Internet, advertising Franchisee's Kidokinetics Business, including, but not limited to, Google, Yahoo, Bing and MSN. These fees may be credited to your Local Marketing Requirement.
- 12.5. Approval of Advertising. All advertising and promotion by Franchisee, in any medium, will be conducted in a professional manner and conform to the standards and requirements of Franchisor as set forth in the Franchise Operations Manual or otherwise. Franchisee shall submit to Franchisor for its approval samples of all advertising and promotional plans and materials and public relations programs that Franchisee desires to use, including, without limitation, any materials in digital, electronic or computerized form, or in any form of media, other than Social Media as addressed in Section 12.6 below, now or hereafter developed that have not been either provided or previously approved by Franchisor. Franchisor shall approve or disapprove such plans and materials within fifteen (15) business days of Franchisor's receipt thereof. Franchisee shall not use such unapproved plans or materials until they have been approved by Franchisor in writing, and shall promptly discontinue use of any advertising or promotional plans or materials, whether or not previously approved, upon notice from Franchisor. Franchisee shall not advertise or use the Marks in any fashion on the Internet or via other means of advertising through telecommunication, or establish any website listing, without the express written consent of Franchisor, which may be withheld in Franchisor's sole discretion. Any advertising, marketing or sales concepts, programs or materials proposed or developed by Franchisee for the Kidokinetics Business and approved by Franchisor may be used by other System franchisees without any compensation to Franchisee.
- 12.6. Social Media. Except as approved in advance in writing by Franchisor, Franchisee must not establish or maintain a separate website, splash page, profile or other presence on the Internet, or otherwise advertise on the Internet or any other public computer network in connection with the Kidokinetics Business, including any profile on Facebook, Twitter, LinkedIn, Plaxo, YouTube, Pinterest, Instagram, TikTok, or any other social media and/or networking site (whether currently in existence or developed in the future). If such approval is granted by Franchisor, Franchisee: (i) must establish and operate such Internet site in accordance with System standards and any other policies Franchisor designates in the Franchise Operations Manual or otherwise in writing from time to time; (ii) must utilize any templates that Franchisor provides to Franchisee to create and/or modify such site(s); and (iii) must obtain Franchisor's approval prior to making Social Media postings and Franchisee agrees to any Social Media postings that Franchisor, in its sole discretion, determines are inappropriate or detrimental to the goodwill of the System within 24 hours of Franchisor's notice to Franchisee. Franchisor reserves the right to require Franchisee to provide it with all Social Media account information related to the Kidokinetics Business and grant Franchisor independent access (including as account administrator) to Franchisee's Kidokinetics Business Social Media accounts in order to make upgrades, post information, and manage Social Media accounts as Franchisor deems appropriate for the benefit of the System. Franchisor retains the sole right to market on the Internet, including the use of websites, domain names, uniform resource locator's, linking, search engines (and search engine optimization techniques), banner ads, meta-tags, marketing, auction sites, e-commerce and co-branding arrangements. Franchisee must provide content Franchisor requests for Internet marketing and Franchisee must follow Franchisor's intranet and Internet usage rules, policies and requirements. Franchisor retains the sole right to use the Marks on the Internet, including



on websites, as domain names, directory addresses, search terms and meta-tags, and in connection with linking, marketing, co-branding and other arrangements. Franchisor retains the sole right to approve any linking to, or other use of, the Kidokinetics website.

- 12.7. Promotional Programs. Franchisor may, from time to time, initiate promotional programs for the benefit of all franchisees of the System such as “frequent purchase” card programs or special service discounts. Franchisee agrees to accept and honor all rebates, giveaways, cards, promotional coupons, or other System-wide offers, as accepted by other franchisees in the System. These programs may include minimum and maximum price policies, minimum advertised price policies and unilateral price policies.
- 12.8. Brand Development Fund. We administer a “Brand Development Fund” that is used to promote public awareness of our brand and to improve our System. You are required to pay the Brand Development Fund Contribution described in Section 5.5.3. The Brand Development Fund may be administered by us or our affiliate or designees, at our discretion. You agree that we may use the Brand Development Fund for any expenditure that we, in our sole discretion, deem necessary or appropriate to promote or improve the System or the Kidokinetics brand. This includes, but is not limited to: (i) developing, maintaining, administering, directing, preparing or reviewing advertising and marketing materials, promotions and programs, including social media management; (ii) public awareness of any of the Marks; (iii) public and consumer relations and publicity; (iv) brand development; (v) research and development of technology, products and services; (vi) website development (including social media) and search engine optimization; (vii) development and implementation of quality control programs and other reputation management functions; (viii) conducting market research; (ix) changes and improvements to the System; (x) the fees and expenses of any advertising agency we engage to assist in producing or conducting advertising or marketing efforts; (xi) the proportionate salary share of our employees that devote time and provide services for advertising, promotion, collection, accounting or administration of the Brand Development Fund; (xii) preparing and distributing financial accountings of the Brand Development Fund; (xiii) training tools; and (xiv) our and our affiliates’ expenses associated with direct or indirect labor, administrative, overhead, or other expenses incurred in relation to any of these activities. We have sole discretion in determining the content, concepts, materials, media, endorsements, frequency, placement, location, and all other matters pertaining to any of the foregoing activities. Any surplus of monies in the Brand Development Fund may be invested by us in our sole discretion and unused funds collected in any calendar year will be applied to the following year’s funds. We reserve the right to contribute or loan additional funds to the Brand Development Fund on any terms we deem reasonable. The Brand Development Fund is not a trust, and we have no fiduciary obligations to you regarding our administration of the Brand Development Fund. An unaudited financial accounting of the operations of the Brand Development Fund will be prepared annually and provided to you upon written request. You acknowledge and agree that our expenditures from the Brand Development Fund in or affecting any geographic area may not be proportionate or equivalent to the Brand Development Fund Contribution by our franchisees operating in that geographic area and that you may not benefit directly or in proportion to your Brand Development Fund Contribution. We reserve the right to change, merge, re-form or dissolve the Brand Development Fund in our discretion. We will not use the Brand Development Fund for advertising principally for the solicitation for the sale of Franchises, but we reserve the right to include a notation in any advertisement or website indicating “franchises available” or similar phrasing. We may, upon 30 days’ prior written notice to you, terminate and/or reinstate the Brand Development Fund. We will spend all amounts before any termination of the Brand Development Fund.

### 13. **INTELLECTUAL PROPERTY**

- 13.1 Ownership. Franchisee expressly understands and acknowledges that Kidokinetics, Inc. (“Licensor”) is the record owner of the Marks. Franchisor holds the exclusive right to license the Marks to franchisees of the System for use pursuant to the System. Franchisee further expressly understands and acknowledges that Franchisor claims copyrights on certain written material used in the System, including but not limited



to, forms, advertisements, promotional materials and the Franchise Operations Manual, whether or not Franchisor has filed for copyrights with the U.S. Copyright Office. The Marks and copyrights are hereafter together referred to as the “Intellectual Property”. As between Franchisor and Franchisee, Franchisor and Licensor are the owners of all right, title and interest in and to the Intellectual Property and the goodwill associated with and symbolized by them. Franchisee’s use of the Intellectual Property does not give Franchisee any ownership interest or other interest in or to the Intellectual Property.

- 13.2 No Interference. Neither Franchisee nor any Principal will take any action that would prejudice or interfere with the validity of Franchisor’s or Licensor’s rights with respect to the Intellectual Property. Nothing in this Agreement gives the Franchisee any right, title, or interest in or to any of the Intellectual Property or any of Franchisor’s or Licensor’s service marks, trademarks, trade names, trade dress, logos, copyrights or proprietary materials, except the right to use the Intellectual Property and the System in accordance with the terms and conditions of this Agreement for the operation of a Kidokinetics Business and only at or from the Kidokinetics Business Location or in approved advertising related to the Kidokinetics Business.
- 13.3 Goodwill. Franchisee understands and agrees that any and all goodwill arising from Franchisee’s use of the Intellectual Property and the System inures solely and exclusively to the benefit of Franchisor and Licensor, and upon expiration or termination of this Agreement and the license granted, no monetary amount will be assigned as attributable to any goodwill associated with Franchisee’s use of the Intellectual Property.
- 13.4 Validity. The Marks are valid and serve to identify the System and those who are authorized to operate under the System and Franchisee shall not contest the validity of, or Franchisor’s or Licensor’s interest in, the Intellectual Property or assist others to contest the validity of, or Franchisor’s or Licensor’s interest in, the Intellectual Property.
- 13.5 Infringement. Franchisee acknowledges that any unauthorized use of the Intellectual Property constitutes an infringement of Franchisor’s or Licensor’s rights in the Intellectual Property and an event of default hereunder. Franchisee shall provide Franchisor or Licensor with all assignments, affidavits, documents, information and assistance Franchisor or Licensor reasonably requests to fully vest in Franchisor or Licensor all such rights, title and interest in and to the Intellectual Property, including all such items as are reasonably requested by Franchisor or Licensor to register, maintain and enforce such rights in the Intellectual Property.
- 13.6 Substitution. Franchisor reserves the right to substitute different Marks for use in identifying the System and the Kidokinetics Business if the current Marks no longer can be used by Franchisor, or if Franchisor, in its sole discretion, determines that substitution of different Marks will be beneficial to the System. In such event, Franchisor will require Franchisee, at Franchisee’s expense, to discontinue or modify Franchisee’s use of any of the Marks or to use one or more additional or substitute Marks no later than 10 days after notification thereof.
- 13.7 Franchisee’s Use of the Intellectual Property. With respect to Franchisee’s use of the Intellectual Property pursuant to this Agreement, Franchisee further agrees that:
- 13.7.1 Unless otherwise authorized or required by Franchisor, Franchisee shall advertise the Kidokinetics Business only under the Mark “Kidokinetics<sup>®</sup>” and design. Franchisee must use only the Marks that Franchisor designates, and must use them only in the manner Franchisor authorizes and permits. Franchisee must use the Marks only for the operation of the Kidokinetics Business at the location approved by Franchisor and for advertising the Kidokinetics Business. Franchisee shall not use the Marks as part of its corporate or other legal name, and shall obtain the Franchisor’s approval of its corporate or other legal name prior to filing it with the applicable



state authority. Franchisee shall comply with Franchisor's instructions in filing and maintaining the requisite trade name or fictitious name registrations, and shall execute any documents deemed necessary by Franchisor or its counsel to obtain protection of the Marks or to maintain their continued validity and enforceability. All fictitious names used by Franchisee will bear the designation "a franchisee of Kidokinetics Franchise LLC". Franchisee must promptly register at the office of each county in which Franchisee's Kidokinetics Business operates, or at such other public office as provided for by the laws of the state in which Franchisee's Kidokinetics Business is located, as doing business under such assumed business name.

- 13.7.2 Franchisee shall identify itself as the owner of the Kidokinetics Business and as an independent Kidokinetics Franchise LLC franchisee in conjunction with any use of the Intellectual Property, including, but not limited to, uses on invoices, order forms, receipts and contracts, as well as the display of a notice in such content and form and at conspicuous locations or on any vehicle as Franchisor may designate in writing.
- 13.7.3 Franchisee shall not use the Intellectual Property to incur any obligation or indebtedness on behalf of Franchisor.
- 13.7.4 Any merchandise offered by Franchisee that utilizes the Marks, must be approved by Franchisor in writing prior to being sold by Franchisee and such approval may be granted or denied in Franchisor's sole and absolute discretion.
- 13.7.5 The license of the Marks granted to Franchisee hereunder is nonexclusive and Franchisor retains the right, among others, (i) to use the Marks itself in connection with selling products and services; (ii) to grant other licenses for the Marks; and (iii) to develop and establish other systems using the Marks, similar proprietary marks, or any other proprietary marks, and to grant licenses thereto without providing any rights therein to Franchisee.
- 13.8 Claims. Franchisee shall notify Franchisor immediately by telephone, and in writing, of any apparent infringement of or challenge to Franchisee's use of any Intellectual Property and of any claim by any person of any rights in any Intellectual Property. Franchisee shall promptly notify Franchisor and cooperate fully in defending or settling such litigation. Franchisee may not communicate with any person other than Franchisor or any designated affiliate thereof, their counsel and Franchisee's counsel in connection with any such infringement, challenge or claim. Franchisor will have complete discretion to take such action as it deems appropriate in connection with the foregoing, and the right to control exclusively, or to delegate control to any of its affiliates, of any settlement, litigation or Patent and Trademark Office or other proceeding arising out of any such alleged infringement, challenge or claim or otherwise relating to any Intellectual Property. Franchisee agrees to execute any and all instruments and documents, render such assistance, and do such acts or things as may, in the opinion of Franchisor, reasonably be necessary or advisable to defend or settle such litigation, to protect and maintain the interests of Franchisor or any other person or entity in any litigation or other proceeding or to otherwise protect and maintain the interests of Franchisor or any other interested party in the Intellectual Property. If Franchisee is in full compliance with this Agreement, as determined by Franchisor in its sole discretion, Franchisor shall defend and indemnify Franchisee against and reimburse Franchisee for all expenses, losses and damages (including settlement amounts and reasonable attorneys' fees and costs of suit incurred prior to Franchisor's defense of Franchisee) arising out of Franchisee's use of any of the Intellectual Property that infringes on the rights of any other party, provided that the conduct of Franchisee with respect to such proceeding and use of the Intellectual Property is in full compliance with the terms of this Agreement or any other agreement with Franchisor. If Franchisor, in Franchisor's sole discretion, determines that Franchisee has not used the Intellectual Property in accordance with this Agreement, Franchisee will bear the cost of such defense, including the cost of any judgment or settlement. In the event of any litigation relating to Franchisee's use of the Intellectual Property, Franchisee will execute



any and all documents and do such acts as may, in Franchisor's opinion, be necessary to carry out such defense or prosecution including, without limitation, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of Franchisee's use of the Intellectual Property in a manner inconsistent with the terms of this Agreement, Franchisor agrees to reimburse Franchisee for Franchisee's out-of-pocket costs in performing such acts.

- 13.9 Franchisor may use and grant franchises and licenses to others to use the Intellectual Property and the System and to establish, develop and franchise other systems, different from the System licensed to Franchisee herein, without offering or providing Franchisee any rights in, to or under such other systems and Franchisor may modify or change, in whole or in part, any aspect of the Intellectual Property or the System, so long as Franchisee's rights thereto are in no way materially harmed thereby.
- 13.10 Franchisee shall not register or attempt to register the Intellectual Property in Franchisee's name or that of any other person, firm, entity or corporation.
- 13.11 Franchisee acknowledges that any unauthorized use of the Intellectual Property constitutes an infringement of Franchisor's rights in the Intellectual Property and a default of this Agreement. Franchisee agrees that it shall provide Franchisor with all assignments, affidavits, documents, information and assistance Franchisor reasonably requests in order to register, maintain or enforce such rights in the Intellectual Property.
- 13.12 Franchisee agrees to execute any and all instruments and documents, render such assistance, and do such acts or things as may, in Franchisor's sole opinion, reasonably be necessary or advisable to protect and maintain Franchisor's interests in any litigation or other proceeding or to otherwise protect and maintain Franchisor's interests or any other interested party in the Intellectual Property.
- 13.13 If it becomes advisable at any time in Franchisor's sole discretion to modify or discontinue the use of any name or mark and/or use one or more additional or substitute names or marks, Franchisee shall immediately modify or discontinue the use of any such name or mark, and use such additional or substitute name or mark. Franchisee waives any claim arising from or relating to any change, modification or substitution of the Marks.
- 13.14 Franchisor will not be liable to Franchisee for any expenses, losses or damages sustained by Franchisee as a result of any additions, modifications, substitutions or discontinuation of the Marks. Franchisee covenants not to commence or join in any litigation or other proceeding against Franchisor for any of these expenses, losses or damages.

#### 14. **INSURANCE AND INDEMNIFICATION**

- 14.1. **Procurement.** Franchisee shall procure, prior to the commencement of any operations under this Agreement, and maintain in full force and effect during the term of this Agreement at Franchisee's sole cost and expense and to Franchisor's sole satisfaction, insurance policies rated A or better with A.M. Best Company, protecting Franchisee and Franchisor, and naming Franchisor, its officers, directors, partners, owners, employees and affiliates as additional insureds, with at least the following coverage and limits (except as additional coverage and higher policy limits may reasonably be specified from time to time by Franchisor in the Franchise Operations Manual or otherwise in writing):

- 14.1.1. **Liability.** Franchisee will be required to procure and maintain insurance in the amounts Franchisor prescribes. Presently, Franchisor's insurance requirements are as follows: (i) comprehensive general liability insurance in the amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, or in the event you lease commercial office space or storage space, such amount as required by your lease or state laws; (ii) umbrella excess liability coverage





in an amount equal to \$1,000,000 combined single limit coverage; (iii) automobile insurance in the amount of at least a combined single limit for bodily and property damage of \$100,000, or greater if required by state law; and, if you have employees, statutory worker's compensation insurance in the limits required by state law; (iv) hired-non owned automobile insurance; (v) crime insurance for employee dishonesty in the amount of \$5,000 combined single limit; (vi) sexual abuse and molestation coverage; (vii) an accident policy; and (viii) workers compensation with \$1,000,000 limits or such additional limits as required by state law.

- 14.2. Certificates. At least 30 days prior to the opening of the Kidokinetics Business and policy renewal date, Franchisee shall deliver to Franchisor Certificates of Insurance evidencing the existence and continuation of proper coverage with limits not less than those required hereunder. In addition, if requested by Franchisor, Franchisee shall deliver to Franchisor a copy of the insurance policy or policies required in Article 14. All policies of insurance required to be maintained by Franchisee will be renewed (and policies or certificates together with evidence of payment of premiums delivered to Franchisor) at least 30 days prior to the respective expiration dates of existing policies of insurance. All such policies shall contain endorsements requiring the insurer to give Franchisor at least 10 days written notice before terminating, canceling or making any changes in any such policy. Franchisor's acceptance of an insurance carrier does not constitute Franchisor's representation or guarantee that the insurance carrier will be capable of meeting claims during the term of the insurance policy.
- 14.3. Failure to Procure. If, for any reason, Franchisee should fail to procure or maintain the insurance required by this Agreement as revised from time to time for all franchisees by the Franchise Operations Manual or otherwise in writing, Franchisor will have the right and authority (without, however, any obligation) to immediately procure such insurance and to charge Franchisee for the cost of the insurance plus twenty percent (20%) of the premium for an administrative cost of obtaining the insurance. Franchisee shall pay Franchisor immediately upon notice by Franchisor to Franchisee that Franchisor has undertaken such action and the cost.
- 14.4. Indemnification. Franchisee and Franchisee's principals agree to indemnify, defend and hold Franchisor, its affiliates, and its respective members, directors, officers, employees, agents, partners, shareholders, agents, contractors, successors, assignees, personal representatives, heirs and legatees of all these persons or entities ("Indemnitees") harmless to the fullest extent permitted by law, from and against and to reimburse them for all claims, obligations, liabilities and damages ("Claims"), including any and all taxes, directly or indirectly arising out of, in whole or in part: (a) the operation of Franchisee's Kidokinetics Business, and Franchisee's advertising; (b) the use of the Marks and other Confidential Information; (c) the transfer of any interest in this Agreement or Franchisee's Kidokinetics Business in any manner not in accordance with this Agreement; (d) the infringement, alleged infringement, or any other violation or alleged violation by Franchisee or any of Franchisee's principals of any patent, mark or copyright or other proprietary right owned or controlled by third parties; or (e) libel, slander or any other form of defamation of Franchisor, the System, or System franchisees by Franchisee or any of Franchisee's principals. For purposes of this indemnification, "Claims" will mean and include all obligations, actual, consequential, punitive and other damages, and costs reasonably incurred in the defense of any action, including attorneys', attorney assistants' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether or not such claims exceed the amount of insurance coverage available to Franchisor through Franchisee. Franchisor has the right to defend any such claim against Franchisor in the manner Franchisor deems appropriate or desirable in Franchisor's discretion. Such an undertaking by Franchisor will, in no manner or form, diminish Franchisee's and each of Franchisee's principals' obligations to indemnify the Indemnitees and to hold them harmless. This indemnity will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.



Franchisee agrees to give Franchisor notice of any action, suit, proceeding, claim, demand, inquiry, or investigation described above. The Indemnitees 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 an agreement to settle such Claim. Franchisee may participate in such defense at its own expense. Franchisee agrees to give its full cooperation to the Indemnitees in assisting them with the defense of any such Claim, and to reimburse the Indemnitees for all of their costs and expenses in defending any such Claim, including court costs and reasonable attorney fees, within ten days of the date of each invoice delivered by such Indemnitee to franchisee enumerating such costs, expenses, and attorney fees.

- 14.5. Increase in Coverage. The stated levels and types of insurance required by this Article 14 are minimum requirements. Franchisor reserves the right, in its sole discretion, to raise the required minimum requirements for any type of insurance or add additional types of insurance requirements as Franchisor deems reasonably prudent to require. Within 30 days of any required new limits or types of coverage, Franchisee shall submit proof to Franchisor of Franchisee's coverage pursuant to Franchisor's requirements.
- 14.6. Media Inquiries. Any and all media inquiries concerning the Kidokinetics Business or Kidokinetics Business Location, including, but not limited to, the business operation and incidents and occurrences related to a customer or employee, shall be referred to Franchisor. Neither Franchisee, Franchisee's employees nor anyone on Franchisee's behalf may comment to any broadcast medium about the System, except as directed by Franchisor. Franchisor acknowledges that, in certain cases, Franchisee may be approached by media, and such impromptu comments are not intended to be prevented by this Section 14.6. Franchisee agrees that it will behave in a professional and courteous manner in any such impromptu interviews and will not discuss the System. Franchisee shall notify Franchisor at the first possible opportunity following the interview.
- 14.7. Additional Insured. All required insurance policies shall name Franchisor, its respective officers, directors, partners, agents and employees, as additional insured parties except with regards to workers' compensation insurance. Franchisee is required to list Franchisor as an additional insured and insurance certificate holder, and Franchisee agrees to provide Franchisor upon demand with Certificates of Insurance demonstrating that the required insurance is in effect, if not automatically provided by the insurance carrier.
- 14.8. Notification of Claims. Franchisee must provide Franchisor with copies of any insurance claims or insurance cancellations within 24 hours. Franchisee has a 24-hour opportunity to cure any lapses in insurance coverage.

## 15. **TRANSFERS**

### 15.1. Transfers by Franchisor.

15.1.1. Franchisor has the right to freely assign this Agreement, and all of Franchisor's rights and privileges in the Franchise Agreement, to any person, firm, corporation or other entity, without Franchisee's permission or prior knowledge, provided that, with respect to any assignment resulting in the subsequent performance by the assignee of Franchisor's obligations, the assignee expressly assumes and agrees to perform Franchisor's obligations under the Franchise Agreement. Specifically, and without limitation to the foregoing, Franchisee expressly affirms and agrees that Franchisor may: (i) sell Franchisor's assets and Franchisor's rights to the Marks and the System outright to a third party; (ii) engage in a public or private placement of some or all of Franchisor's securities; (iii) merge, acquire other entities, or be acquired by another entity, including competitors; and (iv) undertake a refinancing, recapitalization, leveraged buy-out or



other economic or financial restructuring. With regard to any or all of the above sales, assignments and dispositions, Franchisee expressly and specifically waives any claims, demands or damages arising from or relating to the loss of association with or identification of Franchisor. Nothing contained in this Agreement requires Franchisor to remain in the business franchised by this Agreement or to offer the same products and services, whether or not bearing the Marks, in the event that Franchisor exercises its prerogative to assign Franchisor's rights in this Agreement.

- 15.1.2. Franchisee agrees that Franchisor has the right, now or in the future, to purchase, merge, acquire or affiliate with an existing competitive or non-competitive franchise network, chain or any other business regardless of the location of that chain's or business' facilities, and to operate, franchise or license those businesses and/or facilities operating under the Marks or any other marks following Franchisor's purchase, merger, acquisition or affiliation, regardless of the location of the facilities (which Franchisee acknowledges may be within the Territory, proximate thereto, or proximate to any of Franchisee's locations). However, Franchisor represents that it will not convert any such acquired facilities that are operating within the Territory to a Kidokinetics franchise.
- 15.1.3. If Franchisor assigns its rights in this Agreement, nothing requires Franchisor to remain in the youth fitness business, or to offer or sell any products or services to Franchisee.
- 15.2. Restrictions on Transfers by Franchisee. Franchisee's rights and duties under this Agreement are personal to Franchisee and/or Franchisee's Principal(s), and Franchisor has made this Agreement in reliance on Franchisor's perceptions of the individual and collective character, skill, aptitude, attitude, business ability, and financial capacity of Franchisee and/or Franchisee's Principals. Thus, no transfer, as hereafter defined, may be made without Franchisor's prior written approval, which will not be unreasonably withheld. Franchisor may void any transfer made without such approval.
- 15.3. Transfers by Franchisee. Franchisee shall not directly or indirectly sell, assign, transfer, give, devise, convey or encumber this Agreement or any right or interest herein or hereunder (a "Transfer"), the Kidokinetics Business or any assets thereof (except in the ordinary course of business) or suffer or permit any such assignment, transfer, or encumbrance to occur by operation of law unless it first obtains the written consent of Franchisor, except as provided in Section 15.6 of this Agreement. A transfer of any stock in the Franchisee if it is a corporation or a transfer of any ownership rights in Franchisee if it is a partnership, a limited liability company or limited partnership is a Transfer and is prohibited without prior written consent of Franchisor. If Franchisee has complied fully with this Agreement, Franchisor will not unreasonably withhold its consent of a Transfer that meets the following requirements:
  - 15.3.1. The proposed transferee must be an individual of good moral character or the principals of the transferee must all be of good moral character and otherwise meet Franchisor's then-applicable standards for franchisees;
  - 15.3.2. The transferee must have sufficient business experience, aptitude and financial resources to operate the Kidokinetics Business and to comply with this Agreement;
  - 15.3.3. The transferee and its or their Manager have agreed to complete Franchisor's Initial Management Training Program to Franchisor's satisfaction;
  - 15.3.4. Franchisee has paid all amounts owed to Franchisor and third-party creditors;
  - 15.3.5. The transferee has executed Franchisor's then-standard form of Franchise Agreement, which may have terms and conditions materially different from this Agreement, except that the transferee will not be required to pay an Initial Franchise Fee;



- 15.3.6. Franchisee and the transferee and each of Franchisee's and the transferee's Principals shall have executed a general release of all claims known or unknown under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Franchisor's officers, directors, shareholders, members and employees in their corporate and individual capacities, including, without limitation, claims arising out of or concerning under the Franchise Agreement and federal, state and local laws, rules and ordinances (to the fullest extent permitted by law). Franchisee will agree to subordinate any claims Franchisee may have against the transferee to Franchisor, and indemnify Franchisor for any acts, whether negligent or intentional, committed by Franchisee during the sales negotiations between Franchisee and transferee.
- 15.3.7. Franchisor has granted written approval of the material terms and conditions of the Transfer, including, without limitation, that the price and terms of payment will not adversely affect the Kidokinetics Business's operation. However, Franchisor's approval of a Transfer is not in any way a representation or warranty of the transferee's success or the soundness of transferee's decision to purchase the Franchise on such terms and conditions. Franchisee shall provide Franchisor all proposed transfer documents for Franchisor's review at least 30 days prior to a closing of the proposed Transfer;
- 15.3.8. If Franchisee or any Principal finances any part of the sale price of the Transfer, Franchisee or its Principal have agreed that all obligations of the transferee under any notes, agreements or security interests to Franchisee or its Principal will be subordinate to the transferee's obligations to Franchisor and subject to all limitations of Section 15.8 below;
- 15.3.9. Franchisee must cure all existing defaults under this Agreement, or any other agreement between Franchisee and Franchisor, Franchisor's affiliates, Franchisor's designated/approved suppliers and vendors, within the period permitted for cure and have substantially complied with such agreements during their respective terms;
- 15.3.10. Franchisee or transferee will provide Franchisor a copy of the executed purchase agreement relating to the proposed transfer with all supporting documents and schedules, including transferee's assumption of an agreement to faithfully perform all of Franchisee's obligations under this Agreement;
- 15.3.11. Franchisee (and Franchisee's principals if Franchisee is a partnership, corporation or limited liability company), and the members of their respective families must comply with the post-termination provisions of this Agreement;
- 15.3.12. The transferee must obtain, within the time limits set by Franchisor, and maintain thereafter, all permits and licenses required for the operation of the Kidokinetics Business;
- 15.3.13. Franchisee must request that Franchisor provide the prospective transferee with Franchisor's current form of franchise disclosure document, and Franchisor will not be liable for any representations not included in the franchise disclosure document;
- 15.3.14. Franchisor's approval of the transfer will not constitute a waiver of any claims Franchisor may have against the transferring party;
- 15.3.15. Franchisor will have the right to disclose to any prospective transferee such revenue reports and other financial information concerning Franchisee and Franchisee's Kidokinetics Business as Franchisee has supplied Franchisor hereunder; and

