

**FRANCHISE DISCLOSURE DOCUMENT  
FOR PROSPECTIVE FRANCHISEES**



**Nautical Boat Clubs, LLC**  
(a Texas limited liability company)  
2215 Westlake Drive, Suite 102  
Austin, TX 78746  
833-622-2628  
833-NBC-BOAT  
[www.nauticalboatclub.com](http://www.nauticalboatclub.com)  
[ahoy@nauticalboatclub.com](mailto:ahoy@nauticalboatclub.com)

The franchise offered is for a Nautical Boat Club (“Nautical Boat Club”), a members-only Boating Country Club® that offers its members the usage of boats and accessories at designated times and for designated time periods based on payment of an initial fee and continuing monthly membership dues.

The total investment necessary to begin operation of a new Nautical Boat Club franchised business is \$563,700 to \$1,037,250. This includes \$70,000 that you must pay to us.

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, us or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this Disclosure Document.**

You may wish to receive your Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Tom Gardiner at our franchise administration department at 2215 Westlake Drive, Suite 102, Austin, TX 78746, 833-622-2628 or [ahoy@nauticalboatclub.com](mailto:ahoy@nauticalboatclub.com).

The terms of your contract will govern your franchise relationship. Do not 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.

Date of Issuance: April 30, 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:

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

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

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

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

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

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by litigation only in Texas. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in Texas 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. **Mandatory Minimum Payments.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.

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

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### Exhibits

- A. State Administrators/Agents for Service of Process
- B. Franchise Agreement
- C. List of Existing Franchisees
- D. List of Former Franchisees
- E. Table of Contents of Brand Standards Manual
- F. Financial Statements
- G. Form of General Release

- H. State Addenda to the Franchise Disclosure Document
- I. State Addenda to the Franchise Agreement

## **ITEM 1**

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

#### The Franchisor

The Franchisor is Nautical Boat Clubs, LLC. To simplify this Disclosure Document, Nautical Boat Clubs, LLC is referred to as “we”, “us” or “our”. “You” means the person or legal entity who buys the franchise, the franchisee. If you are a corporation, limited liability company, partnership or any other type of legal entity, certain of the provisions of the Franchise Agreement (defined below) will also apply to, and be binding upon, certain of your owners (referred to as your “Owners”). We will require that one or more of your Owners (and their respective spouses) personally guarantee, and be personally bound by, some or all of your obligations under the Franchise Agreement.

We are a Texas limited liability company formed on May 24, 2012 as Nautical Toys International, LLC. We changed our name to Nautical Boat Clubs, LLC in June 2013. We do business only under our corporate name and the name “Nautical Boat Club.” Our principal business address is 2215 Westlake Drive, Suite 102, Austin, TX 78746. Our agents for service of process are listed in Exhibit A.

We began offering franchises for the operation of a Nautical Boat Club in June 2012. Beginning in May 2004 and continuing through December 31, 2021, certain of our prior affiliates owned and operated 6 Nautical Boat Clubs in Central Texas, but our affiliates sold these 6 Nautical Boat Clubs to a franchisee effective close of business December 31, 2021. We do not operate any Nautical Boat Clubs ourselves, and have not in the past and do not now engage in other business activities or offer franchises in other lines of business.

#### Any Parents, Predecessors and Affiliates

Our parent since February 7, 2024 is Boating Country Club Holdings, LLC, a Texas limited liability company formed on February 7, 2024. Boating Country Club Holdings, LLC shares our corporate address.

On May 30, 2012, we acquired all of the assets of the Nautical Boat Club license system from Nautical Toys International, LLC, a Florida limited liability company (“NTI Florida”). NTI Florida was formed in Florida on February 27, 2001 and last maintained its principal business address at 24487 Sol Court, Punta Gorda, Florida 33955. NTI Florida conducted business of a similar type described in this Disclosure Document from February 2001 and offered licenses for the operation of Nautical Boat Clubs from February 2001 through April 2012. NTI Florida’s immediate predecessor was Nautical Toys International, Inc., a Nevada corporation (“NTI Nevada”), formed in January 1996 and later voluntarily dissolved in February 2007. NTI Nevada last maintained its last principal business address at 2533 Carson Street, Suite 2546, Carson City, Nevada 89706. NTI Nevada’s predecessor was Nautical Toys Boat Club, Inc., a Texas corporation (“NTBCI”) formed in July 1992 and later voluntarily dissolved in September 2004. NTBCI last maintained its last principal business address at 16440 Cranes Mill Road #1, Canyon Lake, Texas 78133. Our former affiliates that operated Nautical Boat Clubs in Texas until December 31, 2021 were licensees of NTI Florida before our acquisition of the Nautical Boat Club license system in May 2012.

