



CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this “**Agreement**”) is entered into today by and between **TOP FLIGHT ATHLETICS** Juggernaut Fitness HeRose, LLC, Odds On PRO formance PRO motions, oddsonpromo.com, Texas GAME DAY PROMotions, Lonestar Thirst + 10, Athlete Career Support Executives at 14215 Imperial Springs Court, Cypress, TX, 77429 (collectively, “Odds On”), and YOU, YOURSELF, GROUP OR GROUPS, COACH OR COACHES, CLIENT OR PROSPECT, MENTOR OR MENTORS, PARENT, TEAM OR TEAMS, OR ANY OTHER NAME, (“**Recipient**”; “**TOP FLIGHT ATHLETICS**” and Recipient may be referred to herein individually as a “**Party**”, and collectively the “**Parties**”).

RECITALS:

WHEREAS, Recipient desires access to certain confidential, non-public information in connection with the proposed development and license of **TOP FLIGHT ATHLETICS**, Operation within the Texas markets (the “**Proposed Development**”);

WHEREAS, in order to induce “**TOP FLIGHT ATHLETICS**” to provide access to the Confidential Information (as defined in Section 2 below), and as consideration for such access, Recipient hereby agrees to be bound by the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of Recipient being furnished the Confidential Information, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Recipient hereby agrees as follows:

1. The term “**Recipient**” as used in this Agreement shall refer to the Recipient and

(i) its affiliates, subsidiaries, and divisions; (ii) any corporation or entity which directly or indirectly, through intermediaries or otherwise, controls or owns a controlling interest in Recipient and (iii) the directors, officers, employees or agents of any of these, if any.

2. Any and all information (whether or not marked or otherwise identified as confidential and whether orally or in writing) ascertained by or furnished to Recipient or Recipient's representatives, including without limitation Recipient's attorneys, accountants, consultants and financial advisors (collectively, "**Representatives**"), by, on behalf of, or with respect to "**TOP FLIGHT ATHLETICS**" or any of "**TOP FLIGHT ATHLETICS**" Representatives, and all summaries, analyses, compilations, data, studies or other documents prepared by Recipient or its Representatives containing, or based in whole or in part on any such ascertained or furnished information, or reflecting Recipient's review of, or interest in, "**TOP FLIGHT ATHLETICS**", is hereinafter referred to as the "**Confidential Information**."

3. As a condition to "**TOP FLIGHT ATHLETICS**" disclosure of the Confidential Information to the Recipient, Recipient hereby covenants and agrees that all Confidential Information will be kept confidential by Recipient and its

Representatives and will not, without the prior written consent of "**TOP FLIGHT ATHLETICS**" be disclosed by Recipient or Recipient's Representatives, in any manner whatsoever, in whole or in part, and will not be used by Recipient or Recipient's representatives directly or indirectly for any purpose other than evaluating the Proposed Development. Moreover, Recipient agrees to transmit the Confidential Information only to those directors, officers, employees, agents and Representatives, if any, who need to know the Confidential Information for the purpose of evaluating the Proposed Development and who are informed by Recipient of the confidential nature of the Confidential Information and the terms of this Agreement. Recipient will be responsible for any breach of this Agreement by its directors, officers, employees, agents and Representatives, if any.

4. Neither Recipient nor its Representatives will, without the prior written consent of "**TOP FLIGHT ATHLETICS**", disclose the fact that Confidential Information has been made available, that discussions or negotiations are taking place concerning a possible transaction involving "**TOP FLIGHT ATHLETICS**", or any of the terms, conditions or other facts with respect to any such possible transaction, including the status thereof, except as may be required by law and then, if circumstances permit, only with prompt advance written notice to "**TOP FLIGHT ATHLETICS**". If circumstances make it impossible to give such advance written notice, then any disclosure made shall be no more extensive than is necessary to meet the minimum requirement imposed on the party making such disclosure.

5. In the event Recipient is requested (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigate demand or similar process) to disclose any part of the Confidential Information, Recipient shall notify ***“TOP FLIGHT ATHLETICS”*** promptly of such request(s), and the documents requested thereby, so that ***“TOP FLIGHT ATHLETICS”*** may seek an appropriate protective order and/or waive in writing Recipient’s obligation not to disclose the Confidential Information. The Recipient further agrees that, if in the absence of a protective order or the receipt of a waiver hereunder, Recipient is nonetheless, on the written advice of its counsel, compelled to disclose all or part of the Confidential Information or else stand liable for contempt or suffer other censure or penalty from any tribunal or governmental or similar authority, Recipient may disclose such Confidential Information without liability hereunder; provided, however, that Recipient shall deliver to ***“TOP FLIGHT ATHLETICS”*** written notice of the Confidential Information to be disclosed as far in advance of its disclosure as is practicable, and shall use reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed.