- 15.3.16. In any event, Franchisor may withhold or condition Franchisor's consent to any transfer as Franchisor deems appropriate based on the circumstances of the transfer or otherwise.
- 15.4. Transfer Fee. As a condition to any Transfer, Franchisee shall pay Franchisor a transfer fee equal to \$10,000 for the first Kidokinetics business that Franchisee transfers and \$5,000 for each subsequent or additional Kidokinetics Business that Franchisee Transfers (the "Transfer Fee"). If Franchisor agrees to extend the transferee's term to ten (10) years under a new franchise agreement, the Transfer Fee will be replaced by the Franchisor's then-current initial franchise fee under the new franchise agreement.
- 15.5. Entity Formation Documents. The by-laws of a corporation or operating agreement of a limited liability company of a Franchisee that is an entity must state that: (i) the issuance and assignment of any interest in Franchisee are restricted by this Article 15; (ii) Franchisee may conduct no business except the operation of a Kidokinetics Business pursuant to the terms of this Agreement; (iii) transfers of interests in Franchisee are subject to the terms of this Agreement governing transfers; and (iv) stock or member certificates will contain a legend so indicating.
- 15.6. Death or Permanent Disability. Upon the death or permanent disability of Franchisee, the Franchise granted by this Agreement is descendible to any heir or other successor, provided the heir or successor is capable of fulfilling the requirements of the Franchise Agreement and agrees to sign a Personal Guaranty, a copy of which is attached to this Agreement as Attachment E, to guaranty the obligations of Franchisee within six months. If the heir or successor is unwilling or unable, for example due to minority or other impairment, to comply with the obligations of this section, he or she may appoint a Manager, approved by Franchisor to operate the Kidokinetics Business. If Franchisee's heir or successor does not wish to accept the obligations of the Franchise Agreement, he or she may transfer the Franchised Business in accordance with the obligations contained in this Article 15 of the Agreement within six months from the date of death or permanent disability, to a third party approved by Franchisor in writing. A transfer under this Section 15.6 is subject to the conditions for Transfers in this Article 15. Nothing contained herein is intended, nor will it, extend the term of the Franchise Agreement. For purposes of this Agreement, the term "permanent disability" means a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent such person from supervising the operation of Franchisee's Kidokinetics Business for six months from its onset.
- Immediately after the death or permanent disability of such person, or while the Franchised Business is owned by an executor, administrator, guardian, personal representative or trustee of that person, the Kidokinetics Business shall be supervised by an interim successor manager satisfactory to Franchisor, pending appointment of an approved Manager or transfer of the Franchised Business to the deceased or disabled individual's lawful heirs or successors. If the executor, administrator, guardian, personal representative or trustee cannot or does not appoint an interim manager, Franchisor may provide interim on-site management of Franchisee's Kidokinetics Business, for which services Franchisee shall pay to Franchisor the Interim Management Fee. If Franchisee's heirs or successors do not appoint a Manager or transfer the Franchised Business within 180 days, the Franchise Agreement will automatically terminate, unless prohibited by law.
- 15.7. Effect of Consent to Transfer. Franchisor's consent to a Transfer will not waive any claims Franchisor may have against the Franchisee or any of Franchisee's Principals nor waive its right to demand that the transferee comply strictly with this Agreement.
- 15.8. Security Interests to Lender. Franchisee may not pledge, encumber, hypothecate, assign or otherwise give a third party a security interest in this Agreement, the Trade Names or Marks, other trade names, copyrighted materials, or the Kidokinetics Business, in any manner whatsoever without our consent, specifically stating the encumbrance is permissible and describing the specific nature of the encumbrance. Any attempted encumbrance made in violation of this section is a breach of this Agreement and voids the security interest.



- 15.9. **Franchisor’s Right of First Refusal.** If Franchisee at any time determines to sell or transfer (1) an interest in this Agreement, (2) all or substantially all of the assets of the Franchised Business, or (3) the Franchised Business (including the right to receive Franchisee’s portion of the Franchised Business’s profits or losses) – except to or among Franchisee’s Principals – Franchisee agrees to obtain from a responsible and fully disclosed buyer, and send to Franchisor, a true and complete copy of a bona fide, executed written offer relating exclusively to an interest in this Agreement, the assets of the Franchised Business and/or the Franchised Business. The offer must include details of the payment terms of the proposed sale and the sources and terms of any financing for the proposed purchase price. To be a valid, bona fide offer, the proposed purchase price must be in a dollar amount, and the proposed buyer must submit with its offer an earnest money deposit equal to five percent or more of the offering price.

Franchisor may, by delivering written notice to Franchisee within 30 days after Franchisor receives both an exact copy of the offer and all other information Franchisor requests, elect to purchase the interest for the price and on the terms and conditions contained in the offer, provided that: (1) Franchisor may substitute cash for any form of payment proposed in the offer; (2) Franchisor’s credit will be deemed equal to the credit of any proposed buyer; (3) Franchisor will have not less than 60 days to prepare for closing after notifying Franchisee of Franchisor’s election to purchase; and (4) Franchisor must receive, and Franchisee agree to make, all customary representations and warranties given by the seller of the assets of a business, including, without limitation, representations and warranties regarding ownership and condition of, and title to, assets and validity of contracts and the liabilities, contingent or otherwise, relating to the assets being purchased. If Franchisor exercises Franchisor’s right of first refusal, Franchisee agrees that, for two years beginning on the closing date, Franchisee will be bound by the non-competition covenant contained in Section 18.5 below.

If Franchisor does not exercise Franchisor’s right of first refusal, Franchisee may complete the sale to the proposed buyer on the original offer’s terms, subject to Franchisor’s approval of the transfer as provided in this Article 16. If Franchisee does not complete the sale to the proposed buyer within 60 days after Franchisor notifies Franchisee that Franchisor does not intend to exercise Franchisor’s right of first refusal, or if there is a material change in the terms of the sale (which Franchisee must tell Franchisor promptly), Franchisor will have an additional right of first refusal during the 15 day period following either the expiration of the 60 day period or Franchisor’s receipt of notice of the material change(s) in the sale’s terms, either on the terms originally offered or the modified terms, at Franchisor’s option.

## 16. **DEFAULTS AND TERMINATION**

- 16.1. **Default and Automatic Termination.** Franchisee will be deemed to be in default under this Agreement, and all rights granted herein will automatically terminate without notice to Franchisee, if Franchisee becomes insolvent or makes a general assignment for the benefit of creditors; or if Franchisee or any Principal files a voluntary petition under any section or chapter of federal bankruptcy law or under any similar law or statute of the United States or any state thereof, or admits in writing its inability to pay its debts when due; or if Franchisee or any Principal is adjudicated as bankrupt or insolvent in proceedings filed against Franchisee or any Principal under any section or chapter of federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee’s business or assets is filed and consented to by Franchisee; or if a receiver or other custodian (permanent or temporary) of Franchisee’s assets or property, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any state or federal law should be instituted by or against Franchisee; or if a final judgment remains unsatisfied or of record for 30 days or longer (unless supersedeas bond is filed); or if Franchisee is dissolved; or if execution is levied against Franchisee’s business or property; or if suit to foreclose any lien or mortgage against the Kidokinetics Business premises or equipment is instituted against Franchisee and not dismissed within 30 days. No provision



herein expressly identifying any termination or breach of this Franchise Agreement as material shall be construed to imply that any other term or breach which is not so identified is not material.

- 16.2. Defaults with No Opportunity to Cure. Franchisee will be deemed to be in default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective immediately upon notice to Franchisee, if Franchisee, or any Principal, as the case may be:
- 16.2.1. fails to open the Kidokinetics Business within the time and in the manner specified in Article 7.
  - 16.2.2. falsifies any report required to be furnished Franchisor hereunder;
  - 16.2.3. abandons the Kidokinetics Business for a period of five consecutive days or more, with the term “abandon” including any conduct which indicates a desire or intent to discontinue operating the Kidokinetics Business in accordance with the terms of this Agreement and will apply in any event if Franchisee fails to operate the Kidokinetics Business as a Kidokinetics Franchise LLC. business for a period of 5 or more consecutive days without Franchisor’s prior written approval;
  - 16.2.4. fails to comply with any federal, state or local law, rule or regulation, applicable to the operation of the Kidokinetics Business, including, but not limited to, the failure to pay taxes;
  - 16.2.5. defaults under any lease or sublease of the real property on which the Kidokinetics Business is located;
  - 16.2.6. understates Gross Sales by 5% at any time, or understates Gross Sales by any amount on three occasions or more, whether or not cured on any or all of those occasions;
  - 16.2.7. permits a Transfer in violation of the provisions of Article 15 of this Agreement;
  - 16.2.8. fails, or Franchisee’s legal representative fails, to transfer the interests in this Franchise Agreement and the Kidokinetics Business Location upon death or permanent disability of Franchisee or any Principal of Franchisee in accordance with the procedures set forth in Article 15 of this Agreement.
  - 16.2.9. has misrepresented or omitted material facts in applying for the Franchised Business;
  - 16.2.10. is convicted of, or pleads no contest to, a felony or a crime that could damage the goodwill associated with the Marks, or does anything to harm the reputation of the System or the goodwill associated with the Marks;
  - 16.2.11. receives an adverse judgment or a consent decree in any case or proceeding involving allegations of fraud, racketeering, unfair or improper trade practices or similar claim which is likely to have an adverse effect on the System, or the Marks, the goodwill associated with the System or Marks or Franchisor’s interest, in Franchisor’s sole opinion;
  - 16.2.12. conceals revenues, knowingly maintains false books or records, or knowingly submits any false reports;
  - 16.2.13. creates a threat or danger to public health or safety from the maintenance or operation of the Kidokinetics Business;
  - 16.2.14. refuses to permit Franchisor to inspect or audit Franchisee’s books or records;



- 16.2.15. makes any unauthorized use of the Marks or other Intellectual Property or any unauthorized use or disclosure of Confidential Information (as defined in Section 18.2);
- 16.2.16. fails to comply with the non-competition covenants in Section 18.5;
- 16.2.17. defaults in the performance of Franchisee's obligations under this Agreement three (3) or more times during the term of this Agreement or any renewals or has been given at least two notices of default in any consecutive 12-month period, whether or not the defaults have been corrected;
- 16.2.18. has insufficient funds to honor a check or electronic funds transfer three or more times within any consecutive 12-month period, whether or not the defaults have been corrected;
- 16.2.19. defaults, or an affiliate of Franchisee defaults, under any other agreement, including any other franchise agreement, with Franchisor or any of its affiliates, suppliers or landlord and does not cure such default within the time period provided in such other agreement;
- 16.2.20. issues a press release or responds to a media inquiry without prior approval from Franchisor;
- 16.2.21. breaches its obligations under Section 21.12; or
- 16.2.22. fails to meet the Minimum Performance Requirement.
- 16.3. Upon 5 Days' Notice to Cure. Franchisee will be deemed to be in default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, if Franchisee fails to cure the default within the time period set forth in this Section 16.3, effective immediately upon notice to Franchisee, if Franchisee, or any Principal, as the case may be: fails to pay when due any amounts due to Franchisor under this Agreement or any related agreement and does not correct the failure within five calendar days after written notice; provided, however, Franchisor has no obligation to give written notice of a late payment more than two times in any 12 month period, and the third such late payment in any 12 month period is a non-curable default under Section 16.2.19.
- 16.4. Upon 15 Days' Notice to Cure. Franchisee will be deemed to be in default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, if any of the following defaults remain uncured for 15 calendar days after written notice:
- 16.4.1. Franchisee fails to immediately endorse and deliver to Franchisor any payments due to Franchisor from any third party that is erroneously made to Franchisee.
- 16.4.2. Franchisee fails to maintain the prescribed months, days or hours of operation at the Kidokinetics Business.
- 16.4.3. Franchisee fails, in Franchisor's sole discretion, to personally supervise day-to-day operation of the Kidokinetics Business or fails to employ a sufficient number of qualified, competent personnel as Franchisor requires from time to time.
- 16.4.4. Franchisee fails to maintain the strict quality controls reasonably required by this Agreement and/or the Franchise Operations Manual.
- 16.4.5. Franchisee conducts itself in a manner that, although not criminal, reflects adversely on the System, the Marks, or the services offered through the System.



- 16.4.6. Franchisee fails to procure or maintain any licenses, certifications, or permits necessary for the operation of Franchisee's Kidokinetics Business.
- 16.5. Upon 30 Days' Notice to Cure. Franchisee shall be deemed to be in default and Franchisor has the right to terminate this Agreement if Franchisee fails to perform or comply with any one or more of the terms or conditions of this Agreement or any ancillary agreements between Franchisee and Franchisor or Franchisor's affiliates and fails to cure such default after notice and expiration of the thirty (30)-day cure period.
- 16.6. Franchisor's Cure of Franchisee's Defaults. In the event of a default by Franchisee, in addition to Franchisor's right to terminate the Franchise Agreement, Franchisor may, but has no obligation to:
- 16.6.1. effect a cure on Franchisee's behalf and at Franchisee's expense, and Franchisee shall immediately pay Franchisor the costs incurred by Franchisor upon demand; or
- 16.6.2. enter upon the Kidokinetics Business Location and exercise complete authority with respect to the operation of the Kidokinetics Business until such time as Franchisor determines that the default of Franchisee has been cured and that Franchisee is complying with the requirements of this Agreement. Franchisee specifically agrees that a designated representative of Franchisor may take over, control and operate the Kidokinetics Business. In addition to all other fees paid under this Agreement, Franchisee shall pay Franchisor ten (10%) percent of the Gross Sales generated by the Kidokinetics Business during Franchisor's operation of the Kidokinetics Business, as compensation. Further, Franchisee shall reimburse Franchisor for the full compensation paid to such representative including the cost of all fringe benefits plus all travel expenses, lodging, meals and other expenses reasonably incurred by such representative until the default has been cured and Franchisee is complying with the terms of this Agreement. Franchisee shall have a clause inserted in its lease for the premises that permits Franchisor to exercise its rights pursuant to this Section.
- 16.7. Nonwaiver. Franchisor's delay in exercising or failure to exercise any right or remedy under this Agreement, or Franchisor's acceptance of any late or partial payment due hereunder will not constitute a waiver of any of Franchisor's rights or remedies against Franchisee.

## 17. **POST-TERMINATION**

- 17.1. Franchisee's Obligations. Upon termination or expiration of this Agreement, all rights and licenses granted hereunder to Franchisee will immediately terminate and Franchisee and each Principal, if any, shall:
- 17.1.1. immediately cease to operate the Kidokinetics Business, and not, directly or indirectly, identify himself, herself or itself as a current or former Kidokinetics Business owner, franchisee or licensee;
- 17.1.2. immediately and permanently cease to use the Marks, any imitation of any Mark or other indicia of a Kidokinetics Business, or use any trade name, trade or service mark or other commercial symbol that suggests an association with Franchisor, Licensor, or the System. In particular, Franchisee shall cease to use, without limitation, all signs, advertising materials, displays, vehicle wraps, stationery, forms and any other articles, which display the Marks;
- 17.1.3. take such action as may be necessary to cancel any assumed name or equivalent registration that contains the Mark or any other service mark or trademark of Franchisor, and Franchisee shall furnish Franchisor with evidence of compliance with this obligation, which is satisfactory to Franchisor, within five (5) days after termination or expiration of this Agreement;



- 17.1.4. promptly pay all sums owing to Franchisor and its affiliates. Such sums will include all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of any default by Franchisee. The payment obligation gives rise to and remains until paid in full, a lien in favor of Franchisor against any and all of the personal property, furnishings, equipment, fixtures and vehicles owned by Franchisee and used in the operation of the Kidokinetics Business at the time of default;
  - 17.1.5. pay to Franchisor all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor in connection with obtaining any remedy available to Franchisor for any violation of this Agreement and, subsequent to the termination or expiration of this Agreement, in obtaining injunctive or other relief for the enforcement of any provisions of this Agreement that survive its termination;
  - 17.1.6. immediately deliver to Franchisor the Franchise Operations Manual and all records, files, instructions, customer lists, correspondence, invoices, agreements and all other materials related to operation of the Kidokinetics Business (all of which are acknowledged to be Franchisor's property), and retain no copy or record of any of the foregoing, except Franchisee's copy of this Agreement and of any correspondence between the parties and any other documents that Franchisee reasonably needs for compliance with any provision of law;
  - 17.1.7. comply with the non-disclosure and non-competition covenants contained in Article 18; and
  - 17.1.8. Permit Franchisor to make a final inspection of Franchisee's financial records, books, and other accounting records within one (1) month of the effective date of termination, expiration, or transfer.
- 17.2. Right to Purchase.
- 17.2.1. Franchisor has the option, but not the obligation, to be exercised within thirty (30) days after termination or expiration of this Agreement, to purchase from Franchisee any or all of the equipment (including any point-of-sale system or computer systems), vehicles, signs, fixtures, advertising materials and supplies of Franchisee related to the operation of the Kidokinetics Business, at Franchisee's cost or fair market value, whichever is less. Franchisor will purchase Franchisee's assets free and clear of any liens, charges, encumbrances or security interests and Franchisor will assume no liabilities whatsoever, unless otherwise agreed to in writing by the parties. If the parties cannot agree on the fair market value within thirty (30) days of Franchisor's exercise of its option, fair market value will be determined by two (2) appraisers, with each party selecting one (1) appraiser, and the average of their determinations will be binding. In the event of such appraisal, each party will bear its own legal and other costs and split the appraisal fees equally. If Franchisor elects to exercise its option to purchase, it will have the right to set off (i) all fees for any such independent appraiser due from Franchisee, (ii) all amounts due from Franchisee to Franchisor or any of its affiliates and (iii) any costs incurred in connection with any escrow arrangement (including reasonable legal fees), against any payment and will pay the remaining amount in cash. Closing of the purchase will take place no later than thirty (30) days after determination of the fair market value.
  - 17.2.2. With respect to the options described in Sections 17.2.1, Franchisee must deliver to Franchisor in a form satisfactory to Franchisor, such warranties, deeds, releases of lien, bills of sale, assignments and such other documents and instruments that Franchisor deems necessary in order to perfect Franchisor's title and possession in and to the properties being purchased or assigned and to meet the requirements of all tax and government authorities. If, at the time of closing, Franchisee has not obtained all of these certificates and other documents, Franchisor may, in its sole discretion, place the purchase price in escrow pending issuance of any required certificates or documents.

17.2.3. Franchisor may assign any and all of its options in Section 17.2.1 to any other party, without the consent of Franchisee.

17.3. Assignment of Telephone Numbers. Franchisee, at the option of Franchisor, shall assign to Franchisor all rights to the telephone numbers of the Kidokinetics Business and any related business listings and execute all forms and documents required by Franchisor and any telephone company at any time, to transfer such service and numbers to Franchisor. Further, Franchisee shall assign to Franchisor any and all Internet listings, domain names, Internet advertising, websites, listings with search engines, electronic mail addresses or any other similar listing or usage related to the Kidokinetics Business. Notwithstanding any forms and documents that may have been executed by Franchisee under Section 10.7, Franchisee hereby appoints Franchisor its true and lawful agent and attorney-in-fact with full power and authority, for the sole purpose of taking such action as is necessary to complete such assignment. This power of attorney will survive the expiration or termination of this Agreement. Franchisee shall use different telephone numbers, electronic mail addresses or other listings or usages at or in connection with any subsequent business conducted by Franchisee.

17.4. Survival. The rights and obligations of the parties contained in this Article 17 will survive the expiration or sooner termination of this Agreement.

## 18. **NON-DISCLOSURE AND NON-COMPETITION COVENANTS**

### 18.1. Franchise Operations Manual.

18.1.1. Franchisor has provided to Franchisee, on loan, a current copy of the Franchise Operations Manual. The Franchise Operations Manual may be in hard copy or made available to Franchisee in digital, electronic or computerized form or in some other form now existing or developed in the future that would allow Franchisee to view the contents. If the Franchise Operations Manual (or any changes) are provided in a form other than paper copy, Franchisee will pay any and all costs to retrieve, review, use or access the Franchise Operations Manual. To protect the reputation and goodwill of Franchisor and to maintain high standards of operation under Franchisor's Marks, Franchisee must operate all aspects of the Kidokinetics Business in accordance with the Franchise Operations Manual, as they may from time to time be modified by Franchisor, other written directives that Franchisor may issue to Franchisee from time to time, whether or not such directives are included in the Franchise Operations Manual, and any other manual and materials created or approved for use in the operation of the Franchised Business.

18.1.2. Franchisee and any and all Principals shall, at all times, treat the Franchise Operations Manual, any written directives of Franchisor, and any other manual and materials, and the information contained therein, as confidential and shall maintain such information as trade secrets and confidential in accordance with this Article and this Agreement. Franchisee and Franchisee's Principals, if any, shall not divulge and make such materials available to anyone other than those of Franchisee's employees who require the information contained therein to operate the Kidokinetics Business. Franchisee and Franchisee's Principals, if any, may not at any time copy, duplicate, record or otherwise reproduce these materials, in whole or in part, or otherwise make the same available to any person other than those authorized above, without Franchisor's prior written consent.

18.1.3. The Franchise Operations Manual, written directives, and other materials and any other confidential communications provided or approved by Franchisor will at all times remain the sole property of Franchisor. Franchisee shall maintain the Franchise Operations Manual at all times in a safe and secure location, take all reasonable measures to prevent unauthorized access to the Franchise Operations Manual, whether any attempted unauthorized access takes the form of



physical access or access via computer or telecommunications networks or otherwise, and report the theft or loss of the Franchise Operations Manual, or any portion thereof, immediately to Franchisor. At a minimum, Franchisee shall, in the case of computer and telecommunications networks, use the latest available firewall and similar technology to prevent unauthorized access. Franchisee must return the Franchise Operations Manual to Franchisor immediately upon request or upon transfer, termination or expiration of this Agreement.

- 18.1.4. Franchisor may from time to time revise the contents of the Franchise Operations Manual and other materials created or approved for use in the operation of the Kidokinetics Business. Franchisee expressly agrees to comply with each new or changed policy, standard or directive. Franchisee must, at all times, ensure that the Franchise Operations Manual is kept current and up to date. In the event of any dispute as to the contents of the Franchise Operations Manual, the terms of the master copy of the Franchise Operations Manual maintained by Franchisor will control.
- 18.2. Confidential Information. Franchisee and any Principal acknowledge and accept that, during the term of this Agreement, Franchisee and any Principal will have access to Franchisor's trade secrets, including, but not limited to: methods, processes, customer lists, vendor partnerships and/or relationships, sales and technical information, costs, service prices, software tools and applications, website and/or email design, products, services, equipment, technologies and procedures relating to the operation of the Kidokinetics Business; systems of operation, services, programs, procedures, policies, standards, techniques, requirements and specifications which are part of the System; the Franchise Operations Manual; methods of advertising and promotion; instructional materials; marketing plans, business methods, research, development or know-how; any other information which Franchisor may or may not specifically designate as "confidential" or "proprietary", and the components of the System, whether or not such information is protected or protectable by patent, copyright, trade secret or other proprietary rights (collectively referred to herein as the "Confidential Information"). Franchisee acknowledges and agrees that certain information, including (i) current customer and prospective customer names and addresses, (ii) information about credit extensions to customers, (iii) customer service purchasing histories, (iv) rates charged to customers (subsections (i)-(iv) collectively "Customer Lists"), and (v) sources of suppliers and purchasing arrangements with suppliers, also constitute the trade secrets and Confidential Information of Franchisor. Neither Franchisee nor any Principal may, during the term of this Agreement or following the expiration or termination of the Agreement, communicate or divulge to, or use for the benefit of, any other person or entity. Following the expiration or termination of this Agreement, Franchisee or any Principal shall not use for their own benefit, any Confidential Information that may be communicated to Franchisee or any Principal or of which Franchisee or any Principal may be apprised in connection with the operation of the Kidokinetics Business under the terms of this Agreement. Franchisee and any Principal shall not divulge and make any Confidential Information available to anyone other than those of Franchisee's employees who require the Confidential Information to operate the Kidokinetics Business. Franchisee and any Principal shall not at any time copy, duplicate, record or otherwise reproduce any Confidential Information, in whole or in part, or otherwise make the same available to any person other than those authorized above, without Franchisor's prior written consent. The covenant in this Section 18.2 will survive the expiration, termination or transfer of this Agreement or any interest in the Agreement and be perpetually binding upon Franchisee and each Principal.
- 18.3. Protection of Information. Franchisee shall take all steps necessary, at Franchisee's own expense, to protect the Confidential Information and immediately notify Franchisor if Franchisee finds that any Confidential Information has been divulged in violation of this Agreement.
- 18.4. New Concepts. If Franchisee or any Principal develops any new concept, process or improvement in the performance of services, or in the operation or promotion of the Kidokinetics Business ("Improvements"), Franchisee is required to promptly notify Franchisor and provide Franchisor with all related information,



processes or other improvements, and sign any and all forms, documents and/or papers necessary for Franchisor to obtain full proprietary rights to such Improvements, without compensation and without any claim of ownership or proprietary rights to such Improvements. Franchisee and any Principal acknowledge that any such Improvements will become the property of Franchisor, and Franchisor may use or disclose such information to other franchisees as it determines to be appropriate.

18.5. Non-Competition Covenants. Franchisee and each Principal, if any, specifically acknowledge that, pursuant to this Agreement, Franchisee and each Principal, if any, will receive valuable training, trade secrets and Confidential Information of the System that are beyond the present knowledge, training and experience of Franchisee, each Principal and Franchisee's managers and employees. Franchisee and each Principal, if any, acknowledge that such specialized training, trade secrets and Confidential Information provide a competitive advantage and will be valuable to them in the development and operation of the Kidokinetics Business, and that gaining access to such specialized training, trade secrets and Confidential Information is, therefore, a primary reason why Franchisee and each Principal, if any, are entering into this Agreement. In consideration for such specialized training, trade secrets, Confidential Information and rights, Franchisee and each Principal, if any, covenant that, except as otherwise approved in writing by Franchisor:

18.5.1. During the term of this Agreement, Franchisee, each Principal, and the spouse of Franchisee and each Principal if any, shall not, either directly or indirectly, for themselves or through, on behalf of, or in conjunction with, any person or entity: (i) divert, or attempt to divert, any business or customer of the Kidokinetics Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any youth fitness business or any other business offering any other goods or services offered or authorized for sale by System franchisees ("Competing Business"); (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of the Franchisor or any Kidokinetics franchisees.

18.5.2. Upon the expiration or earlier termination of this Agreement, or upon a Transfer and continuing for 24 months, Franchisee and Principals, and the spouse of Franchisee and each Principal if any, shall not, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person or entity (i) divert, or attempt to divert, any business or customer of the Kidokinetics Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in Competing Business within a twenty (20) mile radius of the perimeter of (a) the Territory being granted hereunder, or (b) any other Territory licensed by Franchisor as of the date of expiration or termination of this Agreement; (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of the Franchisor or any Kidokinetics franchisees; or (v) solicit business from customers of Franchisee's former Kidokinetics Business or contact any of Franchisor's suppliers or vendors for any competitive business purpose.

18.6. Reasonableness of Restrictions. Franchisee acknowledges and agrees that the covenants not to compete set forth in this Agreement are fair and reasonable and will not impose any undue hardship on Franchisee or Principals, if any, since Franchisee or Principals, as the case may be, have other considerable skills, experience and education which afford Franchisee or Principals, as the case may be, the opportunity to derive income from other endeavors.



