

INSTRUCTOR CERTIFICATION AND SUBSCRIPTION AGREEMENT

THIS INSTRUCTOR CERTIFICATION AND SUBSCRIPTION AGREEMENT is made this ____ day of _____, 2020 by and between Rejoice At Recess, LLC (“**Company**”) and _____ (“**Instructor**”).

WHEREAS, the Company offers faith-based fitness and personal-development programming for children;

WHEREAS, the Company has developed curricula and resources for the deployment of its programming;

WHEREAS, the Company deems the curricula and information it has developed for use by Instructor’s to be its proprietary business information, not readily known by others, and of great commercial value to other businesses similarly situated;

WHEREAS, the Instructor seeks to teach and offer the Company’s programming;

WHEREAS, the Instructor requires access to the Company’s curricula and resources to effectively teach the Company’s programs;

WHEREAS, the Instructor acknowledges that Company’s curricular and resources to which he/she/it will have access are confidential and proprietary business information constituting a trade secret, as that term is defined by Section 688.002(4), Florida Statutes (the “**Confidential Information**”);

WHEREAS, to effectively teach and deploy the Company’s programming, the Instructor requires specialized training and certification;

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree, as follows:

1. **Certification.** Upon execution hereof, Instructor shall pay to Company a certification fee for access to an online certification course. Within ninety (90) thereafter, Instructor shall participate in, complete and pass the Company’s Youth Movement Instructor certification program as a precondition to teaching any of the Company’s programs or otherwise gaining access to the Company’s teaching materials, curricula or other instruction information. Instructor shall maintain his or her certification in good standing for the duration of this Agreement and any renewal thereof. In addition, Instructor shall obtain and maintain current at all times a certification to administer cardiopulmonary resuscitation (“CPR”) and shall furnish written proof of same to Company prior being deemed to have completed Company’s instructor certification program. Failure to timely complete the Company’s certification program shall void all prior applications for certification and require the payment of a new certification fee.

2. **License For Use And Access To Portal.** Upon successful completion of the certification program, Instructor shall be given a revocable license for the use of Company's mark, "Recess & Results," and its accompanying variances in format for use solely in and as part of Instructor's youth fitness classes undertaken in furtherance and performance of this Agreement. Further, Instructor shall secure a subscription to the Company's online portal wherein the class outlines, curricula and other instruction materials are maintained. Instructor's subscription shall be used and employed only by Instructor and shall be renewed on a monthly basis by payment of a fee in the amount of \$49.00, which amount shall remain valid for the duration of the Agreement's term. Instructor shall use and employ such information only in accordance with the terms of use maintained on the portal and only for carrying out his or her duties under this Agreement and further acknowledges that the subscription and any information received thereunder are neither transferrable nor assignable.

3. **Best Efforts.** Instructor shall use his or her reasonable best efforts in performing his or her duties under this Agreement and abide by the Company's policies on conduct and instruction at all times.

4. **Default.** Failure to comply with Sections 1-3 and 10 of this Agreement shall constitute events of default, as shall: a) Instructor's being charged with or conviction of a felony; or b) the filing of protection under the laws governing bankruptcy, receivership or the assignment for benefit of creditors. In the event of default, Company may terminate this Agreement by giving written notice to Instructor, which termination shall be effective immediately upon transmission.

5. **Term.** This Agreement shall remain in effect for twelve (12) months from its Effective Date and shall continue to renew for an additional one (1) month term absent written notice from either party issued and received not less than thirty (30) days prior to the current term's expiration.

6. **No Employment.** Nothing herein is intended to create or establish an expectation of employment and in no event shall Instructor be deemed or considered an employee of Company. The relationship by and between the parties is and shall at all times be at arm's length. Instructor shall not be entitled to the receipt of any benefits, including but not limited to salary, wages, fees, distributions, profit sharing, bonuses, insurance, or paid or unpaid leave from Company. All payments made to Instructor shall be paid by clients directly to Instructor and Instructor shall be responsible for the tax treatment of said payments.

7. **No Authority To Bind.** Neither party to this Agreement is or shall be deemed to be an agent of the other and neither shall have the express, implied or apparent authority or power to act for or on behalf of the other.

8. **Limitation Of Liability.** The Company shall not be liable under any circumstances for any compensatory, special, consequential, incidental, punitive, or exemplary damages arising out of or in any way connected with this Agreement or any actions or omissions of Instructor, including but not limited to, Instructor's negligence, damages for lost profits, loss of use, or for any damages or sums paid by Instructor to third parties, even if Company has been advised of the possibility of such damages. The foregoing shall apply whether any claim is based upon principles of contract, warranty, negligence, or other tort, breach of any statutory duty, principles of

indemnity or contribution, the failure of any limited or exclusive remedy to achieve its essential purpose or otherwise.