6. Recipient shall keep a record of each location of the Confidential Information and of each individual who is cleared to have access to the Confidential Information. The Confidential Information, and all copies thereof, except for that portion of the Confidential Information which consists of summaries, analyses, compilations, data, studies or other documents prepared by Recipient or Recipient’s representatives will remain the absolute property of ***“TOP FLIGHT ATHLETICS”*** and will be returned to ***“TOP FLIGHT ATHLETICS”*** or destroyed (and such destruction confirmed in writing by Recipient) without retaining any copies thereof immediately upon ***“TOP FLIGHT ATHLETICS”*** request. That portion of the Confidential Information which consists of summaries, analyses, compilations, data, studies or other documents prepared by Recipient will be immediately destroyed at the request of ***“TOP FLIGHT ATHLETICS”*** and such destruction will be confirmed to ***“TOP FLIGHT ATHLETICS”*** in writing by Recipient.

7. Recipient acknowledges that neither ***“TOP FLIGHT ATHLETICS”*** nor any of its Representatives makes any representation or warranty as to the accuracy or completeness of the Confidential Information. Recipient agrees that neither ***“TOP FLIGHT ATHLETICS”*** nor any of its Representatives shall have any liability to Recipient or to any of Recipient’s Representatives as a result of their reliance on the Confidential Information, it being understood and agreed that only those particular representations and warranties by ***“TOP FLIGHT ATHLETICS”*** in a definitive agreement, when, as and if executed, and subject to such limitations and restrictions as may be specified in such definitive agreement, shall have any legal effect with respect thereto. This agreement shall govern the rights and obligations

relating to the confidentiality of Confidential Information, not its veracity or value to the parties in contemplation of the Proposed Development or otherwise.

8. The Recipient agrees that due to the nature of this Agreement and the Confidential Information, money damages would not be a sufficient remedy for any breach of this Agreement by Recipient and that ***“TOP FLIGHT ATHLETICS”*** shall be entitled to seek specific performance, injunctive and/or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for breach by Recipient of this Agreement, but shall be in addition to all other remedies available to ***“TOP FLIGHT ATHLETICS”*** at law or in equity. Upon the final non-appealable finding of a court of competent jurisdiction, ***“TOP FLIGHT ATHLETICS”*** shall be entitled to recover its costs (including reasonable attorney’s fees) in the event it commences any action hereunder for injunctive or other relief.

9. Recipient hereby agrees that, during the term of this Agreement (as set forth in Section 11 below) Recipient will not attempt to purchase, develop, obtain development rights to, or otherwise in any way interfere with the assemblage or development of the Proposed Development without the prior express written consent of ***“TOP FLIGHT ATHLETICS”***.

10. No failure or delay by ***“TOP FLIGHT ATHLETICS”*** in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

11. The restrictions imposed hereby shall continue for a period of two (2) years from the date of this Agreement.

12. Nothing herein shall be construed to require either Party to conduct any negotiations or enter into any other agreement with the other Party with respect to the Proposed Development or any other transaction involving ***“TOP FLIGHT ATHLETICS”***.

13. No provision of this Agreement may be waived or amended unless such waiver or amendment is in writing. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof.

14. This agreement may not be assigned by Recipient, by operation of law or otherwise, without ***“TOP FLIGHT ATHLETICS’s”*** prior written consent.

15. In the event that any one or more of the provisions contained in this Agreement, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and

enforceability of any such provision in every other respect and of the remaining provisions contained in this Agreement shall not be in any way impaired thereby, it being intended that all of the rights and privileges of the parties hereto shall be enforceable to the fullest extent permitted by law. If any court determines that any of the provisions of this Agreement, or any part thereof, are unenforceable because of the duration or scope of such provision, the duration or scope of such provision, as the case may be, shall be reduced so that such provision becomes enforceable and, in its reduced form, such provision shall then be enforceable and shall be enforced.

16. This Agreement may be executed in one or more counterparts, and by facsimile or electronic mail signatures, each of which shall be an original document, and all of which together shall constitute one and the same instrument.

17. This Agreement shall be governed and construed in accordance with the laws of the State of Texas applicable to agreements made and to be performed within such state. The Parties hereto hereby irrevocably and unconditionally consent and submit to the personal jurisdiction and venue of any state or federal court sitting in Harris County, Texas , with respect to any action to enforce this Agreement and also expressly consent and submit to and agree that venue in any such action is proper in said courts and county, and hereby expressly waive any and all personal rights under applicable law or in equity to object to the jurisdiction and venue of said courts and county.

18. All notices, requests, or other communications that may be made pursuant to the terms of this Agreement shall be in writing and delivery shall be deemed sufficient in all respects and to have been duly given on the date of actual receipt by the Party, or by overnight courier if receipt is confirmed to the Party to whom notice is to be given.

19. The persons executing this Agreement on behalf of the Parties represent and warrant that he or she is duly authorized to execute and deliver this Agreement on behalf of the respective entities and that this Agreement is a valid and binding instrument.

IN WITNESS WHEREOF, the Parties hereto have signed by their duly authorized officers as of the day and year first above written.

By: Scott M. Shafer Founder/Owner

RECIPIENT:

By: _____

Name: _____

Title: _____



THE SKY IS THE LIMIT FOR THOSE WHO TAKE FLIGHT