- 18.7. Reduction of Time or Scope. If the period of time or the geographic scope specified above should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion of geographic scope, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor has the right, in its sole discretion, to reduce the scope of any covenant set forth in this Article 18 or any portion thereof, without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice, and Franchisee agrees to immediately comply with any covenant as so modified.
- 18.8. Injunctive Relief. Franchisee acknowledges that a violation of the covenants not to compete contained in this Agreement would result in immediate and irreparable injury to Franchisor for which no adequate remedy at law will be available. Accordingly, Franchisee hereby consents to the entry of an injunction prohibiting any conduct by Franchisee or any Principal in violation of the terms of the covenants not to compete set forth in this Agreement.
- 18.9. No Defense. Franchisee and each Principal, if any, expressly agree that the existence of any claims they may have against Franchisor, whether or not arising from this Agreement, will not constitute a defense to the enforcement by Franchisor of the covenants in this Section.
- 18.10. Covenants of Managers. Franchisee shall require and obtain execution of covenants similar to those set forth in this Section (including covenants applicable upon the termination of a person's employment with Franchisee) from its Manager and all other management level personnel of Franchisee who have received or will have access to training from Franchisor. Such covenants will be substantially in the form set forth in Attachment "F".

## 19. **DISPUTE RESOLUTION**

- 19.1. Internal Dispute Resolution. Franchisee must first bring any claim or dispute between Franchisee and Franchisor to Franchisor's President. Franchisee must exhaust this internal dispute resolution procedure before Franchisee may bring Franchisee's dispute before a third party. This agreement to first attempt resolution of disputes internally will survive termination or expiration of this Agreement.
- 19.2. Mediation. At Franchisor's option, all claims or disputes between Franchisee and Franchisor or its affiliates arising out of, or in any way relating to, this Agreement or any other agreement by and between Franchisee and Franchisor or its affiliates, or any of the parties' respective rights and obligations arising from such agreements, which are not first resolved through the internal dispute resolution procedure set forth in Section 19.1 above, must be submitted first to non-binding mediation, in Davie, Florida or the Greater Miami Area under the auspices of the American Arbitration Association ("AAA"), in accordance with AAA's Commercial Mediation Rules then in effect. Before commencing any legal action against Franchisor or its affiliates with respect to any such claim or dispute, Franchisee must submit a notice to Franchisor, which specifies, in detail, the precise nature and grounds of such claim or dispute. Franchisor will have a period of 30 days following receipt of such notice within which to notify Franchisee whether Franchisor or its affiliates elects to exercise its option to submit such claim or dispute to mediation. Franchisee may not commence any action against Franchisor or its affiliates with respect to any such claim or dispute in any court unless Franchisor fails to exercise its option to submit such claim or dispute to mediation, or such mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by Franchisor. Franchisor's rights to mediation, as set forth herein, may be specifically enforced by Franchisor. Each party will bear its own cost of mediation and Franchisee and Franchisor will share mediation costs equally. This agreement to mediate will survive any termination or expiration of this Agreement. The parties agree that there will be no class action mediation. The parties will not be required to first attempt to mediate a controversy, dispute, or claim through mediation as set forth in this



Section 19.2 if such controversy, dispute, or claim concerns an allegation that a party has violated (or threatens to violate, or poses an imminent risk of violating):

- (1) Any federally protected intellectual property rights in the Marks, the System, Proprietary Materials, Proprietary Software, or in any Confidential Information;
- (2) Any claims pertaining to or arising out of any warranty issue;
- (3) Any of the restrictive covenants contained in this Agreement; or
- (4) Any claims to collect past due amounts owed to Franchisor or its affiliates.

- 19.3. Governing Law. With respect to all claims, controversies, disputes or actions, related to this Agreement, the Attachments hereto or the relationship created thereby, this Agreement and any such related Disputes are to be governed, enforced and interpreted under Florida law without reference to its conflict of laws principles.
- 19.4. Selection of Venue. With respect to any claims not subject to or not resolved through mediation as set forth in Section 19.2 above or governed by Section 19.5 below, the parties expressly agree to the jurisdiction and venue of any court of general jurisdiction in Broward County, Florida, and the jurisdiction and venue of the United States District Court for the Southern District of Florida. Franchisee acknowledges that this Agreement has been entered into in the State of Florida, and that Franchisee is to receive valuable and continuing services emanating from Franchisor's headquarters in Davie, Florida, including but not limited to training, assistance, support and the development of the System. In recognition of such services and their origin, Franchisee hereby irrevocably consents to the personal jurisdiction of the state and federal courts of Florida as set forth in this Section.
- 19.5. Injunctive Relief. Nothing in this Agreement shall prevent Franchisor from seeking to obtain injunctive relief in any jurisdiction, without posting a bond, against threatened conduct that will cause Franchisor loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary and permanent injunctions. If injunctive relief is granted, Franchisee's only remedy will be the court's dissolution of the injunctive relief. If the injunctive relief was wrongfully issued, Franchisee expressly waives all claims for damages Franchisee incurred as a result of the wrongful issuance.
- 19.6. Mutual Benefit. The Parties acknowledge that their agreement regarding applicable state law and forum set forth in this Article 19 provides them with the mutual benefit of uniform interpretation of this Agreement and any dispute arising hereunder. The Parties further acknowledge the receipt and sufficiency of mutual consideration for such benefit.
- 19.7. **WAIVER OF CERTAIN DAMAGES. THE FRANCHISEE HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES, INCLUDING LOST PROFITS, AGAINST FRANCHISOR, ITS AFFILIATES, AND ITS RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, AGENTS, REPRESENTATIVES, INDEPENDENT CONTRACTORS, SERVANTS AND EMPLOYEES, IN THEIR CORPORATE AND INDIVIDUAL CAPACITIES, ARISING OUT OF ANY CAUSE WHATSOEVER. FRANCHISEE AGREES THAT IN THE EVENT OF A DISPUTE, ALL CLAIMS ARE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED.**



- 19.8. **LIMITATIONS OF CLAIMS.** FRANCHISEE FURTHER AGREES THAT NO CAUSE OF ACTION ARISING OUT OF OR UNDER THIS AGREEMENT MAY BE MAINTAINED BY FRANCHISEE AGAINST FRANCHISOR UNLESS BROUGHT BEFORE THE EXPIRATION OF ONE (1) YEAR AFTER THE ACT, TRANSACTION OR OCCURRENCE UPON WHICH SUCH ACTION IS BASED OR THE EXPIRATION OF ONE (1) YEAR AFTER THE FRANCHISEE BECOMES AWARE OF FACTS OR CIRCUMSTANCES REASONABLY INDICATING THAT FRANCHISEE MAY HAVE A CLAIM AGAINST FRANCHISOR HEREUNDER, WHICHEVER OCCURS SOONER, AND THAT ANY ACTION NOT BROUGHT WITHIN THIS PERIOD SHALL BE BARRED AS A CLAIM, COUNTERCLAIM, DEFENSE, OR SET-OFF, PROVIDED HOWEVER, THAT THE FORGOING LIMITATION SHALL NOT APPLY (I) WHERE PROHIBITED BY APPLICABLE LAW; (II) TO THE INDEMNIFICATION OBLIGATIONS UNDER THIS FRANCHISE AGREEMENT OR; (III) TO THE MEDIATION EXCEPTIONS IN THIS SECTION. FRANCHISEE HEREBY WAIVES THE RIGHT TO OBTAIN ANY REMEDY BASED ON ALLEGED FRAUD, MISREPRESENTATION, OR DECEIT BY FRANCHISOR, INCLUDING, WITHOUT LIMITATION, RESCISSION OF THIS AGREEMENT, IN ANY MEDIATION, JUDICIAL, OR OTHER ADJUDICATORY PROCEEDING ARISING HEREUNDER, EXCEPT UPON A GROUND EXPRESSLY PROVIDED IN THIS AGREEMENT, OR PURSUANT TO ANY RIGHT EXPRESSLY GRANTED BY ANY APPLICABLE STATUTE REGULATING THE SALE OF FRANCHISES, OR ANY REGULATION OR RULES PROMULGATED THEREUNDER.
- 19.9. **WAIVER OF JURY TRIAL.** IN THE EVENT ANY PARTY INITIATES LITIGATION FOR ANY CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES, INCLUDING THOSE THAT INCLUDE OTHER PARTIES OR CLAIMS, ALL PARTIES WAIVE THEIR RIGHT TO A TRIAL BY JURY. THIS WAIVER APPLIES TO ALL CAUSES OF ACTION THAT ARE OR MIGHT BE INCLUDED IN SUCH LITIGATION, INCLUDING BUT NOT LIMITED TO CLAIMS RELATED TO THE ENFORCEMENT OR INTERPRETATION OF THIS AGREEMENT, ALLEGATIONS OF STATE OR FEDERAL STATUTORY VIOLATIONS, FRAUD, MISREPRESENTATION, OR SIMILAR CAUSES OF ACTION, AND IN CONNECTION WITH ANY LEGAL ACTION INITIATED FOR THE RECOVERY OF DAMAGES BETWEEN THE PRINCIPALS.
- 19.10. **NO CLASS OR CONSOLIDATED ACTION.** ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP AMONG THE PARTIES MUST BE CONDUCTED ON AN INDIVIDUAL, AND NOT A CLASS-WIDE, CONSOLIDATED, OR MULTIPLE PLAINTIFFS BASIS.
- 19.11. **LIMITATION ON PARTIES.** THE PARTIES MAY ONLY SEEK DAMAGES OR ANY REMEDY UNDER LAW OR EQUITY FOR ANY CLAIM AGAINST EACH OTHER OR THEIR SUCCESSORS, ASSIGNS OR GUARANTORS ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES AND THE PARTIES AGREE THAT PRINCIPALS, AFFILIATES, SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (THE "NON-PARTY"), UNLESS SUBJECT TO A PERSONAL GUARANTY, WILL NOT BE PERSONALLY LIABLE OR NAMED AS A PARTY IN ANY LITIGATION PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP AMONG THE PARTIES. IN THE EVENT A NON-PARTY IS NAMED IN ANY ACTION, THE PARTIES AGREE HEREIN THAT ANY CLAIMS AGAINST THE NON-PARTY WILL BE DISMISSED BY THE ARBITRATOR OR COURT WITH PREJUDICE UPON A MOTION TO DISMISS AND ALL COSTS OF LITIGATION INCURRED BY THE NON-PARTY, INCLUDING BUT NOT LIMITED TO ATTORNEYS FEES, WILL BE AWARDED TO THE NON-PARTY.



19.12. **SURVIVAL. THE PROVISIONS OF THIS ARTICLE 19 WILL CONTINUE IN FULL FORCE AND EFFECT, NOTWITHSTANDING THE EXPIRATION OR TERMINATION OF THIS AGREEMENT OR A TRANSFER BY FRANCHISEE OR ANY PRINCIPAL OF THEIR RESPECTIVE INTERESTS IN THIS AGREEMENT.**

19.13. Modification. The provisions of Article 19 are independent of any other covenant or provision of this Agreement, provided, however, that in the event any court of competent jurisdiction or arbitrator find any provision in this Article 19 to be unlawful in any way, this Article 19 may be modified only to the extent necessary to have them comply with the law.

## 20. GENERAL

20.1. Independent Contractor. Franchisee is and will be an independent contractor under this Agreement, and no partnership exists between Franchisee and Franchisor. This Agreement does not constitute Franchisee as an agent, legal representative, or employee of Franchisor for any purpose whatsoever, and Franchisee is not granted any right or authority to assume or create any obligation for or on behalf of, or in the name of, or in any way to bind Franchisor. Franchisee agrees not to incur or contract any debt or obligation on behalf of Franchisor or commit any act, make any representation or advertise in any manner which may adversely affect any right of Franchisor or be detrimental to Franchisor or other franchisees of Franchisor. Pursuant to the above, Franchisee agrees to indemnify Franchisor and hold Franchisor harmless from any and all liability, loss, attorneys' fees, or damage Franchisor may suffer as a result of claims, demands, taxes, costs or judgments against Franchisor arising out of the relationship hereby established which specifically, but not exclusively, includes costs, losses, expenses, attorneys' fees, relative to assignment or the transfer of right to franchise and transactional costs relative thereto, defaults under any leases, subleases, notes, receipt of revenues or any other relationships arising directly or indirectly out of the operation of the Franchise. Franchisee further agrees that fulfillment of any and all of Franchisor's obligations written in the Franchise Agreement shall be Franchisor's sole responsibility and none of Franchisor's owners, officers, agents, representatives, nor any individuals associated with Franchisor shall be personally liable to Franchisee for any reason. Nothing in this Franchise Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Franchise Agreement; provided, however, that the additional insureds and the Indemnitees are intended third party beneficiaries under this Franchise Agreement with respect to indemnification obligations of Franchisee.

20.2. Successors. This Agreement binds and inures to the benefit of the successors and assigns of Franchisor and is personally binding on and inures to the benefit of Franchisee (including the individuals executing this Agreement on behalf of an entity if Franchisee is an entity) and its or their respective heirs, executors, administrators and successors or assigns; provided, however, the foregoing provision will not be construed to allow a transfer of any interest of Franchisee or Principals, if any, in this Agreement or the Kidokinetics Business Location, except in accordance with Article 15 hereof.

20.3. Invalidity of Part of Agreement. Should any provisions in this Agreement, for any reason, be declared by a court of competent jurisdiction to be invalid, then such provision will be invalid only to the extent of the prohibition without in any way invalidating or altering any other provision of this Agreement.

20.4. Entire Agreement. This Agreement, including all attachments, is the entire agreement of the parties, superseding all prior written or oral agreements of the parties concerning the same subject matter, and superseding all prior written or oral representations made to Franchisee or any Principal, except the representations made in Franchisor's Franchise Disclosure Document. Nothing contained in this Agreement or in any related agreement is intended to disclaim the representations Franchisor made in the Franchise Disclosure Document. No agreement of any kind relating to the matters covered by this



Agreement and no amendment of the provisions of the Agreement are binding upon either party unless and until the same has been made in writing and executed by all interested parties.

- 20.5. Construction. All terms and words used in this Agreement, regardless of the number and gender in which they are used, are deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any provision herein may require, as if such words had been fully and properly written in the appropriate number and gender. All covenants, agreements and obligations assumed herein by Franchisee and any Principals are deemed to be joint and several covenants, agreements and obligations of each of the persons named as Franchisee, if more than one person is so named.
- 20.6. Captions. Captions and section headings are used herein for convenience only. They are not part of this Agreement and will not be used in construing it.
- 20.7. Notices. All notices permitted or required by this Agreement will be in writing and deemed delivered when sent by electronic mail or comparable electronic system, or when delivered by hand, or three (3) days after being placed in the US mail, or one (1) day after being left with an overnight delivery service. Notices will be addressed to Franchisor at its then-current principal place of business address, and to you at your home address or the most current address you provide to us.
- 20.8. Effect of Waivers. No waiver, delay, omission or forbearance on the part of Franchisor to exercise any right, option, duty or power arising from any default or breach by Franchisee affects or impairs the rights of these parties with respect to any subsequent default of the same or of a different kind. Any use by Franchisee of the System or any part of the System at any place other than at the Kidokinetics Business Location does not give Franchisee any rights not specifically granted hereunder. Failure to take action to stop such use will not in any event be considered a waiver of the rights of Franchisor at any time to require Franchisee to restrict said use to Kidokinetics Business Location.
- 20.9. Remedies Cumulative. All rights and remedies of the Franchisor to this Agreement are cumulative and not alternative, in addition to and not exclusive of any other rights or remedies that are provided for in this Agreement or that may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement or any other agreement between Franchisee or any of its affiliates and Franchisor or any of its affiliates. The rights and remedies of the Franchisor to this Agreement are continuing and not exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration, earlier termination or exercise of Franchisor's rights pursuant to Article 16 do not discharge or release Franchisee or any Principal from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination or the exercise of such rights under this Agreement.
- 20.10. Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed are an original, and all of which shall constitute one and the same instrument.
- 20.11. Survival. Any obligation of Franchisee or any Principal that contemplates performance of such obligation after termination or expiration of this Agreement or the transfer of any interest of Franchisee or any Principal therein are deemed to survive such termination, expiration or transfer.
- 20.12. Anti-Terrorist Activities. Franchisee certifies that neither Franchisee, nor Franchisee's owners, principals, employees or anyone associated with Franchisee is listed in the Annex to Executive Order 13224 (the "Annex"). Franchisee agrees not to hire or have any dealings with a person listed in the Annex. Franchisee certifies that Franchisee has no knowledge or information that, if generally known, would



result in Franchisee, Franchisee’s owners, principals, employees, or anyone associated with Franchisee being listed in the Annex. Franchisee agrees to comply with and/or assist Franchisor to the fullest extent possible in Franchisor’s efforts to comply with the Anti-Terrorism Laws (as defined below). In connection with such compliance, Franchisee certifies, represents, and warrants that none of Franchisee’s property or interests are subject to being “blocked” under any of the Anti-Terrorism Laws and that Franchisee and Franchisee’s owners or principals are not otherwise in violation of any of the Anti-Terrorism Laws. Franchisee is solely responsible for ascertaining what actions must be taken by Franchisee to comply with all such Anti-Terrorism Laws, and Franchisee specifically acknowledges and agrees that Franchisee’s indemnification responsibilities of this Agreement pertain to Franchisee’s obligations under this Section 21.12. Any misrepresentation by Franchisee under this Section or any violation of the Anti-Terrorism Laws by Franchisee, Franchisee’s owners, principals or employees will constitute grounds for immediate termination, upon notice, of this Agreement and any other agreement Franchisee has entered into with Franchisor or one of Franchisor’s affiliates in accordance with the terms of Section 16.2.23 of this Agreement. As used herein, “Anti-Terrorism Laws” means Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT Act, and all other present and future federal, state and local laws, ordinances, regulations, policies lists and any other requirements of any Governmental Authority (including without limitation, the United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts and acts of war.

*[Signature page follows]*



FRANCHISOR:

KIDOKINETICS FRANCHISE LLC

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

FRANCHISEE:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_



**FRANCHISE AGREEMENT  
SCHEDULE 1  
DATA SHEET**

The following terms are a part of the Franchise Agreement entered into between the parties and are incorporated therein:

1. Franchise Number: \_\_\_\_\_
2. DBA: Kidokinetics of \_\_\_\_\_
3. Population: \_\_\_\_\_
4. Initial Franchise Fee: \$ \_\_\_\_\_
5. Initial Marketing Package: \$ \_\_\_\_\_
6. Software Licensing Fee: \$ \_\_\_\_\_

FRANCHISOR:

KIDOKINETICS FRANCHISE LLC

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

FRANCHISEE:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_



**FRANCHISE AGREEMENT  
ATTACHMENT A**

Design Mark –



**FRANCHISE AGREEMENT  
ATTACHMENT B**

**TERRITORY DESCRIPTION**

FRANCHISOR:

KIDOKINETICS FRANCHISE LLC

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

FRANCHISEE:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_



**FRANCHISE AGREEMENT  
ATTACHMENT C**

**FORM GENERAL RELEASE - RENEWAL**

[\_\_\_\_\_] (“Franchisee”) and [\_\_\_\_\_] (collectively, “Franchisee’s Principal(s)”), on behalf of themselves and their respective officers, directors, employees, successors, assigns, heirs, personal representatives, and all others persons acting on their behalf or claiming under them (collectively, the “Franchisee Releasors”), hereby release, discharge and hold harmless Kidokinetics Franchise LLC (“Franchisor”), its affiliates, and their respective officers, directors, shareholders, employees, agents, attorneys, successors, and assigns (collectively, the “Franchisor Releasees”) from any suits, claims, controversies, rights, promises, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character and description, in law or in equity, whether presently known or unknown, vested or contingent, suspected or unsuspected arising under, relating to, or in connection with the Franchise Agreement dated \_\_\_\_\_ between Franchisee and Franchisor and any related agreements and the relationship created thereby, or the Kidokinetics Business operated under the Franchise Agreement, or any claims or representations made relative to the sale of the franchise to operate such Kidokinetics Business or under any federal or state franchise or unfair or deceptive trade practice laws, which any of the Franchisee Releasors now own or hold or have at any time heretofore owned or held against the Franchisor Releasees (collectively, the “Franchisee Released Claims”).

FRANCHISEE AND FRANCHISEE’S PRINCIPAL(S), ON BEHALF OF THEMSELVES AND THE FRANCHISEE RELEASORS, WAIVE ANY RIGHTS AND BENEFITS CONFERRED BY ANY APPLICABLE PROVISION OF LAW EXISTING UNDER ANY FEDERAL, STATE OR POLITICAL SUBDIVISION THEREOF WHICH WOULD INVALIDATE ALL OR ANY PORTION OF THE RELEASE CONTAINED HEREIN BECAUSE SUCH RELEASE MAY EXTEND TO CLAIMS WHICH THE FRANCHISEE RELEASORS DO NOT KNOW OR SUSPECT TO EXIST IN THEIR FAVOR AT THE TIME OF EXECUTION OF THIS AGREEMENT.

The Franchisee Releasors also covenant not to bring any suit, action, or proceeding, or make any demand or claim of any type, against any Franchisor Releasees with respect to any Franchisee Released Claim.

Executed as of \_\_\_\_\_, 20\_\_.

FRANCHISEE:

\_\_\_\_\_  
Attest:

\_\_\_\_\_  
By:

FRANCHISEE’S PRINCIPAL:

\_\_\_\_\_  
Witness:

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

\_\_\_\_\_  
Witness:

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





**FRANCHISE AGREEMENT  
ATTACHMENT D**

**STATEMENT OF OWNERSHIP INTERESTS IN FRANCHISEE**

**Name**

**Percentage of Ownership**

FRANCHISEE:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_



**FRANCHISE AGREEMENT  
ATTACHMENT E**

**FRANCHISEE’S PERSONAL GUARANTY**

This Franchisee’s Personal Guaranty and Covenant (this “Guaranty”) is given by each of the undersigned (each, a “Guarantor”) on [\_\_\_\_\_], 20\_\_ to Kidokinetics Franchise LLC, a Florida limited liability company (“Franchisor”), in order to induce Franchisor to enter into that certain Franchise Agreement dated of even date herewith (the “Franchise Agreement”) with \_\_\_\_\_, a \_\_\_\_\_ (“Franchisee”).

Guarantor acknowledges that Guarantor is included in the term “Franchisee’s Principal” as described in the Franchise Agreement.

Guarantor acknowledges that Guarantor has read the terms and conditions of the Franchise Agreement and acknowledges that the execution of this Guaranty and the undertakings of the Franchisee’s Principal herein and in the Franchise Agreement are in partial consideration for, and a condition to the granting of, the rights granted in the Franchise Agreement, and that Franchisor would not have granted these rights without the execution of this Guaranty by Guarantor.

Guarantor hereby individually makes, agrees to be bound by, and agrees to perform, all of the covenants, representations, warranties and agreements of the Franchisee’s Principal as set forth in the Franchise Agreement, including all obligations regarding non-competition and confidentiality.

Guarantor does hereby guarantee to Franchisor the prompt payment and performance when due of any and all liabilities and obligations arising under or evidenced by the Franchise Agreement, any promissory note or other credit instruments, and any other liabilities, obligations and indebtedness of Franchisee and/or any of its assignees or affiliates to Franchisor and/or any of its assignees or affiliates, of every kind and description, now existing or hereafter incurred or arising, matured or unmatured, direct or indirect, absolute or contingent, due or to become due, and any renewals, consolidations and extensions, including any future advances from Franchisor to Franchisee (collectively, the “Guaranteed Obligations”). Guarantor shall perform and/or make punctual payment to Franchisor of the Guaranteed Obligations in accordance with the terms of the Franchise Agreement or other applicable document forthwith upon demand by Franchisor.

This Guaranty is irrevocable and unlimited. This Guaranty is an absolute and unconditional continuing guarantee of payment and performance of the Guaranteed Obligations. This Guaranty is not discharged by renewal of any claims guaranteed by this instrument, the suffering of any indulgence to any debtor, extension of time of payment thereof, nor the discharge of Franchisee by bankruptcy, operation of law or otherwise. Presentment, demand, protest, notice of protest and dishonor, notice of default or nonpayment and diligence in collecting any obligation under any agreement between Franchisee and Franchisor are each and all waived by Guarantor and/or acknowledged as inapplicable. Franchisor is not required to pursue any remedy on said Guaranteed Obligations as a condition of the obligation hereunder of Guarantor. Guarantor waives notice of amendment of any agreement between Franchisee and Franchisor and notice of demand for payment by Franchisee. Guarantor further agrees to be bound by any and all amendments and changes to any agreement between Franchisee and Franchisor.

Guarantor agrees to defend, indemnify and hold Franchisor harmless against any and all losses, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, reasonable costs of investigation, court costs and fees, and expenses) resulting from, consisting of, or arising out of or in connection with any failure by Franchisee to perform any obligation of Franchisee under the Franchise Agreement and any other agreement between Franchisee and Franchisor.

Guarantor waives any and all notice of the creation, renewal, extension, accrual, modification, amendment, release, or waiver of any of the Guaranteed Obligations and notice of or proof of reliance by



Franchisor upon this Guaranty or acceptance of this Guaranty. The Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended, modified or waived, in reliance upon this Guaranty and all dealings between Franchisor and Guarantor shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty. Franchisor may pursue its rights against Guarantor without first exhausting its remedies against Franchisee and without joining any other Guarantor hereto and no delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise by Franchisor of any right or remedy shall preclude the further exercise of such right or remedy.

If other guarantors have guaranteed any and or all of the Guaranteed Obligations, their liability is joint and several to that of Guarantor.

Until all of the Guaranteed Obligations have been paid in full and/or performed in full, Guarantor shall not have any right of subrogation, unless expressly given to Guarantor in writing by Franchisor.

No change in the name, objects, share capital, business, membership, directors' powers, organization or management of the Franchisee shall in any way affect Guarantor in respect of the Guaranteed Obligations either with respect to transactions occurring before or after any such change, it being understood that this Guaranty is to extend to the person(s) or entity(ies) for the time being and from time to time carrying on the business now carried on by the Franchisee, notwithstanding any change(s) in the name or shareholders of the Franchisee, and notwithstanding any reorganization or its amalgamation with another or others or the sale or disposal of its business in whole or in part to another or others.

All Franchisor's rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between Franchisor and Guarantor are cumulative and not alternative and are in addition to all rights, powers and remedies given to Franchisor by law.

Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.

This Guaranty shall extend to and inure to the benefit of Franchisor and its successors and assigns and is binding on Guarantor and its successors and assigns.

IN WITNESS WHEREOF, Guarantor has signed this Guaranty as of the date set forth above.

GUARANTOR

Sign:

---

Printed Name:

---

Sign:

---

Printed Name:

---



**FRANCHISE AGREEMENT  
ATTACHMENT F  
CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This Confidentiality and Non-Compete Agreement (the “Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_, 20\_\_ , among Kidokinetics Franchise LLC, a Florida limited liability company (“Franchisor”), \_\_\_\_\_ (“Franchisee”) and \_\_\_\_\_ (“Covenantor”) in connection with a Franchise Agreement(s) dated \_\_\_\_, 20\_\_ between Franchisor and Franchisee (the “Franchise Agreement(s)”).

**WHEREAS**, Franchisor has the right to use and license the use of certain marks and tradenames, including the service mark “KIDOKINETICS®” and design, and certain proprietary products, services, promotions and methods (the “System”) for the establishment and operation of Kidokinetics Business;

**WHEREAS**, Franchisor has granted Franchisee the right to operate a Kidokinetics Business pursuant to the System in a territory, as specifically defined in Attachment B of the Franchise Agreement (the “Territory”), in strict accordance with the terms and conditions of the Franchise Agreement(s);

**WHEREAS**, in connection with his or her duties, it will be necessary for Covenantor to have access to some or all of the confidential information, knowledge, know-how, techniques, contents of the Kidokinetics operations manual and other materials used in or related to the System and/or concerning the methods of operation of the System (collectively referred to as “Confidential Information”);

**WHEREAS**, the Confidential Information provides economic advantages to Franchisor and licensed users of the System;

**WHEREAS**, Franchisor and Franchisee have agreed on the importance of restricting the use, access and dissemination of the Confidential Information, and Franchisee therefore has agreed to obtain from Covenantor a written agreement protecting the Confidential Information and further protecting the System against unfair competition; and

**WHEREAS**, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

**1. Confidentiality Agreement.**

- a. Covenantor shall, at all times, maintain the confidentiality of the Confidential Information and shall use such Confidential Information only in the course of his or her association with the Kidokinetics Business operating under the Franchise Agreement(s). Such association includes any employment, contract, or other relationship that provides access to Confidential Information of the System.
- b. Covenantor shall not, at any time, make copies of any documents or compilations containing some or all of the Confidential Information without Franchisor’s express written permission.