9. **Indemnity.** Instructor shall indemnify and hold Company and its directors, officers, employees, members, managers and shareholders harmless from and against any loss, damage, claim, cost or expense of any kind which Company may incur in connection with Instructor's breach of any obligation under this Agreement, including but not limited to misappropriation or misuse of the Company's mark, or the negligence or willful misconduct of Instructor in performing his/her/its duties under this agreement.

10. **Compliance With Law.** Instructor warrants and represents that he/she/it shall comply with all laws, regulations, ordinances, and executive orders issued and applicable to Instructor and the rendition of services hereunder, including but not limited those governing workplace safety, education, child care, parental consent, wages and hours, employment, and taxation.

11. **Confidential Information.** Instructor hereby acknowledges that the Confidential Information and Company's goodwill constitute and meet the requirements of legitimate business interests appropriate for protection, as defined in Section 542.335(b), Florida Statutes. Instructor acknowledges that Company will make Instructor privy to the Confidential Information in the course of this Agreement's performance and that the disclosure, dissemination, or divulgence of any portion of the Confidential Information would irreparably harm Company and that there would be no remedy at law adequate to compensate for the loss occasioned thereby.

12. **Maintenance Of Confidentiality.** Instructor shall not, during the term of this Agreement or thereafter, disseminate, disclose or divulge to others any part of the Confidential Information. Upon termination of or expiration of this Agreement, Instructor shall turn over to the Company all Confidential Information in his/her/its possession, custody, or control, as well as all copies thereof, in whatever format and certify in writing that he has not retained any portion of the Confidential Information or copies thereof. Instructor hereby certifies that he/she/it has no rights or entitlement to any of the Confidential Information, in any format, whether generated prior to or during the course of this Agreement's making and performance and irrespective of whether Instructor participated in its development, creation, or maintenance.

13. **Remedies.** Without limiting Company's remedies under law or principles of equity, Company shall be entitled to the following in the event of threatened or actual breach of this Agreement: a) an injunction to restrain such threatened or actual breach; b) issuance of pre-judgment writs to replevy, attach or recover any of the Confidential Information; and c) any other claim or remedy provided for by law or equity, which shall be cumulative to and not alternative to the injunctive and pre-judgment relief expressed in a) and b) hereof. Any claim, cause of action, demand, or defense of Instructor against Company shall not constitute a defense to or prevent the imposition of the relief provided to Company herein. Instructor acknowledges and agrees that the remedies provided for herein are reasonable and necessary for the protection of Company's legitimate business interests.

14. **Notice.** In the event notice is to be given to any party under this Agreement, it shall be in writing and delivered to:

a. if to Company:

Mrs. Beth Vazquez
9191 S.W. 172nd Avenue
Miami, Florida 33196
beth@recessandresults.com

b. if to Instructor:

_____ [street address]
_____ [e-mail]

15. **Effective Date.** The effective date of this Agreement shall be the date set forth in the opening paragraph above.

16. **Survival.** Sections 7-9 and 11-13 shall survive the termination or expiration of this Agreement.

17. **Authority.** Each party hereto warrants and represents that it has the authority to make, enter, and perform the terms of this Agreement.

18. **Successors and Assigns.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, assigns, and affiliates.

19. **Choice of Law.** This Agreement shall be governed by the laws of the State of Florida without giving effect to its conflict of laws provisions.

20. **Jurisdiction And Venue.** In the event of litigation arising from or related to this Settlement Agreement, its enforcement, interpretation, or breach, the sole and exclusive jurisdiction for the maintenance of such dispute shall be the Courts situated in Miami-Dade County, Florida. The prevailing party in any such dispute shall be entitled to the recovery of its reasonable attorneys' fees and costs incurred.

21. **Waiver.** Any waiver by the parties of a breach under this Agreement shall not operate as or be construed to be a waiver of any other breach of such provision, or of a breach of any other provision under this Agreement.

22. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.

23. **Entire Understanding.** This document and any schedule(s) attached hereto constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

24. **Unenforceability of Provisions.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of said provision and all other provisions hereof shall nevertheless remain in full force and effect.

25. **Counterparts.** The parties hereto may execute this Agreement in counterparts, and each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument. The delivery of signatures by e-mail or facsimile shall be deemed valid and bear the same force and effect as if the original signature had been affixed and delivered.

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

REJOICE AT RECESS, LLC, Company _____, Instructor

By: Beth Vazquez
Its: Manager