- c. Covenantor shall not, at any time, disclose or permit the disclosure of the Confidential Information except, and only then to the limited extent necessary, to those employees and/or agents of Franchisee for training and assisting such employees and/or in the operation of the Kidokinetics Business.
- d. Covenantor shall surrender any material containing some or all of the Confidential Information to Franchisee or Franchisor, upon request, or upon termination of employment or association with the Kidokinetics Business.
- e. Covenantor shall not, at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the System.
- f. Covenantor agrees that no Confidential Information may be reproduced, in whole or in part, without Franchisor's written consent.

## **2. COVENANTS NOT TO COMPETE.**

- a. In order to protect the goodwill and unique qualities of the System, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants that during Covenantor's association with the Kidokinetics Business, Covenantor shall not, for Covenantor or through, on behalf of or in conjunction with any person or entity:
  - (i) divert, or attempt to divert, any business or customer of the Kidokinetics Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise;
  - (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any youth fitness business or any other business offering any other goods or services offered or authorized for sale by System franchisees (a "Competing Business").
- b. In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the goodwill and unique qualities of the System, Covenantor further agrees and covenants that, upon the termination of Covenantor's association with the Kidokinetics Business and continuing for twenty-four months, Covenantor shall not, for Covenantor or through, on behalf of or in conjunction with any person or entity:
  - (i) divert, or attempt to divert, any business or customer of the Kidokinetics Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise;
  - (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in Competing Business within a twenty (20) mile radius of the perimeter of (a) the Territory or (b) any other Territory licensed by Franchisor as of the date of expiration or termination of this Agreement;
  - (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Franchisor's Marks and the System;
  - (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of any Kidokinetics franchisees; or



- (v) solicit business from customers of any Kidokinetics Business or contact any of Franchisor's suppliers or vendors for any competitive business purpose.
- c. The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained, and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor.
- d. If the period of time or the geographic scope specified in Section 2.b. above should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion thereof, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Agreement or any portion thereof, without Covenantor's or Franchisee's consent, effective immediately upon receipt by Covenantor of written notice thereof, and Covenantor agrees to forthwith comply with any covenant as so modified.

### 3. General.

- a. Franchisee shall make all commercially reasonable efforts to ensure that Covenantor acts as required by this Agreement.
- b. Covenantor agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions hereof, Franchisor is entitled to enforce the provisions of this Agreement and is entitled, in addition to any other remedies that are made available to it at law or in equity, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.
- c. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement.
- d. Any failure by Franchisor or the Franchisee to object to or take action with respect to any breach of any provision of this Agreement by Covenantor will not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Covenantor.
- e. This agreement is interpreted by and construed and enforced in accordance with the laws of the State of Florida, without reference to Florida choice of law principles.
- f. **COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF OR HERSELF TO THE JURISDICTION OF THE COURTS OF BROWARD COUNTY, FLORIDA AND/OR THE FEDERAL DISTRICT COURTS FOR THE SOUTHERN DISTRICT OF FLORIDA. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON COVENANTOR IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS CONFIDENTIALITY AND NON-**



**COMPETE AGREEMENT OR THE RELATIONSHIP CREATED BY THIS CONFIDENTIALITY AND NON-COMPETE AGREEMENT BY ANY MEANS ALLOWED BY FLORIDA OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS CONFIDENTIALITY AND NON-COMPETE AGREEMENT IS BROWARD COUNTY, FLORIDA; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION THAT INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE THAT HAS JURISDICTION.**

- g. The parties agree that each of the foregoing covenants contained in this Agreement are construed as independent of any other covenant or provision of this Agreement.
- h. Covenantor acknowledges and agrees that each of the covenants contained herein will not impose any undue hardship on Covenantor since Covenantor has other considerable skills, experience and education which affords Covenantor the opportunity to derive income from other endeavors.
- i. This Agreement contains the entire agreement of the parties regarding the subject matter hereof and supersedes all prior written or oral agreements of the parties concerning the same subject matter. This Agreement may be modified only by a duly authorized writing executed by all parties.
- j. All notices permitted or required by this Confidentiality and Non-Compete Agreement must be in writing, and deemed delivered when sent by facsimile, electronic mail, or when delivered by hand, or three (3) days after being placed in the US mail, or one (1) day after being left with an overnight delivery service. Notices will be addressed to the party to be notified at the following addresses:

If directed to Franchisor:

Kidokinetics Franchise LLC  
10428 West SR 84, Unit 1,  
Davie, Florida 33324  
Attention: Terri Braun

If directed to Franchisee:

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

If directed to Covenantor:

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

Any change in the foregoing addresses will be effected by giving written notice of such change to the other parties.



- k. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and inure to the benefit of its respective affiliates, successors and assigns. The respective obligations of Franchisee and Covenantor hereunder may not be assigned by Franchisee or Covenantor, without the prior written consent of Franchisor.

*[Signature page follows]*





IN WITNESS WHEREOF, the undersigned have entered into this Confidentiality and Non-Compete Agreement as witnessed by their signatures below.

FRANCHISOR:  
KIDOKINETICS FRANCHISE LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FRANCHISEE:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

OR:  
COVENANT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**FRANCHISE AGREEMENT  
ATTACHMENT G**

**ELECTRONIC FUNDS WITHDRAWAL AUTHORIZATION**

Bank Name : \_\_\_\_\_

ABA# : \_\_\_\_\_

Acct. No. : \_\_\_\_\_

Acct. Name : \_\_\_\_\_

Effective as of the date of the signature below, \_\_\_\_\_ (“Franchisee”) hereby authorizes Kidokinetics Franchise LLC (“Company”) or its designee to withdraw funds from the above-referenced bank account, electronically or otherwise, to make the following payments to Company under the Franchise Agreement for the franchise located at

\_\_\_\_\_ : (1) all Royalty; (2) all Brand Development Fund Contributions; (3) all Technology Fees and (4) all other fees due and payable to the Company pursuant to the Franchise Agreement. Such withdrawals will occur on a weekly basis, or on such other schedule as Company will specify in writing. Company is also authorized to deposit funds into the above-referenced account, electronically or otherwise. This authorization will remain in full force and effect until terminated in writing by Company. Franchisee will provide Company, in conjunction with this authorization, a voided check from the above referenced account.

**AGREED:**

FRANCHISEE:

\_\_\_\_\_

By: \_\_\_\_\_

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

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



**EXHIBIT C**

**KIDOKINETICS FRANCHISE LLC**

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Franchise Operations Manual



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**EXHIBIT D**

**KIDOKINETICS FRANCHISE LLC**

**FINANCIAL STATEMENTS**





# KIDOKINETICS FRANCHISE LLC

FINANCIAL STATEMENTS  
WITH INDEPENDENT AUDITOR'S REPORT  
DECEMBER 31, 2023, 2022, AND 2021





# KIDOKINETICS FRANCHISE LLC

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***Independent Auditor's Report***

To the Members  
Kidokinetics Franchise LLC  
Weston, Florida

***Opinion***

We have audited the accompanying financial statements of Kidokinetics Franchise LLC, which comprise the balance sheets as of December 31, 2023, 2022, and 2021, and the related statements of operations, members' equity (deficit), and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Kidokinetics Franchise LLC as of December 31, 2023, 2022, and 2021, and the results of its operations and its 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. 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 the Company 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 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 financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the 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 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 generally accepted auditing standards 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, including omissions, 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 financial statements.



In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the 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 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 the Company'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 financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company'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.

***Restrictions on Use***

The use of this report is restricted to inclusion within the Company's Franchise Disclosure Document (FDD) and is not intended to be, and should not be, used or relied upon by anyone for any other use.

Kezas  $\frac{3}{4}$  Dunlavy

St. George, Utah  
April 18, 2024

## KIDOKINETICS FRANCHISE LLC

### BALANCE SHEETS

As of December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
<b>Assets</b>			
Current assets			
Cash and cash equivalents	\$ 76,964	\$ 32,500	\$ 40,556
Accounts receivable	446,951	498	-
Deferred contract costs, current	340,727	326,228	-
Total current assets	<u>864,642</u>	<u>359,226</u>	<u>40,556</u>
Non-current assets			
Leasehold improvements, net	36,727	48,127	55,087
Intangible assets, net	25,107	50,553	43,554
Right of use asset	24,593	81,087	-
Deferred contract costs, non-current	1,173,255	282,706	-
Other non-current assets	9,600	9,600	9,600
Total non-current assets	<u>1,269,282</u>	<u>472,073</u>	<u>108,241</u>
Total assets	<u>\$ 2,133,924</u>	<u>\$ 831,299</u>	<u>\$ 148,797</u>
<b>Liabilities and Members' Equity (Deficit)</b>			
Current liabilities			
Accounts payable	\$ 748,939	\$ 354,239	\$ 68,939
Accrued expenses	138,810	41,609	-
Credit card liability	159,035	206,381	47,806
Loans from member	34,439	31,092	29,594
Lines of credit	243,821	-	-
Note payable, current	13,158	60,941	-
Operating lease liability, current	25,318	57,509	-
Deferred revenue, current	506,073	595,065	-
Total current liabilities	<u>1,869,593</u>	<u>1,346,836</u>	<u>146,339</u>
Non-current liabilities			
Note payable, non-current	16,842	-	-
Operating lease liability, non-current	-	25,318	-
Deferred revenue, non-current	1,844,262	289,713	-
Total non-current liabilities	<u>1,861,104</u>	<u>315,031</u>	<u>-</u>
Total liabilities	<u>3,730,697</u>	<u>1,661,867</u>	<u>146,339</u>
Members' equity (deficit)			
Members' interests	406,386	406,386	427,077
Retained earnings (accumulated deficit)	(2,003,159)	(1,236,954)	(424,619)
Total members' equity (deficit)	<u>(1,596,773)</u>	<u>(830,568)</u>	<u>2,458</u>
Total liabilities and members' equity (deficit)	<u>\$ 2,133,924</u>	<u>\$ 831,299</u>	<u>\$ 148,797</u>

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**STATEMENTS OF OPERATIONS**  
For the years ended December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Operating revenue			
Initial franchise fees	\$ 2,796,637	\$ 689,548	\$ 281,000
Royalty fees	201,199	86,911	56,577
Service revenue	467,961	87,473	-
Advertising fees	29,635	-	-
Apparel sales	13,774	27,823	-
Total operating revenue	<u>3,509,206</u>	<u>891,755</u>	<u>337,577</u>
Operating expenses			
General and administrative	1,697,537	989,921	475,718
Professional fees	674,880	81,198	76,154
Commissions	1,716,506	490,302	125,315
Advertising and marketing	71,433	116,633	70,163
Total operating expenses	<u>4,160,356</u>	<u>1,678,054</u>	<u>747,350</u>
Loss from operations	(651,150)	(786,299)	(409,773)
Interest expense	97,922	25,021	1,943
Net loss	<u>\$ (749,072)</u>	<u>\$ (811,320)</u>	<u>\$ (411,716)</u>

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**STATEMENTS OF MEMBERS' EQUITY (DEFICIT)**  
For the years ended December 31, 2023, 2022, and 2021

	Common Stock		Additional Paid-in Capital	Members' Interests	Retained Earnings	Total Equity
	Shares	Amount				
Balance at January 1, 2021	100	\$ 1	\$ 4,999	\$ -	\$ (12,903)	\$ (7,903)
Conversion to LLC	(100)	(1)	(4,999)	5,000	-	-
Member contributions	-	-	-	422,077	-	422,077
Net loss	-	-	-	-	(411,716)	(411,716)
Balance at December 31, 2021	-	-	-	427,077	(424,619)	2,458
Adoption of ASC 842, <i>Leases</i>	-	-	-	-	(1,015)	(1,015)
Member distributions	-	-	-	(20,691)	-	(20,691)
Net loss	-	-	-	-	(811,320)	(811,320)
Balance at December 31, 2022	-	-	-	406,386	(1,236,954)	(830,568)
Member distributions	-	-	-	-	(17,133)	(17,133)
Net loss	-	-	-	-	(749,072)	(749,072)
Balance at December 31, 2023	-	\$ -	\$ -	\$ 406,386	\$ (2,003,159)	\$ (1,596,773)

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**STATEMENTS OF CASH FLOWS**  
For the years ended December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Cash flow from operating activities:			
Net loss	\$ (749,072)	\$ (811,320)	\$ (411,716)
Adjustments to reconcile net loss to net cash used in operating activities:			
Amortization	25,446	22,001	11,191
Depreciation	11,400	11,400	1,900
Amortization of right of use asset	56,494	53,741	-
Changes in operating assets and liabilities:			
Accounts receivable	(446,453)	(498)	2,530
Deferred contract costs	(905,048)	(608,934)	-
Other non-current assets	-	-	(9,600)
Accounts payable	394,700	285,300	60,075
Accrued expenses	97,201	41,609	-
Credit card liability	(47,346)	158,575	47,806
Loans from shareholder	3,347	1,498	18,226
Operating lease liability	(57,509)	(53,016)	-
Deferred revenue	1,465,557	884,778	-
Net cash used in operating activities	<u>(151,283)</u>	<u>(14,866)</u>	<u>(279,588)</u>
Cash flows from investing activities:			
Investment in leasehold improvements	-	(4,440)	(56,987)
Investment in intangible assets	-	(29,000)	(47,200)
Net cash used in investing activities	<u>-</u>	<u>(33,440)</u>	<u>(104,187)</u>
Cash flows from financing activities:			
Draw on note payable	30,000	76,050	-
Net draws on lines of credit	243,821	-	-
Principal payments on note payable	(60,941)	(15,109)	-
Member contributions (distributions)	(17,133)	(20,691)	422,077
Net cash provided by financing activities	<u>195,747</u>	<u>40,250</u>	<u>422,077</u>
Net change in cash and cash equivalents	44,464	(8,056)	38,302
Cash at the beginning of the year	32,500	40,556	2,254
Cash at the end of the year	<u>\$ 76,964</u>	<u>\$ 32,500</u>	<u>\$ 40,556</u>
Supplementary disclosures of cash flows			
Cash paid for interest	\$ 97,922	\$ 25,021	\$ 1,943
Cash paid for taxes	\$ -	\$ -	\$ -

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

(1) Nature of Business and Summary of Significant Accounting Policies

*(a) Nature of Business*

Kidokinetics Franchise LLC (the "Company") is a limited liability company organized pursuant to the laws of the state of Florida on July 29, 2005 as Kidokinetics Franchise Corp. On May 4, 2021, the Company filed articles of conversion and converted from a corporation to a limited liability company. The Company's principal business is the development and franchising of a unique sports fitness program developed to help children enhance their coordination, concentration, and motor skills in a non-competitive environment. The Company operates in the United States of America.

The Company uses the accrual basis of accounting, and their accounting period is the 12-month period ending December 31 of each year.

*(b) Accounting Standards Codification*

The Financial Accounting Standards Board ("FASB") has issued the FASB Accounting Standards Codification ("ASC") that became the single official source of authoritative U.S. generally accepted accounting principles ("GAAP"), other than guidance issued by the Securities and Exchange Commission ("SEC"), superseding existing FASB, American Institute of Certified Public Accountants, emerging Issues Task Force and related literature. All other literature is not considered authoritative. The ASC does not change GAAP; it introduces a new structure that is organized in an accessible online research system.

*(c) Use of Estimates*

The preparation of financial statements in conformity with generally accepted accounting principles accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts and disclosures. Actual results could differ from those estimates.

*(d) Cash and Cash Equivalents*

Cash equivalents include all highly liquid investments with maturities of three months or less at the date of purchase. As of December 31, 2023, 2022, and 2021, the Company had cash and cash equivalents of \$76,964, \$32,500, and \$40,556, respectively.

*(e) Accounts Receivable*

Accounts receivable primarily consist of amounts from franchisees for initial franchise fees, royalty fees, and advertising fees. These receivables are carried at original invoice amount less an estimate made for doubtful receivables based on a review of outstanding amounts. Management regularly evaluates individual customer receivables considering their financial condition, credit history and current economic conditions. Accounts receivable are written off when deemed uncollectible. Recoveries of accounts receivable previously written off are recorded as income when received.

As of December 31, 2023, 2022, and 2021, the Company had receivables of \$446,951, \$498, and \$0, respectively. As of December 31, 2023, 2022, and 2021, the Company had no allowance for uncollectible accounts.

*(f) Accrued Expenses*

Accrued expenses consist of payroll liabilities, retainer fees for management services to be provided to franchisees, and broker commissions. As of December 31, 2023 and 2022, accrued expenses were \$138,810 and \$41,609, respectively. As of December 31, 2021, the Company had no accrued expenses.



**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

*(g) Revenue Recognition*

The Company's revenues consist of initial franchise fees, royalties and marketing fees based on a percentage of gross revenues, and service revenue. The Company has adopted ASC 606, *Revenue from Contracts with Customers*, which provides that revenues are to be recognized when control of promised goods or services is transferred to a customer in an amount that reflects the considerations expected to be received for those goods or services. In implementing ASC 606, the Company evaluated all revenue sources using the five-step approach: identify the contract, identify the performance obligations, determine the transaction price, allocate the transaction price, and recognize revenue.

For each franchised location, the Company enters into a formal franchise agreement that clearly outlines the transaction price, which includes both an initial fee and ongoing fees, and the Company's performance obligations. For service revenues, the Company enters into contracts with individual customers and franchisees.

Upon evaluation of the five-step process, the Company has determined that royalties from locations operated by a franchisee, which are based on a percentage of gross revenue, are to be recognized at the time the underlying sales occur. Service revenue is to be recognized in the period the services are performed. In allocating the transaction price and recognizing the revenue associated with initial franchise fees, the Company has elected to adopt the practical expedient for private company franchisors outlined in ASC 952-606, *Franchisors—Revenue from Contracts with Customers*. The practical expedient allows franchisors to account for pre-opening services as a single distinct performance obligation. These pre-opening services include the following:

- Assistance in the selection of a site
- Assistance in obtaining facilities and preparing the facilities for their intended use, including related financing, architectural, and engineering services, and lease negotiation
- Training of the franchisee's personnel or the franchisee
- Preparation and distribution of manuals and similar material concerning operations, administration, and record keeping
- Bookkeeping, information technology, and advisory services, including setting up the franchisee's records and advising the franchisee about income, real estate, and other taxes about local regulations affecting the franchisee's business
- Inspection, testing, and other quality control programs

The Company has determined the fair value of pre-opening services. This amount is recognized upon the deliver of all pre-opening services, which is generally the commencement of operations. The remaining fees are then amortized over the life of the agreement.

*(h) Income Taxes*

The Company is structured as a limited liability company under the laws of the state of Florida. Accordingly, the income or loss of the Company will be included in the income tax returns of the members. Therefore, there is no provision for federal and state income taxes.

The Company follows the guidance under ASC 740, *Accounting for Uncertainty in Income Taxes*. ASC 740 prescribes a more-likely-than-not measurement methodology to reflect the financial statement impact of uncertain tax positions taken or expected to be taken in the tax return. If taxing authorities were to disallow any tax positions taken by the Company, the additional income taxes, if any, would be imposed on the member rather than the Company. Accordingly, there would be no effect on the Company's financial statements.

The Company's income tax returns are subject to examination by taxing authorities for a period of three years from the date they are filed. As of December 31, 2023, the 2022, 2021, and 2020 tax years are subject to examination.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

*(i) Leasing*

The Company adopted ASC 842, *Leases*, as of January 1, 2022, using the modified retrospective method. The Company has an operating lease for office space from a related party, which required adjustments to record the right-of-use asset and lease liability as of the date of implementation. Upon adoption, the Company recorded a right-of-use asset and lease liability of \$134,828 and \$135,843, respectively. The net effect on the Company's retained earnings was a decrease of \$1,015. The lease liability reflects the present value of the Company's estimated future minimum lease payments over the lease term, discounted using a collateralized incremental borrowing rate. The impact of ASC 842 is non-cash in nature and does not affect the Company's cash flows.

The Company has made an accounting policy election not to recognize right-of-use assets and lease liabilities that arise from any of its short-term leases. All leases with a term of 12 months or less at commencement, for which the Company is not reasonably certain to exercise available renewal options that would extend the lease term past 12 months, will be recognized on a straight-line basis over the lease term.

*(j) Advertising Costs*

The Company expenses advertising costs as incurred. Advertising expenses for the fiscal years ending December 31, 2023, 2022, and 2021 were \$71,433, \$116,633, and \$70,163, respectively.

*(k) Financial Instruments*

For certain of the Company's financial instruments, including cash and cash equivalents, accounts receivable, pre-paid expenses, and accounts payable the carrying amounts approximate fair value due to their short maturities. The amounts shown for notes payable also approximate fair value because current interest rates and terms offered to the Company for similar debt are substantially the same.

*(l) Concentration of Risk*

The Company maintains its cash in bank deposit accounts that at times may exceed federally insured limits. The Company has not experienced any losses in such accounts. The Company believes it is not exposed to any significant credit risks on cash or cash equivalents.

*(m) Reclassification*

Certain amounts in the prior period financial statements have been reclassified to conform to the presentation of the current period financial statements. These reclassifications had no effect on the previously reported results of operations.

**(2) Related Party Transactions**

As of December 31, 2023, 2022, and 2021, the Company had the following related party loans:

	2023	2022	2021
Loan from a member, which is due on demand and does not accrue interest	\$ 3,120	\$ 3,120	\$ 3,120
Loan from a member, which accrues interest at a rate of 10% per annum and is due on demand. Balance includes accrued interest.	31,319	27,972	26,474
	\$ 34,439	\$ 31,092	\$ 29,594



**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

(3) Leasehold Improvements

As of December 31, 2023, 2022, and 2021, the Company had the following leasehold improvements:

	2023	2022	2021
Leasehold improvements	\$ 61,427	\$ 61,427	\$ 56,987
Less: accumulated depreciation	(24,700)	(13,300)	(1,900)
	<u>\$ 36,727</u>	<u>\$ 48,127</u>	<u>\$ 55,087</u>

Depreciation expense for the years ended December 31, 2023, 2022, and 2021 was \$11,400, \$11,400, and \$1,900, respectively.

(4) Intangible Assets, Net

The Company's intangible assets were as follows as of December 31, 2023, 2022, and 2021:

	2023	2022	2021
Franchise system development	\$ 108,370	\$ 108,370	\$ 108,370
Internal-use software	68,200	68,200	39,200
Website	8,000	8,000	8,000
	<u>184,570</u>	<u>184,570</u>	<u>155,570</u>
Less: accumulated amortization	(159,463)	(134,017)	(112,016)
	<u>\$ 25,107</u>	<u>\$ 50,553</u>	<u>\$ 43,554</u>

Amortization expense for the years ended December 31, 2023, 2022, and 2021 was \$25,446, \$22,001, and \$11,191, respectively. As of December 31, 2023, estimated future amortization is as follows:

For the year ended December 31,		
2024		\$ 21,898
2025		3,251
		<u>\$ 25,107</u>

(5) Franchise Agreements

The Company's franchise agreements generally provide for a payment of initial fees as well as continuing royalties, technology fees, and marketing fees to the Company based on a percentage of sales. Under the franchise agreement, franchisees are granted the right to operate a location using the Kidokinetics system for a period of ten years. Under the Company's revenue recognition policy, the Company allocates a portion of the initial franchise fee to pre-opening services, which is recognized when the franchisee begins operations. The remainder is deferred, and the revenue is amortized over the life of the contract. In addition, the Company defers related contract costs such as broker commissions and training costs over the same period and records them as deferred contract costs.

The Company has estimated the following current and non-current portions of deferred contract costs as of December 31, 2023, 2022, and 2021:

	2023	2022	2021
Deferred contract costs, current	\$ 340,727	\$ 326,228	\$ -
Deferred contract costs, non-current	1,173,255	282,706	-
	<u>\$ 1,513,982</u>	<u>\$ 608,934</u>	<u>\$ -</u>

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

The Company has estimated the following current and non-current portions of deferred revenue as of December 31, 2023, 2022, and 2021:

	2023	2022	2021
Deferred revenue, current	\$ 506,073	\$ 595,065	\$ -
Deferred revenue, non-current	1,844,262	289,713	-
	<u>\$ 2,350,335</u>	<u>\$ 884,778</u>	<u>\$ -</u>

(6) Operating Lease

During the year ended December 31, 2021, the Company entered into a lease agreement for office space. The lease expires in 2024, with the option to renew. As the Company adopted ASC 842 on January 1, 2022, there are no right of use assets or operating lease liabilities as of December 31, 2021. As of December 31, 2023 and 2022, the Company recorded a right of use asset of \$24,593 and \$81,087, respectively. As of December 31, 2023 and 2022, the Company had the following current and non-current portions of its operating lease liability:

	2023	2022
Operating lease liability, current	\$ 25,318	\$ 57,509
Operating lease liability, non-current	-	25,318
	<u>\$ 25,318</u>	<u>\$ 82,827</u>

(7) Notes Payable

As of December 31, 2023, 2022, and 2021, the Company had the following notes payable:

	2023	2022	2021
Note payable to a bank with an initial principal balance of \$30,000. The note accrues interest at a rate of 18% per annum, requires monthly payments of \$1,499, and matures in December 2025.	\$ 30,000	\$ -	\$ -
Note payable to a bank with an initial principal balance of \$76,050. The note accrued interest at a rate of 33% per annum, required weekly payments of \$1,725, and matured in October 2023.	-	60,941	-
Less current maturities	30,000 (13,158)	60,941 (60,941)	-
	<u>\$ 16,842</u>	<u>\$ -</u>	<u>\$ -</u>

(8) Lines of Credit

During the year ended December 31, 2023, the Company entered into lines of credit with third party financial institutions. The lines accrue interest at various rates and are due within twelve months of the balance sheet date. As of December 31, 2023, the lines of credit totaled \$243,821.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

(9) Commitments and Contingencies

The Company may be subject to various claims, legal actions and complaints arising in the ordinary course of business. In accounting for legal matters and other contingencies, the Company follows the guidance in ASC 450, *Contingencies*, under which loss contingencies are accounted for based upon the likelihood of incurrence of a liability. If a loss contingency is “probable” and the amount of loss can be reasonably estimated, it is accrued. If a loss contingency is “probable” but the amount of loss cannot be reasonably estimated, disclosure is made. If a loss contingency is “reasonably possible,” disclosure is made, including the potential range of loss, if determinable. Loss contingencies that are “remote” are neither accounted for nor disclosed.

In the opinion of management, all matters are of such kind, or involving such amounts of unfavorable disposition, if any, would not have a material effect on the financial position of the Company.

(10) Subsequent Events

Management has reviewed and evaluated subsequent events through April 18, 2024, the date on which the financial statements were issued.

**EXHIBIT E**

**LIST OF CURRENT AND FORMER FRANCHISEES**



**Current Franchisees as of December 31, 2023:**

Last Name	First Name	Entity Name	Address	City	State	Zip Code	Email
Boyd**	Brady	SD Youth Sports LLC	6611 Encelia Place	Carlsbad	CA	92011	bboyd@kidokinetics.com
Shapiro & Sommerfield	Diane & John	Children's Play Fusion LLC	152 Jules Avenue	San Francisco	CA	94112	dshapiro@kidokinetics.com
Desaraj**	Arul Peter & Sonali		2275 Royal Drive #4	Santa Clara	CA	95050	apeter@kidokinetics.com
Carter**	Beau	Mile High Sports Group Inc.	2996 East Nichols Circle	Centennial	CO	80122	bcarter@kidokinetics.com
Mitchell***	Sean	Kritchell Corporation LLC	187 S Carter Ln	Louisville	CO	80027	smitchell@kidokinetics.com
Braun***	Terri	Kidokinetics, Inc	10428 W. SR 84 Unit 1	Davie	FL	33324	terri@kidokinetics.com
HQ***		KIDOHQ LLC	10428 W. SR 84 Unit 1	Davie	FL	33324	hq@kidokinetics.com
Landers**	Austin & Dena	CBHB LLC	4 Little Harbor Way	Deerfield Beach	FL	33442	alanders@kidokinetics.com
Hadaway***	Angel	Angel's Kidos, LLC	8400 S Dixie Hwy #1108	Miami	FL	33143	angel@kidokinetics.com
Paster**	Scott & Amanda	SAKAP LLC	240 Cameron Dr	Pont Vedra	FL	32081	spaster@kidokinetics.com
Rosier**	Malik	Orlando Kiddos LLC	4544 Grove Park Drive	Tallahassee	FL	32311	mrosier@kidokinetics.com
Mahmoud** & Lutfiyya	Mohamed & Adam	Mo-beef LLC	8008 Ballymoney Rd	Tampa	FL	33610	mmahmoud@kidokinetic.com
Mayers**	Eric	Kidolympics, LLC	1700 Northside Drive Suite A7 #6620	Atlanta	GA	30318	emayers@kidokinetics.com
Guidry III** & Evans & Chapman	Theodore & Jason & Oneisha	LoneStar Venture Partners	1081 Crest Cir SE	Atlanta	GA	30312	MidtownAtlanta_ATLowners@kidokinetics.com
Guillory**	Patrick	Guillory Athletics	3200 Sweetbay Magnolia Drive	Marietta	GA	30062	pguillory@kidokinetics.com
Stender*** & Guillory <sup>3</sup>	Corey & Patrick	REPC LLC	3200 Sweetbay Magnolia Dr	Marietta	GA	30062	pguillory@kidokinetics.com
Mitchell	Donnel	5149 Enterprises Inc	9147 West Arabian Drive	Boise	ID	83709	dmcneal@kidokinetics.com
Shah**	Tushar & Schweta	SILLY SWEATS AND SMILES LLC	1235 S Prairie Avenue Apt 3409	Chicago	IL	60605	tshah@kidokinetics.com
Jain*** & Vrishni	Rohit & Queenal	Pioneer Adventures Inc	1 Ellsworth Rd	Andover	MA	01810	rjain@kidokinetics.com
Peck***	Allyson & Chad	4Square ACP Inc	279 E Central Street PMB 201	Franklin	MA	02038	apeck@kidokinetics.com
Tankanow**	Jenn	Pivot with Kido	303 Hunters Trail	Ann Arbor	MI	48103	jtankanow@kido



Last Name	First Name	Entity Name	Address	City	State	Zip Code	Email
*		LLC					kinetics.com
King*	John and Kimberly	Oldps9 Corp.	519 Siltstone Place	Cary	NC	27519	kim@kidokinetics.com
Cross & Schneider**	Ashley & Derek	South Valley Youth Sports LLC	909 Burnley Rd	Charlotte	NC	28210	across@kidokinetics.com
Brownfield**	Michael	JetBlayke Enterprises Inc	1507 N 183rd Street	Elkhorn	NE	68022	mbrownfield@kidokinetics.com
Raja**	Venkat	3Prodigy LLC	485c US Highway 1 South, Suite 100 #1049	Iselin	NJ	08830	vraja@kidokinetics.com
Brown****	Matthew & Alessandra	KidSports LLC	11 Wayside PL	Montclair	NJ	07042	mbrown@kidokinetics.com
Chu**	Kevin	Chuforic Fitness	558 Gail Court	Teaneck	NJ	07666	kchu@kidokinetics.com
Dorfman**	Pedro	Bibiceles LLC	7 W 20th St apt 3f,	NY	NY	10011	pdorfman@kidokinetics.com
Lee**	Michelle	MC Kinetics LLC	99 S Park Ave #307	Rockville Center	NY	11570	mlee@kidokinetics.com
Matchack****	Ryan & Amanda	E&E Sports Enrichment	155 Old Colony Dr	Delaware	OH	43015	rmatchack@kidokinetics.com
Roller**	Jon & Marilyn	Rollerworkds LLC BDA	6075 Tyndale Ln	Medina	OH	44256	jroller@kidokinetics.com
Krimmer***	Sean	EduSports LLC	8009 Chestershire Drive	West Chester	OH	45241	skrimmer@kidokinetics.com
Savory*****	Corinne & Ben	MACSAVORY CORPORATION	7352 E 127th St S	Bixby	OK	74008	csavory@kidokinetics.com
Dupont***	Brett & LJ	DUPONT VENTURES CORP	2445 25th Ave.	Forest Grove	OR	97116	bdupont@kidokinetics.com
Fowler**	Hailey & Luke	Fowler Industries LLC	9930 SE 99th Court	Happy Valley	OR	97086	hfowler@kidokinetics.com
Wanamaker**	Brad	Philly Kinetics	6732 N 15th Street	Philadelphia	PA	19126	Bwanamaker@kidokinetics.com
Pazgan*** & Mester	Dave & Travis	Tampa Kiddos LLC	100 Ave Borinquen	Aguadilla Pueblo	PR	00604	dpazgan@kidokinetics.com
Martin***	Kyle	PLAY360 LLC	1786 Bergenfield Road	Mount Pleasant	SC	29466	Kmartin@kidokinetics.com
Troy	Heather & Robert	Born2Play LLC	2176 Tall Grass Circle	Mount Pleasant	SC	29466	htroy@kidokinetics.com
Mouton	Hannah & Ian	Rise and Thrive Greenville LLC	3500 South Carolina 11	Travelers Rest	SC	29690	hmouton@kidokinetics.com
Guillory**	Patrick	PEMA Athletics LLC	4275 Fredericks Ave	Memphis	TN	38111	pguillory@kidokinetics.com
Fuqua**	Shaleta	HOKM Inc.	1221 Rivercrest Dr.	Murfreesboro	TN	37129	nsiedschlag@kidokinetics.com





Last Name	First Name	Entity Name	Address	City	State	Zip Code	Email
Whitehead*	Rebecca	Mariposa Catalyst Corp.	611 Centerpoint Lane	Nashville	TN	37209	rwhitehead@kidokinetics.com
Anguiano***	John	Lightwood KDS Stone Oak LLC	506 Crooked Creek	Buda	TX	58610	janguiano@kidokinetics.com
Anguiano**	John	JAR ATX LLC	506 Crooked Creek	Buda	TX	58610	janguiano@kidokinetics.com
Anguiano***	John	Lightwood KDS LLC	506 Crooked Creek	Buda	TX	78610	janguiano@kidokinetics.com
Anguiano***	John	Lightwood KDS Woodlands, LLC	506 Crooked Creek	Buda	TX	78610	janguiano@kidokinetics.com
Bradley****	Scott	SL & JLB	10428 Regency Pl	Dallas	TX	75254	scott@kidokinetics.com
Dunkerton	Nadia	KeyKayKids LLC	1134 Pioneer Drive	Dallas	TX	75224	ndunkerton@kidokinetics.com
Misra**	Shishir	108 Sunshine LLC	740 Topiary Hill CT	Frisco	TX	75036	smisra@kidokinetics.com
Misra***	Shishir	108 Sunshine LLC	740 Topiary Hill CT,	Frisco	TX	75036	smisra@kidokinetics.com
Sheeran***	Thomas	TESG Ventures LLC	23119 Prairie Pebble Court	Katy	TX	77494	tsheeren@kidokinetics.com
Galer***	Diego	Playful Souls LLC	6725 S Fry Rd Suite 700-502	Katy	TX	77494	dgaler@kidokinetics.com
Onugu** & Biney	Judith & William	WJBiney Ventures, LLC dba Kidokinetics Mansfield	709 Minecreek Ct	Mansfield	TX	76063	wbiney@kidokinetics.com
Cross***	Ashley	South Valley Youth Sports LLC	7533 S. Center View Ct., Ste. N West	Jordan	UT	84084	
Johnston***	Joseph	Avery Grant Company LLC	12487 Donahue Rd	Glen Allen	VA	23059	jjohnston@kidokinetics.com
Parsons**	Calvin	CJParsons LLC	9026 Annex Ln	Mechanicsville	VA	23116	cparsons@kidokinetics.com
Tandon***	Mayoor	MGVM LLC	7825 SE 70th Street	Mercer Island	WA	98040	mtandon@kidokinetics.com
Tandon****1	Mayoor	MGVM-AZ LLC	7825 SE 70th Street	Mercer Island	WA	98040	mtandon@kidokinetics.com
Tandon***2	Mayoor	MGVM-AZ LLC	7825 SE 70th Street	Mercer Island	WA	98040	mtandon@kidokinetics.com
Peters**	Beth & Andy	HABIT LLC	5592 S. Red Fox Rd.	New Berlin	WI	53151	bpeters@kidokinetics.com

1: Franchises are located in Arizona.

2: Franchises are located in California.

\*Owns one Franchise

\*\* Owns two Franchises

\*\*\* Owns three Franchises



**Franchisees with Unopened Outlets as of December 31, 2023\*:**

Last Name	First Name	Entity Name	Address	City	State	Zip Code	Email
Liu**	HueiShuan	Little Champs Outdoors Inc	24001 Calle De La Magdalena #2372	Laguna Hills	CA	92654	hliu@kidokinetics.com

\*The other unopened outlets as of December 31, 2023 have opened as of the issuance date of this Franchise Disclosure Document and are included in the List of Franchisees.

\*\* Owns two Franchises

**Former Franchisees as of December 31, 2023:**

The name and last known address of every franchisee who had a Kidokinetics Franchise transferred, terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under our Franchise Agreement during the period January 1, 2023 to December 31, 2023, or who has not communicated with us within ten weeks of the Issuance Date of this Franchise Disclosure Document are listed below. If you buy this Franchise, your contact information may be disclosed to other buyers when you leave the Franchise System.

Last Name	First Name	Entity Name	Address	City	State	Zip Code	Email
Gerbig***	Wes	Sheridanya Holdings Corporation	6337 Macatuck Drive,	Indianapolis	IN	46220	wgerbig@kidokinetics.com
Bronder*	Megan	Kidokinetics Pittsburgh LLC	204 Buffalo Ridge Road	McMurray	PA	15317	mbronder@kidokinetics.com
Flynn	Andrew	JAR ATX LLC	11920 Offaly Dr.	Austin	TX	78754	andrew.flynn225@gmail.com
Smithwick	Jerry	Smithwick Enterprises	2021 Christie Lane	Carrollton	TX	75007	jerrysmithwickjr@gmail.com
Schleidstag	Natalie	Play More Do Good LLC	2520 Dibrell Trail Drive	Collierville	TN	38017	natalie.siedschlag@gmail.com
Galvan***	Isabel	KKSA LLC	1605 W Elizabeth St.	Pecos	TX	79772	igalvan@kidokinetics.com
Gardner	Mike	MiBecca Enterprises LLC	1213 Electra Lane	Sandy	UT	84094	mikelgardner@comcast.net



**EXHIBIT F**

**FRANCHISE DISCLOSURE QUESTIONNAIRE**



## FRANCHISE DISCLOSURE QUESTIONNAIRE

**(This questionnaire is not to be used for any franchise sale in or to residents of California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, or Wisconsin)**

As you know, Kidokinetics Franchise LLC (“we” or “us”), and you are preparing to enter into a Franchise Agreement for the operation of a Kidokinetics franchise. **You cannot sign or date this questionnaire the same day as the Receipt for the Franchise Disclosure Document, but you must sign and date it the same day you sign the Franchise Agreement.** 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, please explain your answer in the table provided below.

**Do not sign this Questionnaire if you are a resident of Maryland or if the franchise is to be operated in Maryland.**

1.        Yes\_\_\_ No\_\_\_    Have you received and personally reviewed the Franchise Agreement and each attachment or exhibit attached to it that we provided?
  
2.        Yes\_\_\_ No\_\_\_    Have you received and personally reviewed the Franchise Disclosure Document and each attachment or exhibit attached to it that we provided?
  
3.        Yes\_\_\_ No\_\_\_    Did you sign a receipt for the Franchise Disclosure Document indicating the date you received it?
  
4.        Yes\_\_\_ No\_\_\_    Do you understand all the information contained in the Franchise Disclosure Document and Franchise Agreement?
  
5.        Yes\_\_\_ No\_\_\_    Have you reviewed the Franchise Disclosure Document and Franchise Agreement with a lawyer, accountant, or other professional advisor, or have you had the opportunity for such review and chosen not to engage such professionals?
  
6.        Yes\_\_\_ No\_\_\_    Have you had the opportunity to discuss the benefits and risks of developing and operating a Kidokinetics Franchise with an existing Kidokinetics franchisee?
  
7.        Yes\_\_\_ No\_\_\_    Do you understand the risks of developing and operating a Kidokinetics Franchise?
  
8.        Yes\_\_\_ No\_\_\_    Do you understand the success or failure of your Kidokinetics 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, labor and supply costs, and other relevant factors?
  
9.        Yes\_\_\_ No\_\_\_    Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement must be arbitrated in Florida, if not resolved informally or by mediation (subject to state law)?



10. Yes\_\_\_ No\_\_\_ Do you understand that you must satisfactorily complete the initial training program before we will allow your Kidokinetics Franchise to open or consent to a transfer of the Kidokinetics Franchise to you?
11. Yes\_\_\_ No\_\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a Kidokinetics Franchise 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?
12. Yes\_\_\_ No\_\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise or agreement, other than those matters addressed in your Franchise Agreement and any addendum, 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?
13. Yes\_\_\_ No\_\_\_ 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 a Kidokinetics Franchise 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?
14. Yes\_\_\_ No\_\_\_ Do you understand that the Franchise Agreement, including each attachment or exhibit to the Franchise Agreement, contains the entire agreement between us and you concerning the Kidokinetics Franchise?
15. Yes\_\_\_ No\_\_\_ Do you understand that we are relying on your answers to this questionnaire to ensure that the franchise sale was made in compliance of state and federal laws?

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 Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Date \_\_\_\_\_

Date \_\_\_\_\_



EXPLANATION OF ANY NEGATIVE RESPONSES (REFER TO QUESTION NUMBER):

Question Number	Explanation of Negative Response

Rev. 071823

**EXHIBIT G**  
**STATE ADDENDA**  
**AND AGREEMENT RIDERS**



## STATE ADDENDA AND AGREEMENT RIDERS

### ADDENDUM TO FRANCHISE AGREEMENT, SUPPLEMENTAL AGREEMENTS, AND FRANCHISE DISCLOSURE DOCUMENT FOR CERTAIN STATES FOR KIDOKINETICS FRANCHISE LLC

The following modifications are made to the Kidokinetics Franchise LLC (“**Franchisor**,” “**us**,” “**we**,” or “**our**”) Franchise Disclosure Document (“**FDD**”) given to franchisee (“**Franchisee**,” “**you**,” or “**your**”) and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement between you and us dated \_\_\_\_\_, 20\_\_\_\_ (“**Franchise Agreement**”). When the term “**Franchisor’s Choice of Law State**” is used, it means Florida. When the term “**Supplemental Agreements**” is used, it means none.

If your state requires these modifications, you will sign this State Addendum along with the Franchise Agreement and any Supplemental Agreements.

#### CALIFORNIA

**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.**

The California Franchise Investment Law requires a copy of all proposed agreements relating to the sale of the Franchise be delivered together with the FDD 14 days prior to execution of the agreement.

California Corporations Code Section 31125 requires us to give to you an FDD approved by the Department of Financial Protection and Innovation before we ask you to consider a material modification of your Franchise Agreement.

The Franchise Agreement contains provisions requiring binding arbitration with the costs being awarded to the prevailing party. The arbitration will occur in Florida. 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 provisions of the Franchise Agreement or Supplemental Agreements restricting venue to a forum outside the State of California. The Franchise Agreement contains a mediation provision. The parties shall each bear their own costs of mediation and shall share equally the filing fee and the mediator’s fees.

The Franchise Agreement requires the application of the law of the State of Florida. This provision may not be enforceable under California law.

Neither Franchisor nor any other person listed in Item 2 of the FDD 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.

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer, or non-renewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the California Franchise Investment Law, the California Franchise Investment Law will control.





The Franchise Agreement provides for termination upon bankruptcy. Any such provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. SEC. 101 et seq.).

The Franchise Agreement contains a covenant not to compete provision which extends beyond the termination of the Franchise. Such provisions may not be enforceable under California law.

Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable. Any such provisions contained in the Franchise Agreement may not be enforceable.

You must sign a general release of claims if you renew or transfer your Franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

Our website 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](http://www.dfpi.ca.gov).

Item 6 of the FDD is amended to state the highest interest rate allowed by law in California for late payments is 10% annually.

The following questions are hereby deleted from the Franchise Disclosure Questionnaire in Exhibit F of this Disclosure Document and are not to be completed by a franchise applicant: questions 7, 8 and 15. Should a franchise applicant answer the foregoing numbered questions, the franchisor will disregard the answers as if they had not been submitted and will not rely on any such representations inferred from the franchise applicant's answers.

Section 20 of the Franchise Agreement is revised to state: Franchisee acknowledges that Franchisee has conducted an independent investigation of all aspects relating to the financial, operational and other aspects of the business of operating the Kidokinetics Business. Franchisee further acknowledges that, except for the representations made in Item 19 of the Franchise Disclosure Document, no representations of performance (financial or otherwise) for the Franchised Business provided for in this Agreement have been made to Franchisee by Franchisor.

Section 22.4 of the Franchise Agreement is revised to state: Franchisor expressly disclaims the making of, and Franchisee acknowledges that it has not received any warranty or guarantee, express or implied, as to the potential volume, profits or success of the business venture contemplated by this Agreement.

The FDD and Franchise Agreement are amended to state: 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Fee Deferral:

The Department of Financial Protection and Innovation requires that the Franchisor defer the collection of all initial fees from California franchisees until the Franchisor has completed all its pre-opening obligations and franchisee is open for business.

**HAWAII**

The following is added to the Cover Page:

**THIS FRANCHISE WILL BE/HAS BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED IN THIS FRANCHISE DISCLOSURE DOCUMENT IS TRUE, COMPLETE AND NOT MISLEADING.**

**THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO YOU OR SUBFRANCHISOR AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY YOU OR SUBFRANCHISOR OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY YOU, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.**

**THIS FRANCHISE DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH US AND YOU.**

Registered agent in the state authorized to receive service of process:

Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813



The status of the Franchisor's franchise registrations in the states which require registration is as follows:

1. States in which this proposed registration is effective are listed in Exhibit I of the FDD on the page entitled, "State Effective Dates."
2. States which have refused, by order or otherwise, to register these Franchises are:  
  
None
3. States which have revoked or suspended the right to offer the Franchises are:  
  
None
4. States in which the proposed registration of these Franchises has been withdrawn are:  
  
None

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **ILLINOIS**

Sections 4 and 41 and Rule 608 of the Illinois Franchise Disclosure Act states that court litigation must take place before Illinois federal or state courts and all dispute resolution arising from the terms of this Agreement or the relationship of the parties and conducted through arbitration or litigation shall be subject to Illinois law. The FDD, Franchise Agreement and Supplemental Agreements are amended accordingly.

The governing law or choice of law clause described in the FDD and contained in the Franchise Agreement and Supplemental Agreements is not enforceable under Illinois law. This governing law clause shall not be construed to negate the application of Illinois law in all situations to which it is applicable.

Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void." The Franchise Agreement is amended accordingly. To the extent that the Franchise Agreement would otherwise violate Illinois law, such Agreement is amended by providing that all litigation by or between you and us, arising directly or indirectly from the Franchise relationship, will be commenced and maintained in the state courts of Illinois or, at our election, the United States District Court for Illinois, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements, and Illinois law will pertain to any claims arising under the Illinois Franchise Disclosure Act.

Item 17.v, Choice of Forum, of the FDD is revised to include the following: "provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act."



Item 17.w, Choice of Law, of the FDD is revised to include the following: “provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act.”

The termination and non-renewal provisions in the Franchise Agreement and the FDD may not be enforceable under Sections 19 and 20 of the Illinois Franchise Disclosure Act.

Under Section 705/27 of the Illinois Franchise Disclosure Act, no action for liability under the Illinois Franchise Disclosure Act can be maintained unless brought before the expiration of three years after the act or transaction constituting the violation upon which it is based, the expiration of one year after you become aware of facts or circumstances reasonably indicating that you may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to you of a written notice disclosing the violation, whichever shall first expire. To the extent that the Franchise Agreement is inconsistent with the Illinois Franchise Disclosure Act, Illinois law will control and supersede any inconsistent provision(s).

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

#### Fee Deferral:

The Illinois Attorney General’s Office has imposed the deferral requirement because of our financial condition. Item 5 and Item 7 of the FDD and Section 5.1 of the Franchise Agreement are hereby revised to state that payment of all initial fees, including the Franchise Fee, shall be deferred until after all of the Franchisor’s initial obligations are complete and the Franchise is open for business.

**See the last page of this Exhibit G for your signature.**

#### INDIANA

Item 8 of the FDD is amended to add the following:

Under Indiana Code Section 23-2-2.7-1(4), we will not accept any rebates from any person with whom you do business or associate in relation to transactions between you and the other person, other than for compensation for services rendered by us, unless the rebate is properly accounted for and submitted to you.

Item 17 of the FDD is amended to add the following:

Indiana Code 23-2-2.7-1(7) makes it unlawful for us to unilaterally terminate your Franchise Agreement unless there is a material violation of the Franchise Agreement and termination is not in bad faith.

Indiana Code 23-2-2.7-1(5) prohibits us to require you to agree to a prospective general release of claims subject to the Indiana Deceptive Franchise Practices Act.



The “Summary” column in Item 17.r. of the FDD is deleted and the following is inserted in its place:

No competing business for two years within the Territory.

The “Summary” column in Item 17.t. of the FDD is deleted and the following is inserted in its place:

Notwithstanding anything to the contrary in this provision, you do not waive any right under the Indiana Statutes with regard to prior representations made by us.

The “Summary” column in Item 17.v. of the FDD is deleted and the following is inserted in its place:

Litigation regarding Franchise Agreement in Indiana; other litigation in Franchisor’s Choice of Law State. This language has been included in this Franchise Disclosure Document as a condition to registration. The Franchisor and the Franchisee do not agree with the above language and believe that each of the provisions of the Franchise Agreement, including all venue provisions, is fully enforceable. The Franchisor and the Franchisee intend to fully enforce all of the provisions of the Franchise Agreement and all other documents signed by them, including but not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

The “Summary” column in Item 17.w. of the FDD is deleted and the following is inserted in its place:

Indiana law applies to disputes covered by Indiana franchise laws; otherwise Franchisor’s Choice of Law State law applies.

Despite anything to the contrary in the Franchise Agreement, the following provisions will supersede and apply to all Franchises offered and sold in the State of Indiana:

1. The laws of the State of Indiana supersede any provisions of the FDD, the Franchise Agreement, or Franchisor’s Choice of Law State law, if such provisions are in conflict with Indiana law.
2. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the Franchise without good cause or in bad faith, good cause being defined under law as including any material breach of the Franchise Agreement, will supersede the provisions of the Franchise Agreement relating to termination for cause, to the extent those provisions may be inconsistent with such prohibition.
3. Any provision in the Franchise Agreement that would require you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Indiana Deceptive Franchise Practices Law is void to the extent that such provision violates such law.
4. The covenant not to compete that applies after the expiration or termination of the Franchise Agreement for any reason is hereby modified to the extent necessary to comply with Indiana Code 23-2-2.7-1 (9).
5. The following provision will be added to the Franchise Agreement:

No Limitation on Litigation. Despite the foregoing provisions of this Agreement, any provision in the Agreement which limits in any manner whatsoever litigation brought for



breach of the Agreement will be void to the extent that any such contractual provision violates the Indiana Deceptive Franchise Practices Law.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **IOWA**

Any provision in the Franchise Agreement or Compliance Questionnaire which would require you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Iowa Business Opportunity Promotions Law (Iowa Code Ch. 551A) is void to the extent that such provision violates such law.

The following language will be added to the Franchise Agreement:

### **NOTICE OF CANCELLATION**

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence or business address, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do not agree to return the goods to the seller or if the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to Kidokinetics Franchise LLC, 10428 West SR 84, Unit 1, Davie, FL 33324 not later than midnight of the third business day after the Effective Date.

*(Signatures on following page)*



I hereby cancel this transaction.

Franchisee: \_\_\_\_\_

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

## **MARYLAND**

### AMENDMENTS TO FRANCHISE DISCLOSURE DOCUMENT AND FRANCHISE AGREEMENTS

Item 17 of the FDD and the Franchise Agreement are amended to state: “The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.”

Representations in the Franchise Agreement are not intended to, nor shall they act as, a release, estoppel, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

Item 17 of the FDD and sections of the Franchise Agreement are amended to state that you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the Franchise.

The Franchise Agreement and Franchise Disclosure Questionnaire are amended to state that all representations requiring prospective franchisees to assent to a release, estoppel, or waiver of liability are not intended to, nor shall they act as, a release, estoppel, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law (11 U.S.C.A Sec. 101 et seq.).

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

### Fee Deferral

Item 5 and 7 of the FDD and the Franchise Agreement are revised to state: Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance.



Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all initial payments by franchisees that purchase multiple franchises shall be deferred until the first franchise opens.

**FRANCHISOR:**  
**KIDOKINETICS FRANCHISE LLC**

**FRANCHISEE:**

\_\_\_\_\_  
Entity name (if any)

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

### **MICHIGAN**

**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.**

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

- (a) A prohibition on your right to join an association of franchisees.
- (b) A requirement that you assent to a release, assignment, novation, waiver, or estoppel which deprives you of rights and protections provided in this act. This shall not preclude you, after entering into a Franchise Agreement, from settling any and all claims.
- (c) A provision that permits us to terminate a Franchise prior to the expiration of its term except for good cause. Good cause shall include your failure 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 us to refuse to renew your Franchise without fairly compensating you by repurchase or other means for the fair market value at the time of expiration of your inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to us 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 five years; and (ii) you are prohibited by the Franchise Agreement 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 you do not receive at least six months' advance notice of our intent not to renew the Franchise.
- (e) A provision that permits us 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 the State of Michigan. This shall not preclude you from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.

(g) A provision which permits us to refuse to permit a transfer of ownership of a Franchise, except for good cause. This subdivision does not prevent us 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 our then-current reasonable qualifications or standards.

(ii) the fact that the proposed transferee is a competitor of us or our subfranchisor.

(iii) the unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) your or proposed transferee's failure to pay any sums owing to us or to cure any default in the Franchise Agreement existing at the time of the proposed transfer.

(h) A provision that requires you to resell to us items that are not uniquely identified with us. This subdivision does not prohibit a provision that grants to us 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 us the right to acquire the assets of a Franchise for the market or appraised value of such assets if you have breached the lawful provisions of the Franchise Agreement and have failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits us to directly or indirectly convey, assign, or otherwise transfer our obligations to fulfill contractual obligations to you unless provision has been made for providing the required contractual services.

**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  
Department of Attorney General  
Consumer Protection Division  
Attn: Franchise  
670 Law Building  
525 W. 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **MINNESOTA**

Despite anything to the contrary in the Franchise Agreement, the following provisions will supersede and apply to all Franchises offered and sold in the State of Minnesota:

1. Any provision in the Franchise Agreement which would require you to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22 will be void to the extent that such contractual provision violates such law.
2. Minnesota Statute Section 80C.21 and Minnesota Rule 2860.4400J prohibit the franchisor from requiring litigation to be conducted outside of Minnesota. In addition, nothing in the FDD or Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of Minnesota.
3. Minn. Rule Part 2860.4400J prohibits a franchisee from waiving his rights to a jury trial or waiving his rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes. Any provision in the Franchise Agreement which would require you to waive your rights to any procedure, forum or remedies provided for by the laws of the State of Minnesota is deleted from any agreement relating to Franchises offered and sold in the State of Minnesota; provided, however, that this paragraph will not affect the obligation in the Franchise Agreement relating to arbitration.
4. With respect to Franchises governed by Minnesota law, we will comply with Minnesota Statute Section 80C.14, Subds. 3, 4 and 5, which require, except in certain specified cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement; and that consent to the transfer of the Franchise will not be unreasonably withheld.
5. Item 13 of the FDD is hereby amended to state that we will protect your rights under the Franchise Agreement to use the Marks, or indemnify you from any loss, costs, or expenses arising out of any third-party claim, suit or demand regarding your use of the Marks, if your use of the Marks is in compliance with the provisions of the Franchise Agreement and our System standards.
6. Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release. As a result, the FDD and the Franchise Agreement, which require you to sign a general release prior to renewing or transferring your Franchise, are hereby deleted from the Franchise Agreement, to the extent required by Minnesota law.



7. The following language will appear as a new paragraph of the Franchise Agreement:

No Abrogation. Pursuant to Minnesota Statutes, Section 80C.21, nothing in the dispute resolution section of this Agreement will in any way abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80.C.
8. Minnesota Statute Section 80C.17 states that no action for a violation of Minnesota Statutes, Sections 80C.01 to 80C.22 may be commenced more than three years after the cause of action accrues. To the extent that the Franchise Agreement conflicts with Minnesota law, Minnesota law will prevail.
9. Sections 5.5.5 and 5.6.1 of the franchise agreement are amended by the addition of the following language: "These provisions are not enforceable under Minnesota law."
10. Item 6 of the FDD and Section 5.6.3 of the Franchise Agreement is hereby amended to limit the Insufficient Funds Fee to \$30 per occurrence pursuant to Minnesota Statute 604.113.
11. 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

#### Fee Deferral

Items 5 and 7 of the FDD and Section 5.1 of the Franchise Agreement are amended to state: Payment of the Initial Franchise Fee shall be deferred until Franchisor has satisfied its pre-opening obligations to Franchisee and Franchisee has commenced doing business.

#### 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 SERVICES 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 CAN NOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**



2. The following is added at the end of Item 3:

With the exception of what is stated 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 franchisee to renew or extend,**" 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; it being the intent of this proviso 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), titled "**Choice of law**":

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or the franchisee by Article 33 of the General Business Law of the



State of New York.

6. Franchise Questionnaires and Acknowledgements - 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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

7. 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 earlier 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.

## **NORTH DAKOTA**

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring that you sign a general release, estoppel or waiver as a condition of renewal and/or assignment may not be enforceable as they relate to releases of the North Dakota Franchise Investment Law.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring resolution of disputes to be outside North Dakota may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements relating to choice of law may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any section of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to liquidated damages and/or termination penalties may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to a waiver of trial by jury may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to a waiver of exemplary and punitive damages may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Item 17(r) of the FDD and Section 18 of the Franchise Agreement disclose the existence of certain covenants restricting competition to which Franchisee must agree. The Commissioner has held that covenants restricting competition contrary to Section 9-08-06 of the North Dakota Century Code, without further disclosing that such covenants may be subject to this statute, are unfair, unjust, or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. The FDD and the Franchise Agreement are amended accordingly to the extent required by law.



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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**OHIO**

The following language will be added to the front page of the Franchise Agreement:

You, the purchaser, may cancel this transaction at any time prior to midnight of the fifth business day after the date you sign this agreement. See the attached notice of cancellation for an explanation of this right.

Initials \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE OF CANCELLATION**

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within five business days from the above date. If you cancel, any payments made by you under the agreement, and any negotiable instrument executed by you will be returned within ten business days following the seller’s receipt of your cancellation notice, and any security interest arising out of the transaction will be cancelled. If you cancel, you must make available to the seller at your business address all goods delivered to you under this agreement; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk. If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of them without further obligation. If you fail to make the goods available to the seller, or if you agree to return them to the seller and fail to do so, then you remain liable for the performance of all obligations under this agreement. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to Kidokinetics Franchise LLC, 10428 West SR 84, Unit 1, Davie, FL 33324 not later than midnight of the fifth business day after the Effective Date.

I hereby cancel this transaction.

Franchisee:

Date: \_\_\_\_\_

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

**RHODE ISLAND**

§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.” The FDD, the Franchise Agreement, and the Supplemental Agreements are amended accordingly



to the extent required by law.

The above language has been included in this FDD as a condition to registration. The Franchisor and the Franchisee do not agree with the above language and believe that each of the provisions of the Franchise Agreement and the Supplemental Agreements, including all choice of law provisions, are fully enforceable. The Franchisor and the Franchisee intend to fully enforce all of the provisions of the Franchise Agreement, the Supplemental Agreements, and all other documents signed by them, including, but not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

### **SOUTH DAKOTA**

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

### **VIRGINIA**

Item 17(h). The following is added to Item 17(h):

“Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Franchise Agreement or Supplemental Agreements involve the use of undue influence by the Franchisor to induce a franchisee to surrender any rights given to franchisee under the Franchise, that provision may not be enforceable.”

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the FDD for Kidokinetics Franchise LLC for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure. The following statements are added to Item 8 and Item 17.h.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

The following risk factor is added to the Special Risks to Consider About *This* Franchise page:



**Estimated Initial Investment.** The franchisee will be required to make an estimated initial investment ranging from \$110,500 and \$144,700. This amount exceeds the franchisor's stockholders' equity as of December 31, 2023, which is (\$1,596,773).

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

#### Fee Deferral

Item 7 of the FDD and Section 5.1 of the Franchise Agreement are revised to state: The Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement. In addition, all initial payments by franchisees that purchase multiple franchises shall be deferred until the first franchise opens.

#### WASHINGTON

##### **ADDENDUM TO FRANCHISE AGREEMENT AND FRANCHISE DISCLOSURE DOCUMENT**

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 franchise 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 franchise 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 franchise 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 non-competition 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 non-competition 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 franchise 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 franchise agreement or elsewhere are void and unenforceable in Washington.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## **WISCONSIN**

The Wisconsin Fair Dealership Law, Chapter 135 of the Wisconsin Statutes supersedes any provision of the Franchise Agreement if such provision is in conflict with that law. The Franchise Disclosure Document, the Franchise Agreement and the Supplemental Agreements are amended accordingly.

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 other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

*(Signatures on following page)*



**APPLICABLE ADDENDA**

If any one of the preceding Addenda for specific states (“**Addenda**”) is checked as an “Applicable Addenda” below, then that Addenda shall be incorporated into the Franchise Disclosure Document, Franchise Agreement and any other specified agreement(s) entered into by us and the undersigned Franchisee. To the extent any terms of an Applicable Addenda conflict with the terms of the Franchise Disclosure Document, Franchise Agreement and other specified agreement(s), the terms of the Applicable Addenda shall supersede the terms of the Franchise Agreement.

- |                          |            |                          |              |                          |              |
|--------------------------|------------|--------------------------|--------------|--------------------------|--------------|
| <input type="checkbox"/> | California | <input type="checkbox"/> | Michigan     | <input type="checkbox"/> | Rhode Island |
| <input type="checkbox"/> | Hawaii     | <input type="checkbox"/> | Minnesota    | <input type="checkbox"/> | South Dakota |
| <input type="checkbox"/> | Illinois   | <input type="checkbox"/> | New York     | <input type="checkbox"/> | Virginia     |
| <input type="checkbox"/> | Iowa       | <input type="checkbox"/> | North Dakota | <input type="checkbox"/> | Washington   |
| <input type="checkbox"/> | Indiana    | <input type="checkbox"/> | Ohio         | <input type="checkbox"/> | Wisconsin    |
| <input type="checkbox"/> | Maryland   |                          |              |                          |              |

Dated: \_\_\_\_\_, 20\_\_\_\_

**FRANCHISOR:**

KIDOKINETICS FRANCHISE LLC

By: \_\_\_\_\_

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

**FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

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

Rev. 071823



## **EXHIBIT H**

### **CONTRACTS FOR USE WITH THE KIDOKINETICS FRANCHISE**

The following contracts contained in Exhibit H are contracts that Franchisee is required to utilize or execute after signing the Franchise Agreement in the operation of the Kidokinetics Business. The following are the forms of contracts that Kidokinetics Franchise LLC uses as of the Issuance Date of this Franchise Disclosure Document. If they are marked “Sample,” they are subject to change at any time.



**EXHIBIT H-1**

**KIDOKINETICS FRANCHISE**

**SAMPLE GENERAL RELEASE AGREEMENT**

**WAIVER AND RELEASE OF CLAIMS**

This Waiver and Release of Claims (“Release”) is made as of \_\_\_\_\_, 20\_\_ by - (Franchisee Name) (“Franchisee”), and each individual holding an ownership interest in Franchisee (collectively with Franchisee, “Releasor”) in favor of Kidokinetics Franchise LLC, a Florida limited liability company (“Franchisor,” and together with Releasor, the “Parties”).

**WHEREAS**, Franchisor and Franchisee have entered into a Franchise Agreement (“Agreement”) pursuant to which Franchisee was granted the right to own and operate a Kidokinetics business;

**WHEREAS**, (Franchisee has notified Franchisor of its desire to transfer the Agreement and all rights related thereto, or an ownership interest in Franchisee, to a transferee/enter into a successor franchise agreement/amend the Agreement) or (the Agreement is being terminated/or indicate other reason for the requirement of this waiver and release), and Franchisor has consented to such (transfer/successor franchise agreement/amendment/termination/other reason); and

**WHEREAS**, as a condition to Franchisor’s consent to (transfer the Agreement/enter into a successor franchise agreement/amend the Agreement/terminate the Agreement/other reason), Releasor has agreed to execute this Release upon the terms and conditions stated below.

**NOW, THEREFORE**, in consideration of Franchisor’s consent, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and intending to be legally bound, Releasor hereby agrees as follows:

1. **Representations and Warranties**. Releasor represents and warrants that it is duly authorized to enter into this Release and to perform the terms and obligations herein contained, and has not assigned, transferred, or conveyed, either voluntarily or by operation of law, any of its rights or claims against Franchisor or any of the rights, claims, or obligations being terminated and released hereunder. Each individual executing this Release on behalf of Franchisee represents and warrants that he/she is duly authorized to enter into and execute this Release on behalf of Franchisee. Releasor further represents and warrants that all individuals that currently hold a direct or indirect ownership interest in Franchisee are signatories to this Release.

2. **Release**. Releasor and its subsidiaries, affiliates, parents, divisions, successors and assigns, and all persons or firms claiming by, through, under, or on behalf of any or all of them, hereby release, acquit, and forever discharge Franchisor, any and all of its affiliates, parents, subsidiaries, or related companies, divisions, and partnerships, and its and their past and present officers, directors, agents, partners, shareholders, employees, representatives, successors and assigns, and attorneys, and the spouses of such individuals (collectively, the “Released Parties”), from any and all claims, liabilities, damages, expenses, actions, or causes of action which Releasor may now have or has ever had, whether known or unknown, past or present, absolute or contingent, suspected or unsuspected, of any nature whatsoever, including without limiting the generality of the foregoing, all claims, liabilities, damages, expenses, actions, or causes of action directly or indirectly arising out of or relating to the execution and performance of the Agreement and the



offer and sale of the franchise related thereto, except to the extent such liabilities are payable by the applicable indemnified party in connection with a third-party claim.

3. Nondisparagement. Releasor expressly covenants and agrees not to make any false representation of facts, or to defame, disparage, discredit, or deprecate any of the Released Parties or otherwise communicate with any person or entity in a manner intending to damage any of the Released Parties, their business, or their reputation.

4. Confidentiality. Releasor agrees to hold in strictest confidence and not disclose, publish, or use the existence of, or any details relating to, this Release to any third party without Franchisor's express written consent, except as required by law.

5. Miscellaneous.

a. Releasor agrees that it has read and fully understands this Release and that the opportunity has been afforded to Releasor to discuss the terms and contents of said Release with legal counsel and/or that such a discussion with legal counsel has occurred.

b. This Release shall be construed and governed by the laws of the State of Florida.

c. Each individual and entity that comprises Releasor shall be jointly and severally liable for the obligations of Releasor.

d. In the event that it shall be necessary for any Party to institute legal action to enforce or for the breach of any of the terms and conditions or provisions of this Release, the prevailing Party in such action shall be entitled to recover all of its reasonable costs and attorneys' fees.

e. All of the provisions of this Release shall be binding upon and inure to the benefit of the Parties and their current and future respective directors, officers, partners, attorneys, agents, employees, shareholders, and the spouses of such individuals, successors, affiliates, and assigns. No other party shall be a third-party beneficiary to this Release.

f. This Release constitutes the entire agreement and, as such, supersedes all prior oral and written agreements or understandings between and among the Parties regarding the subject matter hereof. This Release may not be modified except in a writing signed by all of the Parties. This Release may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same document.

g. If one or more of the provisions of this Release shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Release, but this Release shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

h. Releasor agrees to do such further acts and things and to execute and deliver such additional agreements and instruments as any Released Party may reasonably require to consummate, evidence, or confirm the Release contained herein in the matter contemplated hereby.

i. This Release is inapplicable with respect to claims arising under the Washington Franchise Investment Protection Act, chapter 19.100 RCW, and the rules adopted thereunder in accordance with RCW 19.100.220.

*(Signatures on following page)*



**IN WITNESS WHEREOF**, Releasor has executed this Release as of the date first written above.

**FRANCHISEE:**

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

**FRANCHISEE'S OWNERS:**

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Rev. 092122



## EXHIBIT H-2

### KIDOKINETICS FRANCHISE

#### SAMPLE SYSTEM PROTECTION AGREEMENT

This System Protection Agreement (“Agreement”) is entered into by the undersigned (“you” or “your”) in favor of Kidokinetics Franchise LLC, a Florida limited liability company, and its successors and assigns (“us,” “we,” or “our”), upon the terms and conditions set forth in this Agreement.

**1. Definitions.** For purposes of this Agreement, the following terms have the meanings given to them below:

“*Competitive Business*” means any youth fitness business or any other business offering any other goods or services offered or authorized for sale by System franchisees.

“*Copyrights*” means all works and materials for which we or our affiliate have secured common law or registered copyright protection and that we allow franchisees to use, sell, or display in connection with the marketing and/or operation of a Kidokinetics business or the solicitation or offer of a Kidokinetics franchise, whether now in existence or created in the future.

“*Franchisee*” means the Kidokinetics franchisee for which you are a manager or officer.

“*Franchisee Territory*” means the territory granted to you pursuant to a franchise agreement with us.

“*Intellectual Property*” means, collectively or individually, our Marks, Copyrights, Know-how, and System.

“*Know-how*” means all of our trade secrets and other proprietary information relating to the development, construction, marketing, and/or operation of a Kidokinetics business, including, but not limited to, methods, techniques, specifications, proprietary practices and procedures, policies, marketing strategies, and information comprising the System and the Manual.

“*Manual*” means our confidential operations manual for the operation of a Kidokinetics business, which may be periodically modified by us.

“*Marks*” means the logotypes, service marks, and trademarks now or hereafter involved in the operation of a Kidokinetics business, including “KIDOKINETICS,” and any other trademarks, service marks, or trade names that we designate for use by a Kidokinetics business. The term “Marks” also includes any distinctive trade dress used to identify a Kidokinetics business, whether now in existence or hereafter created.

“*Prohibited Activities*” means any or all of the following: (i) owning, operating, or having any other interest (as an owner, partner, director, officer, employee, manager, consultant, shareholder, creditor, representative, agent, or in any similar capacity) in a Competitive Business (other than owning an interest of five percent (5%) or less in a publicly-traded company that is a Competitive Business); (ii) diverting or attempting to divert any business from us (or one of our affiliates or franchisees); and/or (iii) inducing or attempting to induce any customer of ours (or of one of our affiliates or franchisees) to transfer their business to you or to any other person that is not then a franchisee of ours.

“*Restricted Period*” means the 24 months-year period after you cease to be a manager or officer of Franchisee’s Kidokinetics business; provided, however, that if a court of competent jurisdiction determines that this period of time is too long to be enforceable, then the “Restricted Period” means the



12 months-year period after you cease to be a manager or officer of Franchisee's Kidokinetics business.

"*Restricted Territory*" means the geographic area within: (i) a twenty (20) mile radius of the perimeter of (a) the Territory being granted hereunder, or (b) any other Territory licensed by Franchisor as of the date of expiration or termination of this Agreement; provided, however, that if a court of competent jurisdiction determines that the foregoing Restricted Territory is too broad to be enforceable, then the "Restricted Territory" means the geographic area within a 10-mile radius from Franchisee's Kidokinetics business (and including the premises of the approved location of Franchisee).

"*System*" means our system for the establishment, development, operation, and management of a Kidokinetics business, including Know-how, proprietary programs and products, Manual, and operating system.

**2. Background.** You are a manager or officer of Franchisee. As a result of this relationship, you may gain knowledge of our System. You understand that protecting the Intellectual Property and our System are vital to our success and that of our franchisees and that you could seriously jeopardize our entire System if you were to unfairly compete with us. In order to avoid such damage, you agree to comply with the terms of this Agreement.

**3. Know-How and Intellectual Property.** You agree: (i) you will not use the Know-how in any business or capacity other than the Kidokinetics business operated by Franchisee; (ii) you will maintain the confidentiality of the Know-how at all times; (iii) you will not make unauthorized copies of documents containing any Know-how; (iv) you will take such reasonable steps as we may ask of you from time to time to prevent unauthorized use or disclosure of the Know-how; and (v) you will stop using the Know-how immediately if you are no longer a manager or officer of Franchisee's Kidokinetics business. You further agree that you will not use all or part of the Intellectual Property or all or part of the System for any purpose other than the performance of your duties for Franchisee and within the scope of your employment or other engagement with Franchisee. These restrictions on Know-how, Intellectual Property and the System shall not apply to any information which is information publicly known or becomes lawfully known in the public domain other than through a breach of this Agreement or is required or compelled by law to be disclosed, provided that you will give reasonable notice to us to allow us to seek protective or other court orders.

**4. Unfair Competition During Relationship.** You agree not to unfairly compete with us at any time while you are a manager or officer of Franchisee's Kidokinetics business by engaging in any Prohibited Activities.

**5. Unfair Competition After Relationship.** You agree not to unfairly compete with us during the Restricted Period by engaging in any Prohibited Activities; provided, however, that the Prohibited Activity relating to having an interest in a Competitive Business will only apply with respect to a Competitive Business that is located within or provides competitive goods or services to customers who are located within the Restricted Territory. If you engage in any Prohibited Activities during the Restricted Period, then you agree that your Restricted Period will be extended by the period of time during which you were engaging in the Prohibited Activity.

**6. Immediate Family Members.** You acknowledge that you could circumvent the purpose of this Agreement by disclosing Know-how to an immediate family member (i.e., spouse, parent, sibling, child, grandparent or grandchild). You also acknowledge that it would be difficult for us to prove whether you disclosed the Know-how to family members. Therefore, you agree that you will be presumed to have violated the terms of this Agreement if any member of your immediate family: (i) engages in any Prohibited Activities during any period of time during which you are prohibited from engaging in the





Prohibited Activities; or (ii) uses or discloses the Know-how. However, you may rebut this presumption by furnishing evidence conclusively showing that you did not disclose the Know-how to the family member.

**7. Covenants Reasonable.** You acknowledge and agree that: (i) the terms of this Agreement are reasonable both in time and in scope of geographic area; and (ii) you have sufficient resources and business experience and opportunities to earn an adequate living while complying with the terms of this Agreement. **YOU HEREBY WAIVE ANY RIGHT TO CHALLENGE THE TERMS OF THIS AGREEMENT AS BEING OVERLY BROAD, UNREASONABLE, OR OTHERWISE UNENFORCEABLE.**

**8. Breach.** You agree that failure to comply with the terms of this Agreement will cause substantial and irreparable damage to us and/or other Kidokinetics franchisees for which there is no adequate remedy at law. Therefore, you agree that any violation of the terms of this Agreement will entitle us to injunctive relief. You agree that we may apply for such injunctive relief without bond, but upon due notice, in addition to such further and other relief as may be available at equity or law, and the sole remedy of yours in the event of the entry of such injunction will be the dissolution of such injunction, if warranted, upon hearing duly held (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). If a court requires the filing of a bond notwithstanding the preceding sentence, the parties agree that the amount of the bond shall not exceed \$1,000. None of the remedies available to us under this Agreement are exclusive of any other, but may be combined with others under this Agreement, or at law or in equity, including injunctive relief, specific performance, and recovery of monetary damages. Any claim, defense, or cause of action that you may have against us, our owners or our affiliates, or against Franchisee, regardless of cause or origin, cannot be used as a defense against our enforcement of this Agreement.

**9. Miscellaneous.**

a. If we pursue legal remedies against you because you have breached this Agreement and prevail against you, you agree to pay our reasonable attorneys' fees and costs in doing so.

b. This Agreement will be governed by, construed, and enforced under the laws of Florida, and the courts in that state shall have jurisdiction over any legal proceedings arising out of this Agreement.

c. Each section of this Agreement, including each subsection and portion thereof, is severable. If any section, subsection, or portion of this Agreement is unenforceable, it shall not affect the enforceability of any other section, subsection, or portion; and each party to this Agreement agrees that the court may impose such limitations on the terms of this Agreement as it deems in its discretion necessary to make such terms reasonable in scope, duration, and geographic area.

d. You and we both believe that the covenants in this Agreement are reasonable in terms of scope, duration, and geographic area. However, we may at any time unilaterally modify the terms of this Agreement upon written notice to you by limiting the scope of the Prohibited Activities, narrowing the definition of a Competitive Business, shortening the duration of the Restricted Period, reducing the geographic scope of the Restricted Territory, and/or reducing the scope of any other covenant imposed upon you under this Agreement to ensure that the terms and covenants in this Agreement are enforceable under applicable law.

*(Signatures on following page)*



EXECUTED on the date stated below.

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Rev. 120619



**EXHIBIT H-3**

**KIDOKINETICS FRANCHISE**

**SAMPLE CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (“Agreement”) is entered into by the undersigned (“you”) in favor of Kidokinetics Franchise LLC, a Florida limited liability company, and its successors and assigns (“us”), upon the terms and conditions set forth in this Agreement.

**1. Definitions.** For purposes of this Agreement, the following terms have the meanings given to them below:

“*Kidokinetics Business*” means a business that offers physical fitness programs for young children through an introduction to all sports and a variety of other related activities and services and other related products and services using our Intellectual Property.

“*Copyrights*” means all works and materials for which we or our affiliate(s) have secured common law or registered copyright protection and that we allow Kidokinetics franchisees to use, sell, or display in connection with the marketing and/or operation of a Kidokinetics Business, whether now in existence or created in the future.

“*Franchisee*” means the Kidokinetics franchisee for which you are an employee, independent contractor, agent, representative, or supplier.

“*Intellectual Property*” means, collectively or individually, our Marks, Copyrights, Know-how, Manual, and System.

“*Know-how*” means all of our trade secrets and other proprietary information relating to the development, construction, marketing, and/or operation of a Kidokinetics Business, including, but not limited to, methods, techniques, specifications, proprietary practices and procedures, policies, marketing strategies, and information comprising the System and the Manual.

“*Manual*” means our confidential operations manual for the operation of a Kidokinetics Business.

“*Marks*” means the logotypes, service marks, and trademarks now or hereafter involved in the operation of a Kidokinetics Business, including “KIDOKINETICS” and any other trademarks, service marks, or trade names that we designate for use by a Kidokinetics Business. The term “Marks” also includes any distinctive trade dress used to identify a Kidokinetics Business, whether now in existence or hereafter created.

“*System*” means our system for the establishment, development, operation, and management of a Kidokinetics Business, including Know-how, proprietary programs and products, confidential operations manuals, and operating system.

**2. Background.** You are an employee, independent contractor, agent, representative, or supplier of Franchisee. Because of this relationship, you may gain knowledge of our Intellectual Property. You understand that protecting the Intellectual Property is vital to our success and that of our franchisees, and that you could seriously jeopardize our entire Franchise System if you were to use such Intellectual Property in any way other than as described in this Agreement. In order to avoid such damage, you agree to comply with this Agreement.



**3. Know-How and Intellectual Property: Non-disclosure and Ownership.** You agree: (i) you will not use the Intellectual Property in any business or capacity other than for the benefit of the Kidokinetics Business operated by Franchisee or in any way detrimental to us or to the Franchisee; (ii) you will maintain the confidentiality of the Intellectual Property at all times; (iii) you will not make unauthorized copies of documents containing any Intellectual Property; (iv) you will take such reasonable steps as we may ask of you from time to time to prevent unauthorized use or disclosure of the Intellectual Property; and (v) you will stop using the Intellectual Property immediately if you are no longer an employee, independent contractor, agent, representative, or supplier of Franchisee. You further agree that you will not use the Intellectual Property for any purpose other than performing your duties for Franchisee and within the scope of your employment or other engagement with Franchisee.

The Intellectual Property is and shall continue to be the sole property of Kidokinetics Franchise LLC. You hereby assign and agree to assign to us any rights you may have or may acquire in such Intellectual Property. Upon the termination of your employment or engagement with Franchisee, or at any time upon our or Franchisee's request, you will deliver to us or to Franchisee all documents and data of any nature pertaining to the Intellectual Property, and you will not take with you any documents or data or copies containing or pertaining to any Intellectual Property.

**4. Immediate Family Members.** You acknowledge you could circumvent the purpose of this Agreement by disclosing Intellectual Property to an immediate family member (i.e., spouse, parent, sibling, child, or grandchild). You also acknowledge that it would be difficult for us to prove whether you disclosed the Intellectual Property to family members. Therefore, you agree you will be presumed to have violated the terms of this Agreement if any member of your immediate family uses or discloses the Intellectual Property. However, you may rebut this presumption by furnishing evidence conclusively showing you did not disclose the Intellectual Property to the family member.

**5. Covenants Reasonable.** You acknowledge and agree that: (i) the terms of this Agreement are reasonable both in time and in scope of geographic area; and (ii) you have sufficient resources and business experience and opportunities to earn an adequate living while complying with the terms of this Agreement. **YOU HEREBY WAIVE ANY RIGHT TO CHALLENGE THE TERMS OF THIS AGREEMENT AS BEING OVERLY BROAD, UNREASONABLE, OR OTHERWISE UNENFORCEABLE.**

**6. Breach.** You agree that failure to comply with this Agreement will cause substantial and irreparable damage to us and/or other Kidokinetics franchisees for which there is no adequate remedy at law. Therefore, you agree that any violation of this Agreement will entitle us to injunctive relief. You agree that we may apply for such injunctive relief, without bond, but upon due notice, in addition to such further and other relief as may be available at equity or law, and the sole remedy of yours, in the event of the entry of such injunction, will be the dissolution of such injunction, if warranted, upon hearing duly held (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). If a court requires the filing of a bond notwithstanding the preceding sentence, the parties agree that the amount of the bond shall not exceed \$1,000. None of the remedies available to us under this Agreement are exclusive of any other, but may be combined with others under this Agreement, or at law or in equity, including injunctive relief, specific performance, and recovery of monetary damages. Any claim, defense, or cause of action you may have against us or against Franchisee, regardless of cause or origin, cannot be used as a defense against our enforcement of this Agreement.



**7. Miscellaneous.**

a. Although this Agreement is entered into in favor of Kidokinetics Franchise LLC, you understand and acknowledge that your employer/employee, independent contractor, agent, representative, or supplier relationship is with Franchisee and not with us, and for all purposes in connection with such relationship, you will look to Franchisee and not to us.

b. If we pursue legal remedies against you because you have breached this Agreement and prevail against you, you agree to pay our reasonable attorney fees and costs in doing so.

c. This Agreement will be governed by, construed, and enforced under the laws of Florida, and the courts in that state shall have jurisdiction over any legal proceedings arising out of this Agreement.

d. Each section of this Agreement, including each subsection and portion, is severable. If any section, subsection, or portion of this Agreement is unenforceable, it shall not affect the enforceability of any other section, subsection, or portion; and each party to this Agreement agrees that the court may impose such limitations on the terms of this Agreement as it deems in its discretion necessary to make such terms enforceable.

EXECUTED on the date stated below.

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

Rev. 032916



**EXHIBIT H-4**

**AUTOMATED CLEARING HOUSE PAYMENT AUTHORIZATION FORM**

**Franchisee Information:**

Franchisee Name	Business No.
Franchisee Mailing Address (street)	Franchisee Phone No.
Franchisee Mailing Address (city, state, zip)	
Contact Name, Address and Phone number (if different from above)	
Franchisee Fax No.	Franchisee Email Address

**Bank Account Information:**

Bank Name		
Bank Mailing Address (street, city, state, zip)		
<input type="checkbox"/> Checking <input type="checkbox"/> Savings		
Bank Account No.	(check one)	Bank Routing No. (9 digits)
Bank Mailing Address (city, state, zip)	Bank Phone No.	

**Authorization:**

Franchisee hereby authorizes Kidokinetics Franchise LLC (“Franchisor”) to initiate debit entries to Franchisee’s account with the Bank listed above, and Franchisee authorizes the Bank to accept and to debit the amount of such entries to Franchisee’s account. Each debit shall be made from time to time in an amount sufficient to cover any fees payable to Franchisor pursuant to any agreement between Franchisor and Franchisee as well as to cover any purchases of goods or services from Franchisor or any affiliate of Franchisor. Franchisee agrees to be bound by the National Automated Clearing House Association (NACHA) rules in the administration of these debit entries. Debit entries will be initiated only as authorized above. This authorization is to remain in full force and effect until Franchisor has received written notification from Franchisee of its termination in such time and in such manner as to afford Franchisor and the Bank a reasonable opportunity to act on it. Franchisee shall notify Franchisor of any changes to any of the information contained in this authorization form at least 30 days before such change becomes effective.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Federal Tax ID Number: \_\_\_\_\_

Rev. 032916

**NOTE: FRANCHISEE MUST ATTACH A VOIDED CHECK RELATING TO THE BANK ACCOUNT.**



**EXHIBIT H-5**

**KIDOKINETICS FRANCHISE**

**SAMPLE APPROVAL OF REQUESTED ASSIGNMENT**

This Approval of Requested Assignment (“**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Kidokinetics Franchise LLC (“**Franchisor**”), a Florida limited liability company, \_\_\_\_\_ (“**Former Franchisee**”), the undersigned owners of Former Franchisee (“**Owners**”) and \_\_\_\_\_, a [a/an Formation State] [corporation/limited liability company]” (“**New Franchisee**”).

**RECITALS**

WHEREAS, Franchisor and Former Franchisee entered into that certain franchise agreement dated \_\_\_\_\_, 20\_\_\_\_ (“**Former Franchise Agreement**”), in which Franchisor granted Former Franchisee the right to operate a Kidokinetics franchise located at \_\_\_\_\_ (“**Franchised Business**”); and

WHEREAS, Former Franchisee desires to assign (“**Requested Assignment**”) the Franchised Business to New Franchisee, New Franchisee desires to accept the Requested Assignment of the Franchised Business from Former Franchisee, and Franchisor desires to approve the Requested Assignment of the Franchised Business from Former Franchisee to New Franchisee upon the terms and conditions contained in this Agreement, including that New Franchisee sign Franchisor’s current form of franchise agreement together with all exhibits and attachments thereto (“**New Franchise Agreement**”), contemporaneously herewith.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, the parties hereto hereby covenant, promise, and agree as follows:

1. Payment of Fees. In consideration for the Requested Assignment, Former Franchisee acknowledges and agrees to pay Franchisor the Transfer Fee, as required under the Franchise Agreement (“**Franchisor’s Assignment Fee**”).

2. Assignment and Assumption. Former Franchisee hereby consents to assign all of its rights and delegate its duties with regard to the Former Franchise Agreement and all exhibits and attachments thereto from Former Franchisee to New Franchisee, subject to the terms and conditions of this Agreement, and conditioned upon New Franchisee’s signing the New Franchise Agreement pursuant to Section 5 of this Agreement.

3. Consent to Requested Assignment of Franchised Business. Franchisor hereby consents to the Requested Assignment of the Franchised Business from Former Franchisee to New Franchisee upon receipt of the Franchisor’s Assignment Fee from Former Franchisee and the mutual execution of this Agreement by all parties. Franchisor waives its right of first refusal set forth in the Former Franchise Agreement.

4. Termination of Rights to the Franchised Business. The parties acknowledge and agree that effective upon the date of this Agreement, the Former Franchise Agreement shall terminate and all of Former Franchisee’s rights to operate the Franchised Business are terminated and that from the date of this Agreement only New Franchisee shall have the sole right to operate the Franchised Business under



the New Franchise Agreement. Former Franchisee and the undersigned Owners agree to comply with all of the covenants in the Former Franchise Agreement that expressly or by implication survive the termination, expiration, or transfer of the Former Franchise Agreement. Unless otherwise precluded by state law, Former Franchisee shall execute Franchisor's current form of General Release Agreement.

5. New Franchise Agreement. New Franchisee shall execute the New Franchise Agreement for the Franchised Business (as amended by the form of Addendum prescribed by Franchisor, if applicable), and any other required contracts for the operation of a Kidokinetics franchise as stated in Franchisor's Franchise Disclosure Document.

6. Former Franchisee's Contact Information. Former Franchisee agrees to keep Franchisor informed of its current address and telephone number at all times during the three-year period following the execution of this Agreement.

7. Acknowledgement by New Franchisee. New Franchisee acknowledges and agrees that the purchase of the rights to the Franchised Business ("**Transaction**") occurred solely between Former Franchisee and New Franchisee. New Franchisee also acknowledges and agrees that Franchisor played no role in the Transaction and that Franchisor's involvement was limited to the approval of Requested Assignment and any required actions regarding New Franchisee's signing of the New Franchise Agreement for the Franchised Business. New Franchisee agrees that any claims, disputes, or issues relating New Franchisee's acquisition of the Franchised Business from Franchisee are between New Franchisee and Former Franchisee, and shall not involve Franchisor.

8. Representation. Former Franchisee warrants and represents that it has not heretofore assigned, conveyed, or disposed of any interest in the Former Franchise Agreement or Franchised Business. New Franchisee hereby represents that it received Franchisor's Franchise Disclosure Document and did not sign the New Franchise Agreement or pay any money to Franchisor or its affiliate for a period of at least 14 calendar days after receipt of the Franchise Disclosure Document.

9. Notices. Any notices given under this Agreement shall be in writing, and if delivered by hand, or transmitted by U.S. certified mail, return receipt requested, postage prepaid, or via telegram or telefax, shall be deemed to have been given on the date so delivered or transmitted, if sent to the recipient at its address or telefax number appearing on the records of the sending party.

10. Further Actions. Former Franchisee and New Franchisee each agree to take such further actions as may be required to effectuate the terms and conditions of this Agreement, including any and all actions that may be required or contemplated by the Former Franchise Agreement.

11. Affiliates. When used in this Agreement, the term "**Affiliates**" has the meaning as given in Rule 144 under the Securities Act of 1933.

12. Miscellaneous. This Agreement may not be changed or modified except in a writing signed by all of the parties hereto. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same document. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

13. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

*(Signatures on following page)*





**IN WITNESS WHEREOF**, the parties have executed this Agreement under seal, with the intent that this be a sealed instrument, as of the day and year first above written.

**FRANCHISOR:**

KIDOKINETICS FRANCHISE LLC

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FORMER FRANCHISEE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**NEW FRANCHISEE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Rev. 031821



**EXHIBIT H-6**

**SOFTWARE LICENSE AGREEMENT**

This SOFTWARE LICENSE AGREEMENT (“**Agreement**”) is entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“**Effective Date**”) by and between Kidokinetics Franchise LLC, a Florida limited liability company with an address at 10428 West SR 84, Unit 1, Davie, FL 33324 (“**Franchisor**”), and \_\_\_\_\_ a(n) \_\_\_\_\_ with an address at \_\_\_\_\_ (“**Franchisee**”) and its Guarantors \_\_\_\_\_, individually, and \_\_\_\_\_, individually.

**BACKGROUND**

- A. Simultaneously with the execution of this Agreement, Franchisor and Franchisee are entering into a franchise agreement (“**Franchise Agreement**”) pursuant to which Franchisor is granting Franchisee the right to operate a Kidokinetics® franchised business (“**Franchised Business**”) under Franchisor’s Marks and System.
- B. One of Franchisee’s obligations under the Franchise Agreement is to implement such Computer Systems, including all software and hardware, Franchisor requires.
- C. Franchisor’s affiliate has developed the KIDOLINK business management software, for which Franchisor has the contractual right to sublicense, to be utilized by Franchisee in connection with the Franchised Business (“**KIDOLINK Software**”). The KIDOLINK software provides assistance with the management of client leads and data, sales records and documentation, inventory control, marketing efforts, administrative matters, and customer service for Franchisee and Franchisee’s employees.
- D. Franchisor may also, from time to time, whether itself or through its designees develop customized software for Franchisee’s use in connection with the Franchised Business (“**Customized Software**”). Franchisee may, at the discretion of Franchisor, be required to purchase and use the Customized Software. Whether Franchisee is required to, or otherwise elects to, use the Customized Software, Franchisee agrees to abide by the terms of this Agreement with regards to any Customized Software. The KIDOLINK Software and Customized Software will be referred to collectively in this Agreement as the “**Proprietary Software.**”
- E. Guarantors agree to personally, and jointly and severally, guaranty Franchisee’s obligations and covenants under this Agreement and to be bound by each provision as though each were the Franchisee.
- F. Now, the parties desire to define the terms and conditions on which Franchisor will grant use of the KIDOLINK Software and Customized Software to Franchisee in accordance with the provisions of this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Agreement and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:



## 1. KIDOLINK SOFTWARE

### A. GRANT OF USE

- (a) **License Grant.** Franchisor grants to Franchisee a personal, limited, non-assignable, non-transferrable, non-exclusive license to use the KIDOLINK Software during the term of the Franchise Agreement, subject to the terms and conditions set forth in this Agreement.
- (b) **No Customization.** Franchisor prohibits Franchisee from customizing or authorizing customizations of the KIDOLINK Software
- (c) **Scope of Use.** Franchisee may use the KIDOLINK Software solely for Franchisee's internal needs in the operation of Franchised Business as a franchisee of Franchisor and will not make the KIDOLINK Software available to or permit the use thereof by any person or entity except to the extent and in the manner permitted under Subsections 1.A.(d) and (e) below.
- (d) **Limited Right to Copy.** Franchisee may not grant access, copy or allow copies of the KIDOLINK Software or any other proprietary information to be made, except to the extent necessary to exercise the use granted hereby and for back-up and archival purposes.
- (e) **No Reverse Engineering or Modifications.** Franchisee agrees not to reverse engineer, decompile or disassemble the KIDOLINK Software or any part of the KIDOLINK Software, nor will Franchisee change, modify or create derivative works from the KIDOLINK Software.
- (f) **Ownership.** Franchisee acknowledges that Franchisee has no ownership rights in the KIDOLINK Software
- (g) **Other Rights.** Franchisee has no other rights in the KIDOLINK Software except those rights expressly granted by this Agreement.
- (h) **Third-Party Access.** Franchisee must not make the KIDOLINK Software available to any third party unless required by Franchisor at its sole discretion.
- (i) **Updating to Current Version.** Franchisee must only use current versions of the KIDOLINK Software; provided, however, Franchisee may use prior versions if prior versions are necessary to support the current version. Current version may include an upgrade to a version requiring an additional fee after the effective date of this Agreement.

### B. FEES

- (a) **Initial KIDOLINK Software License Fee.** Franchisee must pay to Franchisor \$3,000 for Franchisee's first Franchised Business and \$1,000 for Franchisee's second or greater Franchised Business as a one-time Initial Software License Fee, due on the execution of this Agreement (unless), for the use of the KIDOLINK Software.
- (b) **Monthly KIDOLINK Software License Fee.** Beginning in the first month Franchisee begins to operate the Franchised Business, Franchisee must pay to Franchisor a continuing Monthly Software License Fee via automatic bank draft for the right to use the KIDOLINK Software. Currently, the continuing Monthly Software License Fee is \$475 per month, which Franchisor reserves the right to increase by up to 10% in any calendar year.



## C. TERMINATION

- (a) **Term.** Except as otherwise expressly set forth below, the parties intend that the term of the license granted hereby will be coextensive with the term of the Franchise Agreement and all renewals and extensions thereof.
- (b) **Automatic Termination.** The license granted hereby will terminate automatically upon the expiration, nonrenewal, or termination of the Franchise Agreement.
- (c) **Termination by Franchisor.** Franchisor or its designee may terminate the license to use the KIDOLINK Software, as granted herein, upon notice to Franchisee with immediate effect in the event that (i) Franchisee breaches any of its obligations under this Agreement or under the Franchise Agreement, (ii) the Franchise Agreement is terminated, expires, or is not renewed, or (iii) Franchisor requires Franchisee to cease using the KIDOLINK Software, or any or all portions of it, as specified by Franchisor. Unless notified to discontinue use, Franchisee agrees to continue to use the KIDOLINK Software and any updated versions of it as long as Franchisor requires it.
- (d) **Disabling of the KIDOLINK Software.** Franchisee understands that Franchisor may include a feature in the KIDOLINK Software that will cause the KIDOLINK Software to automatically cease to operate in whole or in part in the event Franchisee materially breaches this Agreement, the Franchise Agreement, or fails in a timely manner to (i) submit to Franchisor the reports required by Franchisor; (ii) pay to Franchisor the required fees under this Agreement; or (iii) pay to Franchisor the Royalty Fee or any other amounts due to Franchisor under the Franchise Agreement. **Franchisor will not be liable to Franchisee for any damages whatsoever that may result directly or indirectly from Franchisor's disabling of the functionality of the KIDOLINK Software pursuant to this Section.**
- (e) **Disposition of Copies.** Upon termination of the license to use the KIDOLINK Software granted herein Franchisee agrees to promptly return to Franchisor, or otherwise dispose of as Franchisor may instruct, all physical copies of the KIDOLINK Software and its associated documentation in Franchisee's possession or under Franchisee's control and will remove all copies thereof from Franchisee's computers and other electronic storage media. On Franchisor's request, Franchisee will provide Franchisor with written certification of its compliance with the foregoing.
- (f) **No Refunds.** Upon the expiration or termination of the license granted hereby, or if the KIDOLINK Software is disabled as described above, Franchisee will not receive any refund of any payments made to Franchisor.
- (g) **Ownership of Data.** Franchisee acknowledges and agrees that all data and information input and stored in the KIDOLINK Software is the sole and exclusive property of Franchisor and that such information is licensed to Franchisee for its use solely for the direct and customary operation of the Franchised Business and only during the term of this Agreement.

## 2. THIRD PARTY AND CUSTOMIZED SOFTWARE

A. **Purchase of Third Party and Customized Software License.** Franchisee agrees to pay to Franchisor, or its designee if indicated by Franchisor, any initial license fee for the purchase of one or more licenses to any software that is proprietary to a third party but required by Franchisor for Franchisee to operate the Franchised Business.



B. **Recurring Fees**. If under the terms of use for any Customized Software Franchisee is required to pay to any third party a recurring fee, whether as a recurring license fee, training and support fee, or otherwise, Franchisor may, in its discretion, after notifying Franchisee in writing, elect to act as intermediary for payment purposes only, without any liability to Franchisor whatsoever, and to pay such recurring fee from Franchisee's payment of the initial and monthly Proprietary Software Fee, as defined in the Franchise Agreement and in Sections 4.A and 4.B below.

C. **License and User Agreements**. Franchisee further agrees to enter into all license and user agreements, and any other agreements Franchisor and/or its designee requires, in connection with the purchase of one or more licenses for, and/or the use of any, third-party software or Customized Software. Franchisee may be required to enter into such license or user agreements with Franchisor and/or Franchisor's designee(s).

### 3. TRAINING AND SUPPORT; ACCOUNTANTS & OTHER PROFESSIONAL CONSULTANTS

A. **Cooperation of Franchisee**. Franchisee agrees to cooperate with Franchisor in all matters relating to the installation and support of the Proprietary Software and shall complete such training of Franchisee's personnel with respect to the Proprietary Software as may be required by Franchisor.

B. **Training and Support**. Franchisor or Franchisor's designee will provide a limited amount of training and support to Franchisee which may be by telephone, webinar or any other means during Franchisor's normal business hours, via a written manual, the Internet or in any other manner chosen by Franchisor. The type and amount of such training and support shall be determined by Franchisor in its sole discretion.

C. **Maintenance, Upgrades and Fixes**. Franchisor or its designee may, in its discretion, modify, upgrade or create fixes, service releases and new versions of the Proprietary Software from time to time and provide them to Franchisee.

D. **Remote Access**. Franchisee permits Franchisor or its designee unrestricted remote access to Franchisee's network and each device containing any of the Proprietary Software. Such access may be to allow for the full functioning of the Proprietary Software, to allow Franchisor to install the Proprietary Software and modifications, fixes, service releases and new versions of the Proprietary Software, to provide training and support, and any other reason Franchisor may designate or deem necessary. Franchisee acknowledges and agrees that (i) Franchisee will install on its network reasonable security protection; (ii) remote access may reduce or disable the effectiveness of security protection; and (iii) neither Franchisor nor any party acting on behalf of Franchisor shall be liable for any claims, demands, damages, costs or expenses that arise or are in any way connected with the remote access to Franchisee's network described herein. Franchisee further understands and acknowledges that such remote access allows Franchisor to have full access to the data generated by Franchisee and to retrieve and use any such data without any limitation.

### 4. FEES

A. **Initial Software Fees**. Franchisee agrees to pay any future initial license fee, or the equivalent thereof, if applicable, for any Customized Software developed by Franchisor or its designee.

B. **Recurring Software Fees**. Franchisee may be required to pay to Franchisor a recurring software fee in connection with the future license of any Customized Software via automatic bank draft, or such other method Franchisor designates. The amount of such fees will be the then-current amount charged for the Customized Software by Franchisor to franchisees of Franchisor.

C. **Agreements With Other Professional Consultants**. Franchisee agrees to engage the services of other professional consultants from time to time as required or suggested by Franchisor to assist with the training, implementation, or deployment of hardware, software or other technology.



D. **Late Payments.** Any payment to be made by Franchisee under this Agreement that is not made within ten days after such payment is due will bear interest at the rate of 18% per annum, or the highest rate allowed by law, whichever is less.

## 5. CONFIDENTIALITY AND LIMITED ACCESS

A. **Nondisclosure.** Franchisee agrees to maintain the Proprietary Software, including its documentation and the data generated by the use of the Proprietary Software in confidence by using at least the same physical and other security measures that Franchisee uses for its own confidential information. Franchisee further agrees not to allow anyone to access or use the Proprietary Software or to see its documentation or the data it generates other than Franchisee's employees, agents, and representatives who have a need to have access to or to use the Proprietary Software in order to support Franchisee's authorized use thereof, provided that each such employee, agent, and representative shall have signed an undertaking to Franchisee, in a form satisfactory to Franchisor, acknowledging that he or she is bound by an obligation of confidentiality.

B. **Notice of Loss.** Franchisee shall immediately notify Franchisor upon discovering any loss or theft of any copy of the Proprietary Software or its documentation or any data generated by its use, or any unauthorized disclosure thereof by any of Franchisee's employees, agents or representatives.

## 6. REPRESENTATIONS; WARRANTIES; LIMITATION OF LIABILITY; INDEMNIFICATION

A. **Disclaimer of Warranty.** EXCEPT AS SPECIFICALLY PROVIDED HEREIN, NEITHER FRANCHISOR NOR ANY AFFILIATE OF FRANCHISOR MAKES ANY EXPRESS OR IMPLIED WARRANTY WHATSOEVER. FRANCHISOR AND ALL AFFILIATES OF FRANCHISOR EXPRESSLY DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FRANCHISOR SPECIFICALLY MAKES NO WARRANTIES AND DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY RELATING TO ANY SOFTWARE, COMPUTER PROGRAM, DATA, INTRANET, WEBSITE OR OTHER RELATED ITEMS PROVIDED OR RECOMMENDED BY FRANCHISOR. FRANCHISOR DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY THAT FRANCHISOR WILL CORRECT ANY OR ALL SOFTWARE DEFECTS.

B. **Specific Warranty Disclaimers.** WITHOUT LIMITING ANY DISCLAIMER OF WARRANTY IN SECTION 6.A, FRANCHISOR SPECIFICALLY DISCLAIMS ANY WARRANTY THAT FRANCHISOR'S SOFTWARE OR DOCUMENTATION:

- (a). will meet Franchisees' requirements;
- (b). will adhere to any quality standards;
- (c). will be uninterrupted, timely, secure, bug-free or error-free;
- (d). will be free from harmful code;
- (e). will produce effective, accurate or reliable results;
- (f). will meet Franchisees' expectations; or
- (g). will be free from technical or other mistakes, inaccuracies or typographical errors.

C. **Limitation of Liability.** THE LIABILITY OF FRANCHISOR TO FRANCHISEE WILL BE LIMITED TO DIRECT DAMAGES. IN NO EVENT WILL FRANCHISOR BE LIABLE FOR INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF FRANCHISOR HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, FRANCHISOR SHALL HAVE NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN ANY WAY RELATED TO WORK PERFORMED BY CONSULTANTS OR OTHER PROFESSIONALS USING SCHEDULING OR ANY CUSTOMIZED SOFTWARE, REGARDLESS OF ANY PERMISSION, APPROVAL OR



**ACCEPTANCE OF ACCOUNTANTS OR OTHERS BY FRANCHISOR. FRANCHISOR SHALL ALSO HAVE NO LIABILITY FOR INADVERTENT INTERRUPTION, DISABLING, OR UPDATE OF THE PROPRIETARY SOFTWARE.**

D. **KIDOLINK Software and Franchisee’s Right to Indemnification.** If a third party claims that the MOBILNK Software infringes any U.S. patent, copyright, or trade secret, Franchisor may elect, in its sole discretion, to defend Franchisee against such claim at Franchisor’s expense and pay all damages that a court finally awards, provided that Franchisee promptly notifies Franchisor in writing of the claim, and allows Franchisor to control, and Franchisee cooperates with Franchisor in, the defense or any related settlement negotiations. If such a claim is made or appears possible, Franchisor may, at its option, secure for Franchisee the right to continue to use the KIDOLINK Software or modify or replace the KIDOLINK Software so that it is non-infringing. If neither of the foregoing options is available in Franchisor’s judgment, Franchisor may terminate the license granted by this Agreement and require Franchisee to return the KIDOLINK Software without compensation. Franchisor has no obligation with respect to any claim based on a version of the KIDOLINK Software that is modified without Franchisor’s authorization or is combined, operated or used with any product, data, or apparatus not specified or approved by Franchisor. **THIS SECTION 6.D. STATES THE ENTIRE OBLIGATION OF FRANCHISOR AND FRANCHISOR’S AFFILIATES TO FRANCHISEE WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.**

E. **Franchisor’s Right to Indemnification.** Franchisee must indemnify, hold harmless, and defend Franchisor, its affiliates, and their agents and employees, in accordance with this Section, against any loss arising from or in connection with, or resulting from, and will be limited to any claim that materials or content (including, any information, software, and data) furnished by Franchisee infringe or misappropriate any third-party copyright or trademark rights.

F. **Tax and Accounting Disclaimer.** Franchisee agrees, acknowledges and understands that use of the KIDOLINK Software is for the purposes of assisting Franchisee with maintenance of certain books, records and reports useful to Franchisee and which may be required pursuant to the Franchise Agreement between Franchisee and Franchisor. The KIDOLINK Software is not intended, and Franchisor specifically disclaims any representation or warranty regarding use of the KIDOLINK Software, to produce records or reports that comply with generally accepted accounting principles (“GAAP”) or Internal Revenue Service (“IRS”) policies and guidelines. It is Franchisee’s sole responsibility to comply with any applicable requirements of law or otherwise relating to GAAP or IRS policies and requirements.

## 7. MISCELLANEOUS

A. **Remedies.** Franchisee acknowledges that any breach of the covenants set forth in Subsections 1.A.(b), (c), (d), (e) or (f) or Section 5 of this Agreement would cause irreparable damage to Franchisor that would be incapable of precise measurement and for which no adequate remedy would exist at law. Franchisee therefore agrees that injunctive relief shall be available for any such breach in addition to all other remedies that may be available.

B. **Notices.** All notices, requests, consents and other communications required or permitted by this Agreement shall be in writing and shall be delivered by hand, fax, overnight delivery service, or registered or certified first-class mail, to then-current address of the recipient known by the sender, to the attention of the person then holding the title of the person signing this Agreement on behalf of the recipient. Any such notice, request, consent or other communication shall be deemed given and be effective upon receipt at such address.

C. **Entire Agreement; Amendments.** This Agreement constitutes the entire understanding between the parties relating to the subject matter hereof, superseding all prior agreements, arrangements and understandings between the parties relating to its subject matter. This Agreement may not be amended or changed in any way unless such changes are in writing signed by the parties hereto.



D. **Waiver.** No delay, omission or failure to exercise any right or remedy provided for herein will be deemed to be a waiver thereof or acquiescence in the event giving rise to such right or remedy. No waiver will be binding unless contained in a writing signed by the party waiving its rights. Any waiver is limited to the specific situation in which it is given and no waiver of any breach or default under this Agreement will be construed as a waiver of any earlier or succeeding breach or default.

E. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within the State of Florida, without regard to Florida's conflicts of law principles.

F. **Mediation and Arbitration.** Sections 8.1 (Arbitration) and 8.2 (Mediation) of the Franchise Agreement are hereby incorporated into this Agreement and made a part by reference, and the parties agree that any controversy or dispute arising out of or related to this Agreement will be governed exclusively by these dispute resolution Sections.

G. **Assignment.** Franchisee may not assign or transfer this Agreement or any rights hereunder without Franchisor's prior written consent. Franchisor may assign or transfer this Agreement and all of Franchisor's rights, duties, and obligations hereunder to any person, group, or entity that Franchisor chooses. Upon an assignment, Franchisor will be released from all of duties and obligations and Franchisee will look to the assignee for the performance of these duties and obligations.

H. **Costs, Expenses and Attorneys' Fees.** If an action is commenced between the parties to enforce any provision of this Agreement, the prevailing party will be entitled to reasonable costs and expenses, including attorneys' fees.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date written above.

**FRANCHISOR**  
**KIDOKINETICS FRANCHISE LLC**  
a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FRANCHISEE**  
\_\_\_\_\_  
a/an \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GUARANTORS**  
\_\_\_\_\_  
\_\_\_\_\_, Individually  
Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, Individually  
Date: \_\_\_\_\_





**KIDOKINETICS FRANCHISE LLC**

**EXHIBIT I**  
**STATE EFFECTIVE DATES**

**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 below:

<b>State</b>	<b>Effective Date</b>
California	Pending
Hawaii	Pending
Illinois	Pending
Michigan	Pending
Maryland	Pending
Minnesota	Pending
New York	Pending

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.



**EXHIBIT J**

**RECEIPT**



**RECEIPT**  
**(Retain This Copy)**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Kidokinetics Franchise LLC 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.

Under Iowa law, if applicable, Kidokinetics Franchise LLC must provide this disclosure document to you at your first personal meeting to discuss the franchise. Michigan requires Kidokinetics Franchise LLC to give you this disclosure document at least ten business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. New York requires you to receive this disclosure document at the earlier of the first personal meeting or ten business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Kidokinetics Franchise LLC 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, DC 20580, and the appropriate state agency identified on Exhibit A.

The name, principal business address, and telephone number of each franchise seller offering the franchise is:
Terri Braun, 10428 West SR 84, Unit 1, Davie, FL 33324, (954) 385-8511
Dave Pazgan, 10428 West SR 84, Unit 1, Davie, FL 33324, (330) 760-2990

Issuance Date: April 19, 2024

I received a disclosure document issued April 19, 2024 which included the following exhibits:

- Exhibit A List of State Administrators and Agents for Service of Process
- Exhibit B Franchise Agreement
- Exhibit C Franchise Operations Manual Table of Contents
- Exhibit D Financial Statements
- Exhibit E List of Current and Former Franchisees
- Exhibit F Franchise Disclosure Questionnaire
- Exhibit G State Addenda and Agreement Riders
- Exhibit H Contracts for Use with the Kidokinetics Franchise
- Exhibit I State Effective Dates
- Exhibit J Receipt

\_\_\_\_\_  
Date Signature Printed Name

\_\_\_\_\_  
Date Signature Printed Name

Rev. 012417

**PLEASE RETAIN THIS COPY FOR YOUR RECORDS.**



**RECEIPT  
(Our Copy)**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Kidokinetics Franchise LLC 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.

Under Iowa law, if applicable, Kidokinetics Franchise LLC must provide this disclosure document to you at your first personal meeting to discuss the franchise. Michigan requires Kidokinetics Franchise LLC to give you this disclosure document at least ten business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. New York requires you to receive this disclosure document at the earlier of the first personal meeting or ten business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Kidokinetics Franchise LLC 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 appropriate state agency identified on Exhibit A.

The name, principal business address, and telephone number of each franchise seller offering the franchise is:
Terri Braun, 10428 West SR 84, Unit 1, Davie, FL 33324, (954) 385-8511
Dave Pazgan, 10428 West SR 84, Unit 1, Davie, FL 33324, (330) 760-2990

Issuance Date: April 19, 2024

I received a disclosure document issued April 19, 2024 which included the following exhibits:

- Exhibit A List of State Administrators and Agents for Service of Process
- Exhibit B Franchise Agreement
- Exhibit C Franchise Operations Manual Table of Contents
- Exhibit D Financial Statements
- Exhibit E List of Current and Former Franchisees
- Exhibit F Franchise Disclosure Questionnaire
- Exhibit G State Addenda and Agreement Riders
- Exhibit H Contracts for Use with the Kidokinetics Franchise
- Exhibit I State Effective Dates
- Exhibit J Receipt

\_\_\_\_\_  
Date Signature Printed Name

\_\_\_\_\_  
Date Signature Printed Name

Rev. 012417

**Please sign this copy of the receipt, date your signature, and return it to Kidokinetics Franchise LLC, 10428 West SR 84, Unit 1, Davie, FL 33324.**





# KIDOKINETICS FRANCHISE LLC

FINANCIAL STATEMENTS  
WITH INDEPENDENT AUDITOR'S REPORT  
DECEMBER 31, 2023, 2022, AND 2021



# KIDOKINETICS FRANCHISE LLC

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***Independent Auditor's Report***

To the Members  
Kidokinetics Franchise LLC  
Weston, Florida

***Opinion***

We have audited the accompanying financial statements of Kidokinetics Franchise LLC, which comprise the balance sheets as of December 31, 2023, 2022, and 2021, and the related statements of operations, members' equity (deficit), and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Kidokinetics Franchise LLC as of December 31, 2023, 2022, and 2021, and the results of its operations and its 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. 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 the Company 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 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 financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the 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 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 generally accepted auditing standards 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, including omissions, 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 financial statements.



In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the 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 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 the Company'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 financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company'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.

***Restrictions on Use***

The use of this report is restricted to inclusion within the Company's Franchise Disclosure Document (FDD) and is not intended to be, and should not be, used or relied upon by anyone for any other use.

Kezas  $\frac{3}{4}$  Dunlavy

St. George, Utah  
April 18, 2024



## KIDOKINETICS FRANCHISE LLC

### BALANCE SHEETS

As of December 31, 2023, 2022, and 2021

	2023	2022	2021
<b>Assets</b>			
Current assets			
Cash and cash equivalents	\$ 76,964	\$ 32,500	\$ 40,556
Accounts receivable	446,951	498	-
Deferred contract costs, current	340,727	326,228	-
Total current assets	864,642	359,226	40,556
Non-current assets			
Leasehold improvements, net	36,727	48,127	55,087
Intangible assets, net	25,107	50,553	43,554
Right of use asset	24,593	81,087	-
Deferred contract costs, non-current	1,173,255	282,706	-
Other non-current assets	9,600	9,600	9,600
Total non-current assets	1,269,282	472,073	108,241
Total assets	\$ 2,133,924	\$ 831,299	\$ 148,797
<b>Liabilities and Members' Equity (Deficit)</b>			
Current liabilities			
Accounts payable	\$ 748,939	\$ 354,239	\$ 68,939
Accrued expenses	138,810	41,609	-
Credit card liability	159,035	206,381	47,806
Loans from member	34,439	31,092	29,594
Lines of credit	243,821	-	-
Note payable, current	13,158	60,941	-
Operating lease liability, current	25,318	57,509	-
Deferred revenue, current	506,073	595,065	-
Total current liabilities	1,869,593	1,346,836	146,339
Non-current liabilities			
Note payable, non-current	16,842	-	-
Operating lease liability, non-current	-	25,318	-
Deferred revenue, non-current	1,844,262	289,713	-
Total non-current liabilities	1,861,104	315,031	-
Total liabilities	3,730,697	1,661,867	146,339
Members' equity (deficit)			
Members' interests	406,386	406,386	427,077
Retained earnings (accumulated deficit)	(2,003,159)	(1,236,954)	(424,619)
Total members' equity (deficit)	(1,596,773)	(830,568)	2,458
Total liabilities and members' equity (deficit)	\$ 2,133,924	\$ 831,299	\$ 148,797

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**STATEMENTS OF OPERATIONS**  
For the years ended December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Operating revenue			
Initial franchise fees	\$ 2,796,637	\$ 689,548	\$ 281,000
Royalty fees	201,199	86,911	56,577
Service revenue	467,961	87,473	-
Advertising fees	29,635	-	-
Apparel sales	13,774	27,823	-
Total operating revenue	<u>3,509,206</u>	<u>891,755</u>	<u>337,577</u>
Operating expenses			
General and administrative	1,697,537	989,921	475,718
Professional fees	674,880	81,198	76,154
Commissions	1,716,506	490,302	125,315
Advertising and marketing	71,433	116,633	70,163
Total operating expenses	<u>4,160,356</u>	<u>1,678,054</u>	<u>747,350</u>
Loss from operations	(651,150)	(786,299)	(409,773)
Interest expense	97,922	25,021	1,943
Net loss	<u>\$ (749,072)</u>	<u>\$ (811,320)</u>	<u>\$ (411,716)</u>

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**STATEMENTS OF MEMBERS' EQUITY (DEFICIT)**  
For the years ended December 31, 2023, 2022, and 2021

	Common Stock		Additional Paid-in Capital	Members' Interests	Retained Earnings	Total Equity
	Shares	Amount				
Balance at January 1, 2021	100	\$ 1	\$ 4,999	\$ -	\$ (12,903)	\$ (7,903)
Conversion to LLC	(100)	(1)	(4,999)	5,000	-	-
Member contributions	-	-	-	422,077	-	422,077
Net loss	-	-	-	-	(411,716)	(411,716)
Balance at December 31, 2021	-	-	-	427,077	(424,619)	2,458
Adoption of ASC 842, <i>Leases</i>	-	-	-	-	(1,015)	(1,015)
Member distributions	-	-	-	(20,691)	-	(20,691)
Net loss	-	-	-	-	(811,320)	(811,320)
Balance at December 31, 2022	-	-	-	406,386	(1,236,954)	(830,568)
Member distributions	-	-	-	-	(17,133)	(17,133)
Net loss	-	-	-	-	(749,072)	(749,072)
Balance at December 31, 2023	-	\$ -	\$ -	\$ 406,386	\$ (2,003,159)	\$ (1,596,773)

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**STATEMENTS OF CASH FLOWS**  
For the years ended December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Cash flow from operating activities:			
Net loss	\$ (749,072)	\$ (811,320)	\$ (411,716)
Adjustments to reconcile net loss to net cash used in operating activities:			
Amortization	25,446	22,001	11,191
Depreciation	11,400	11,400	1,900
Amortization of right of use asset	56,494	53,741	-
Changes in operating assets and liabilities:			
Accounts receivable	(446,453)	(498)	2,530
Deferred contract costs	(905,048)	(608,934)	-
Other non-current assets	-	-	(9,600)
Accounts payable	394,700	285,300	60,075
Accrued expenses	97,201	41,609	-
Credit card liability	(47,346)	158,575	47,806
Loans from shareholder	3,347	1,498	18,226
Operating lease liability	(57,509)	(53,016)	-
Deferred revenue	1,465,557	884,778	-
Net cash used in operating activities	<u>(151,283)</u>	<u>(14,866)</u>	<u>(279,588)</u>
Cash flows from investing activities:			
Investment in leasehold improvements	-	(4,440)	(56,987)
Investment in intangible assets	-	(29,000)	(47,200)
Net cash used in investing activities	<u>-</u>	<u>(33,440)</u>	<u>(104,187)</u>
Cash flows from financing activities:			
Draw on note payable	30,000	76,050	-
Net draws on lines of credit	243,821	-	-
Principal payments on note payable	(60,941)	(15,109)	-
Member contributions (distributions)	(17,133)	(20,691)	422,077
Net cash provided by financing activities	<u>195,747</u>	<u>40,250</u>	<u>422,077</u>
Net change in cash and cash equivalents	44,464	(8,056)	38,302
Cash at the beginning of the year	32,500	40,556	2,254
Cash at the end of the year	<u>\$ 76,964</u>	<u>\$ 32,500</u>	<u>\$ 40,556</u>
Supplementary disclosures of cash flows			
Cash paid for interest	\$ 97,922	\$ 25,021	\$ 1,943
Cash paid for taxes	\$ -	\$ -	\$ -

The accompanying notes are an integral part of the financial statements.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

(1) Nature of Business and Summary of Significant Accounting Policies

*(a) Nature of Business*

Kidokinetics Franchise LLC (the "Company") is a limited liability company organized pursuant to the laws of the state of Florida on July 29, 2005 as Kidokinetics Franchise Corp. On May 4, 2021, the Company filed articles of conversion and converted from a corporation to a limited liability company. The Company's principal business is the development and franchising of a unique sports fitness program developed to help children enhance their coordination, concentration, and motor skills in a non-competitive environment. The Company operates in the United States of America.

The Company uses the accrual basis of accounting, and their accounting period is the 12-month period ending December 31 of each year.

*(b) Accounting Standards Codification*

The Financial Accounting Standards Board ("FASB") has issued the FASB Accounting Standards Codification ("ASC") that became the single official source of authoritative U.S. generally accepted accounting principles ("GAAP"), other than guidance issued by the Securities and Exchange Commission ("SEC"), superseding existing FASB, American Institute of Certified Public Accountants, emerging Issues Task Force and related literature. All other literature is not considered authoritative. The ASC does not change GAAP; it introduces a new structure that is organized in an accessible online research system.

*(c) Use of Estimates*

The preparation of financial statements in conformity with generally accepted accounting principles accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts and disclosures. Actual results could differ from those estimates.

*(d) Cash and Cash Equivalents*

Cash equivalents include all highly liquid investments with maturities of three months or less at the date of purchase. As of December 31, 2023, 2022, and 2021, the Company had cash and cash equivalents of \$76,964, \$32,500, and \$40,556, respectively.

*(e) Accounts Receivable*

Accounts receivable primarily consist of amounts from franchisees for initial franchise fees, royalty fees, and advertising fees. These receivables are carried at original invoice amount less an estimate made for doubtful receivables based on a review of outstanding amounts. Management regularly evaluates individual customer receivables considering their financial condition, credit history and current economic conditions. Accounts receivable are written off when deemed uncollectible. Recoveries of accounts receivable previously written off are recorded as income when received.

As of December 31, 2023, 2022, and 2021, the Company had receivables of \$446,951, \$498, and \$0, respectively. As of December 31, 2023, 2022, and 2021, the Company had no allowance for uncollectible accounts.

*(f) Accrued Expenses*

Accrued expenses consist of payroll liabilities, retainer fees for management services to be provided to franchisees, and broker commissions. As of December 31, 2023 and 2022, accrued expenses were \$138,810 and \$41,609, respectively. As of December 31, 2021, the Company had no accrued expenses.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

*(g) Revenue Recognition*

The Company's revenues consist of initial franchise fees, royalties and marketing fees based on a percentage of gross revenues, and service revenue. The Company has adopted ASC 606, *Revenue from Contracts with Customers*, which provides that revenues are to be recognized when control of promised goods or services is transferred to a customer in an amount that reflects the considerations expected to be received for those goods or services. In implementing ASC 606, the Company evaluated all revenue sources using the five-step approach: identify the contract, identify the performance obligations, determine the transaction price, allocate the transaction price, and recognize revenue.

For each franchised location, the Company enters into a formal franchise agreement that clearly outlines the transaction price, which includes both an initial fee and ongoing fees, and the Company's performance obligations. For service revenues, the Company enters into contracts with individual customers and franchisees.

Upon evaluation of the five-step process, the Company has determined that royalties from locations operated by a franchisee, which are based on a percentage of gross revenue, are to be recognized at the time the underlying sales occur. Service revenue is to be recognized in the period the services are performed. In allocating the transaction price and recognizing the revenue associated with initial franchise fees, the Company has elected to adopt the practical expedient for private company franchisors outlined in ASC 952-606, *Franchisors—Revenue from Contracts with Customers*. The practical expedient allows franchisors to account for pre-opening services as a single distinct performance obligation. These pre-opening services include the following:

- Assistance in the selection of a site
- Assistance in obtaining facilities and preparing the facilities for their intended use, including related financing, architectural, and engineering services, and lease negotiation
- Training of the franchisee's personnel or the franchisee
- Preparation and distribution of manuals and similar material concerning operations, administration, and record keeping
- Bookkeeping, information technology, and advisory services, including setting up the franchisee's records and advising the franchisee about income, real estate, and other taxes about local regulations affecting the franchisee's business
- Inspection, testing, and other quality control programs

The Company has determined the fair value of pre-opening services. This amount is recognized upon the deliver of all pre-opening services, which is generally the commencement of operations. The remaining fees are then amortized over the life of the agreement.

*(h) Income Taxes*

The Company is structured as a limited liability company under the laws of the state of Florida. Accordingly, the income or loss of the Company will be included in the income tax returns of the members. Therefore, there is no provision for federal and state income taxes.

The Company follows the guidance under ASC 740, *Accounting for Uncertainty in Income Taxes*. ASC 740 prescribes a more-likely-than-not measurement methodology to reflect the financial statement impact of uncertain tax positions taken or expected to be taken in the tax return. If taxing authorities were to disallow any tax positions taken by the Company, the additional income taxes, if any, would be imposed on the member rather than the Company. Accordingly, there would be no effect on the Company's financial statements.

The Company's income tax returns are subject to examination by taxing authorities for a period of three years from the date they are filed. As of December 31, 2023, the 2022, 2021, and 2020 tax years are subject to examination.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

*(i) Leasing*

The Company adopted ASC 842, *Leases*, as of January 1, 2022, using the modified retrospective method. The Company has an operating lease for office space from a related party, which required adjustments to record the right-of-use asset and lease liability as of the date of implementation. Upon adoption, the Company recorded a right-of-use asset and lease liability of \$134,828 and \$135,843, respectively. The net effect on the Company's retained earnings was a decrease of \$1,015. The lease liability reflects the present value of the Company's estimated future minimum lease payments over the lease term, discounted using a collateralized incremental borrowing rate. The impact of ASC 842 is non-cash in nature and does not affect the Company's cash flows.

The Company has made an accounting policy election not to recognize right-of-use assets and lease liabilities that arise from any of its short-term leases. All leases with a term of 12 months or less at commencement, for which the Company is not reasonably certain to exercise available renewal options that would extend the lease term past 12 months, will be recognized on a straight-line basis over the lease term.

*(j) Advertising Costs*

The Company expenses advertising costs as incurred. Advertising expenses for the fiscal years ending December 31, 2023, 2022, and 2021 were \$71,433, \$116,633, and \$70,163, respectively.

*(k) Financial Instruments*

For certain of the Company's financial instruments, including cash and cash equivalents, accounts receivable, pre-paid expenses, and accounts payable the carrying amounts approximate fair value due to their short maturities. The amounts shown for notes payable also approximate fair value because current interest rates and terms offered to the Company for similar debt are substantially the same.

*(l) Concentration of Risk*

The Company maintains its cash in bank deposit accounts that at times may exceed federally insured limits. The Company has not experienced any losses in such accounts. The Company believes it is not exposed to any significant credit risks on cash or cash equivalents.

*(m) Reclassification*

Certain amounts in the prior period financial statements have been reclassified to conform to the presentation of the current period financial statements. These reclassifications had no effect on the previously reported results of operations.

**(2) Related Party Transactions**

As of December 31, 2023, 2022, and 2021, the Company had the following related party loans:

	2023	2022	2021
Loan from a member, which is due on demand and does not accrue interest	\$ 3,120	\$ 3,120	\$ 3,120
Loan from a member, which accrues interest at a rate of 10% per annum and is due on demand. Balance includes accrued interest.	31,319	27,972	26,474
	\$ 34,439	\$ 31,092	\$ 29,594



**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

(3) Leasehold Improvements

As of December 31, 2023, 2022, and 2021, the Company had the following leasehold improvements:

	2023	2022	2021
Leasehold improvements	\$ 61,427	\$ 61,427	\$ 56,987
Less: accumulated depreciation	(24,700)	(13,300)	(1,900)
	<u>\$ 36,727</u>	<u>\$ 48,127</u>	<u>\$ 55,087</u>

Depreciation expense for the years ended December 31, 2023, 2022, and 2021 was \$11,400, \$11,400, and \$1,900, respectively.

(4) Intangible Assets, Net

The Company's intangible assets were as follows as of December 31, 2023, 2022, and 2021:

	2023	2022	2021
Franchise system development	\$ 108,370	\$ 108,370	\$ 108,370
Internal-use software	68,200	68,200	39,200
Website	8,000	8,000	8,000
	184,570	184,570	155,570
Less: accumulated amortization	(159,463)	(134,017)	(112,016)
	<u>\$ 25,107</u>	<u>\$ 50,553</u>	<u>\$ 43,554</u>

Amortization expense for the years ended December 31, 2023, 2022, and 2021 was \$25,446, \$22,001, and \$11,191, respectively. As of December 31, 2023, estimated future amortization is as follows:

For the year ended December 31,	
2024	\$ 21,898
2025	3,251
	<u>\$ 25,107</u>

(5) Franchise Agreements

The Company's franchise agreements generally provide for a payment of initial fees as well as continuing royalties, technology fees, and marketing fees to the Company based on a percentage of sales. Under the franchise agreement, franchisees are granted the right to operate a location using the Kidokinetics system for a period of ten years. Under the Company's revenue recognition policy, the Company allocates a portion of the initial franchise fee to pre-opening services, which is recognized when the franchisee begins operations. The remainder is deferred, and the revenue is amortized over the life of the contract. In addition, the Company defers related contract costs such as broker commissions and training costs over the same period and records them as deferred contract costs.

The Company has estimated the following current and non-current portions of deferred contract costs as of December 31, 2023, 2022, and 2021:

	2023	2022	2021
Deferred contract costs, current	\$ 340,727	\$ 326,228	\$ -
Deferred contract costs, non-current	1,173,255	282,706	-
	<u>\$ 1,513,982</u>	<u>\$ 608,934</u>	<u>\$ -</u>



**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

The Company has estimated the following current and non-current portions of deferred revenue as of December 31, 2023, 2022, and 2021:

	2023	2022	2021
Deferred revenue, current	\$ 506,073	\$ 595,065	\$ -
Deferred revenue, non-current	1,844,262	289,713	-
	<u>\$ 2,350,335</u>	<u>\$ 884,778</u>	<u>\$ -</u>

(6) Operating Lease

During the year ended December 31, 2021, the Company entered into a lease agreement for office space. The lease expires in 2024, with the option to renew. As the Company adopted ASC 842 on January 1, 2022, there are no right of use assets or operating lease liabilities as of December 31, 2021. As of December 31, 2023 and 2022, the Company recorded a right of use asset of \$24,593 and \$81,087, respectively. As of December 31, 2023 and 2022, the Company had the following current and non-current portions of its operating lease liability:

	2023	2022
Operating lease liability, current	\$ 25,318	\$ 57,509
Operating lease liability, non-current	-	25,318
	<u>\$ 25,318</u>	<u>\$ 82,827</u>

(7) Notes Payable

As of December 31, 2023, 2022, and 2021, the Company had the following notes payable:

	2023	2022	2021
Note payable to a bank with an initial principal balance of \$30,000. The note accrues interest at a rate of 18% per annum, requires monthly payments of \$1,499, and matures in December 2025.	\$ 30,000	\$ -	\$ -
Note payable to a bank with an initial principal balance of \$76,050. The note accrued interest at a rate of 33% per annum, required weekly payments of \$1,725, and matured in October 2023.	-	60,941	-
Less current maturities	30,000 (13,158)	60,941 (60,941)	-
	<u>\$ 16,842</u>	<u>\$ -</u>	<u>\$ -</u>

(8) Lines of Credit

During the year ended December 31, 2023, the Company entered into lines of credit with third party financial institutions. The lines accrue interest at various rates and are due within twelve months of the balance sheet date. As of December 31, 2023, the lines of credit totaled \$243,821.

**KIDOKINETICS FRANCHISE LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
December 31, 2023, 2022, and 2021

(9) Commitments and Contingencies

The Company may be subject to various claims, legal actions and complaints arising in the ordinary course of business. In accounting for legal matters and other contingencies, the Company follows the guidance in ASC 450, *Contingencies*, under which loss contingencies are accounted for based upon the likelihood of incurrence of a liability. If a loss contingency is “probable” and the amount of loss can be reasonably estimated, it is accrued. If a loss contingency is “probable” but the amount of loss cannot be reasonably estimated, disclosure is made. If a loss contingency is “reasonably possible,” disclosure is made, including the potential range of loss, if determinable. Loss contingencies that are “remote” are neither accounted for nor disclosed.

In the opinion of management, all matters are of such kind, or involving such amounts of unfavorable disposition, if any, would not have a material effect on the financial position of the Company.

(10) Subsequent Events

Management has reviewed and evaluated subsequent events through April 18, 2024, the date on which the financial statements were issued.

# **Supplement to the Confidential Private Placement Memorandum of Kidokinetics Franchise LLC a Florida limited liability company**

**This Supplement, dated July 5, 2024 (the “Supplement”), must be read in conjunction with the Confidential Private Placement Memorandum (the “Memorandum”) of Kidokinetics Franchise LLC, a Florida limited liability company (the “Company”), as a comprehensive document. The information in this Supplement updates and supersedes inconsistent information in the Memorandum, which is otherwise specifically incorporated herein. Subscribers are urged to review the Memorandum and this Supplement carefully.**

## **Tokenization of Membership Interests**

The Memorandum is supplemented to disclose that the Company intends to tokenize its Membership Interests through its transfer agent, Securitize LLC, a Delaware limited liability company. The transfer agent will have an off-chain copy as the controlling record, but that record is fed from blockchain so they are functionally one and the same.

## **Risks Related to tokenization and Blockchain**

*Blockchain technology is a relatively new and untested technology. The risks associated with blockchain technology may not emerge until the technology is widely used.* A blockchain is an open, distributed ledger that records transactions between two parties in a verifiable and permanent way using cryptography. Transactions on the blockchain are permanently recorded on the blockchain in collections of transactions called “blocks.” Blockchain networks are based upon software source code that establishes and governs their respective cryptographic systems for verifying transactions.

Blockchain is a nascent and rapidly changing technology that is novel and untested and may contain inherent flaws or limitations. Blockchain systems could be vulnerable to fraud, theft, destruction or inaccessibility and there can be no assurances that the blockchain and the creation, transfer, or storage of the tokens will be uninterrupted or fully secure.

The Company’s Membership Interests records will be maintained by the Company’s transfer agent. Records are kept on chain with an off-chain copy as controlling. Since tokens constitute a digital courtesy copy of the Membership Interests, and in the event of a conflict between the record held by the transfer agent and blockchain record, the transfer agent’s record will be determinative, there would not be any direct impact for the Company as a result of any blockchain related cyberattacks, fraud, breach, theft, destruction, inaccessibility or accidental transactions. However, such events could impact the participation of potential investors and negatively impact the potential liquidity and value of the Membership Interests.

Technological developments may lead to technical or other flaws (including undiscovered flaws) in the underlying blockchain technology, including in the process by which transactions are recorded to a blockchain or the development of new or existing hardware or software tools or mechanisms, which could negatively impact the functionality of the blockchain systems, all of which could impact the participation of potential investors and negatively impacting potential liquidity and value of the Membership Interests.

Tokens are a digital courtesy copy of the Membership Interests and are not sold independently of the Membership Interests. There are no practical or direct considerations for investors due to the use of blockchain or distributed ledger technology used in the manner used by the Company to create digital courtesy copy of all records compared to an offering where blockchain technology is not used. However, investors may hesitate to invest in Membership Interests linked to blockchain technology, which could impact the participation of potential investors and negatively impact the potential liquidity and value of the Membership Interests.

The Membership Interests will not be offered or sold in states where laws and regulations prohibit the use or issuance of tokens. However, since the tokens represent the digital courtesy copy of the Membership Interests, we don't expect any legal considerations as compared to the offering without any blockchain technology used. Membership Interests will not be offered until all required notices and fees have been filed and paid in a particular state.

*Risks related to loss of keys by investor.* An investor may lose access to the public key for their blockchain wallet, which is required to access the financial performance and other account information stored on the blockchain. There would not be any direct impact as a result of such loss of keys since any information stored on blockchain represents a digital courtesy copy and will continue to be available to the investor in the book form. However, such a loss could negatively impact the behavior and participation of potential investors and negatively impact the potential liquidity and value of the Membership Interests.

*Tokens can be modified if smart contract turns out to be defective.* If we discover errors or unexpected functionalities in the token smart contract, we may make a determination that the token smart contract is defective and that its use should be discontinued. We intend to replace the token for impacted Membership Interests and the token smart contract for impacted Membership Interests with a new token using a new smart contract in that situation.

Since tokens constitute a digital courtesy copy of the Membership Interests, which are governed by the Operating Agreement and Subscription Agreement, there would not be any direct impact as a result of such actions. However, such a change could impact the participation of potential investors and negatively impact potential liquidity and value of the Membership Interests.

*The regulatory regime governing blockchain technologies, tokens, and token offerings, is uncertain, and new regulations or policies may adversely affect the Company's business plan.* Regulation of tokens and token offerings, blockchain technologies, and token exchanges is being developed and likely to rapidly evolve. Regulations on token offerings vary significantly by type of token and among international, federal, state, and local jurisdictions and are subject to significant uncertainty. Various legislative and executive bodies in the United States and in other countries may, in the future, adopt laws, regulations, guidance, or other actions, which may severely impact the development, growth, adoption, and utility of such tokens. Failure by the Company or certain users to comply with any laws, rules, and regulations, some of which may not exist yet or are subject to interpretation, could result in a variety of adverse consequences, including civil penalties and fines. This could adversely affect the Company's business plan, which involves raising capital via tokenizing the Membership Interests and offering to investors.

*As blockchain networks and blockchain assets have grown in popularity and in market size, federal and state agencies have begun to take interest in, and in some cases regulate, their use and operations.* In the case of virtual currencies, state regulators like the New York Department of Financial Services have created new regulatory frameworks and special licenses for virtual currency business activities in the State of New


York. Others, as in Texas, have published guidance on how their existing regulatory regimes apply to virtual currencies. Some states, like New Hampshire, North Carolina, and Washington, have amended their state’s statutes to include virtual currencies into existing licensing regimes. Treatment of virtual currencies continues to evolve under federal law as well. The Department of the Treasury, the Securities Exchange Commission (the “SEC”), and the Commodity Futures Trading Commission (the “CFTC”), for example, have published guidance on the treatment of virtual currencies. The IRS released guidance treating virtual currency as property that is not currency for U.S. federal income tax purposes, although there is no indication yet whether other courts or federal or state regulators will follow this classification. Both federal and state agencies have instituted enforcement actions against those violating their interpretation of nine (9) existing laws. The regulation of non-currency use of Blockchain assets is also uncertain. The CFTC has publicly taken the position that certain Blockchain assets are commodities, and the SEC has issued a public report stating federal securities laws require treating some Blockchain related assets as securities. To the extent that a domestic government or quasi-governmental agency exerts regulatory authority over a Blockchain network or asset, tokens may be adversely affected.

*Recent disruptions in the cryptocurrency markets could negatively impact our reputation, invite increased regulation, and make it more difficult to raise capital needed to finance our business activities. We do not transact in or store cryptocurrencies, and crypto market fluctuations do not deter our commitment, alter our strategic roadmap, or directly impact our operations or financial condition. Although the Company’s position is that tokens are not cryptocurrency nor securities, recent disruptions in the cryptocurrency markets have resulted in increased interest in governmental regulation of all forms of digital representations of assets. Investors may erroneously use blockchain and cryptocurrencies interchangeably, which may result in hesitation to invest in Membership Interests linked to blockchain. Increased regulation or decreased investment could hinder our ability to pursue our business plan and could negatively impact the potential liquidity and value of the Membership Interests.*

**THIS SUPPLEMENT MUST BE READ IN CONJUNCTION WITH THE MEMORANDUM.**

Kidokinetics Franchise LLC,  
a Florida limited liability company

By:   
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By:   
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