The licenses offered by NTI Florida were offered under a form of license agreement that contained terms and provisions materially different from those described in this Disclosure Document. For example, those license agreements provided for different initial and continuing fees, different territorial rights and restrictions and required us to provide less support and assistance. As part of the acquisition in May 2012, NTI Florida's interests under substantially all of those license agreements were assigned to us. Except as described above, NTI Florida has not offered franchises in any line of business.

We have no affiliates that are suppliers to franchisees or offer or sell franchises, but our affiliate Kemah Boardwalk Boat Club, LLC, a Texas limited liability company, formed on February 7, 2024, is in the process of opening a new Nautical Boat Club at Kemah Boardwalk, Houston, Texas.

### Description of the Franchise

We offer franchise agreements ("Franchise Agreements") which grant the right to construct, own and operate one Nautical Boat Club at a designated marina site ("Marina Site") for an initial term of 10 years.

Nautical Boat Clubs operate under the System (defined below) and the "Marks," which include (i) the "Nautical Boat Club", "Don't Buy a Boat", "Don't Rent A Boat," "Boating Country Club," and "Boat Life Without Limits" trademarks and logos, (ii) the "Nautical Boat Club", "Don't Buy a Boat" and "Don't Rent A Boat" trade names, (iii) the elements and components of a "Nautical Boat Club" and "Don't Buy a Boat" and "Boating Country Club" trade dresses, and (iv) any and all additional, different or replacement trade names, trademarks, service marks, logos and slogans that we adopt occasionally to identify the System (defined below) and the products and services offered by Nautical Boat Clubs. You will generally operate using a tradename that incorporates your Marina site and our "Nautical Boat Club" trademark, such as "Nautical Boat Club – [Marina Site Name]".

You must operate your Nautical Boat Club according to our operational guidelines, opening guidelines, Technology and Operating Platform (defined below), initial and ongoing training programs, business methods, designs, arrangements and standards, including those pertaining to Fleet acquisition, Marina Site selection, Office construction, building design, signage and layouts, equipment, products, preparation and specifications for products and services, training, methods of inventory control and requirements and policies regarding personnel, accounting and financial performance, advertising and marketing programs and information technology, all of which we may improve, further develop or otherwise modify (the "System").

We do not offer an agreement which grants the right to operate multiple Nautical Boat Clubs.

### The Franchised Business

A Nautical Boat Club offers private members-only Boating Country Club® experience whose members ("Members") have the right to use and enjoy a variety of boats (your "Fleet"), boating accessories and equipment that you own and maintain. You will sell memberships for the future use of your Nautical Boat Club's Fleet (typically for a period of one year). Members reserve and use boats in your Fleet on a first come, first serve basis, and are responsible for replacing the fuel they use, for any damage caused to the boats and for lost or broken equipment. We typically do not charge Members any annual maintenance charges. Members may have limited reciprocal use



of boats at other clubs subject to availability and orientation requirements by the reciprocating club. Reciprocating clubs may charge a fee for this orientation.

The market for these types of services and products is still evolving.

A typical Nautical Boat Club Fleet opens with 6 to 10 boats, but will vary based on the needs of your particular marina and location. Nautical Boat Club premises are typically located around larger metropolitan areas and nearby lakes or large bodies of water.

We may pay existing franchisees a referral fee if they introduce you to us and you sign a franchise agreement.

### Competition

Your Nautical Boat Club will mainly compete with other private boating clubs either at your Marina Site or within your Designated Area (each as further described in Item 11). We do not generally directly compete with marina rental businesses or with private boat sales and rentals. The business of a franchised Nautical Boat Club may be seasonal in certain areas of the country and will depend heavily on the demand for boat usage in your area, the weather and the access to the water at your marina.

### Industry Specific Regulation

The private boat club business is not heavily regulated. However, Nautical Boat Clubs must comply with laws, rules and regulations that apply to businesses generally, such as the Americans with Disabilities Act, Federal Wage and Hour Laws and the Occupation, Health and Safety Act. State and local agencies regularly inspect businesses to ensure that they comply with these laws and regulations.

The federal Clean Air Act and various implementing state laws require certain state and local areas to meet national air quality standards that limit emissions of ozone, carbon monoxide and particulate matters.

We recommend that you check with your state and local agencies to determine which laws apply to the operation of a Nautical Boat Club in your area. You should consider these laws and regulations when evaluating your purchase of a franchise.

## **ITEM 2 BUSINESS EXPERIENCE**

### **Thomas R. Gardiner, Manager**

Mr. Gardiner has been our Manager since our formation in May 2012.

### **Bryan Wallace, President**

Mr. Wallace has been our President since January 2024. From January 2020 to December 2023, Mr. Wallace was our Operations Manager. From September 2015 to January 2020, Mr. Wallace was Manager of the Nautical Boat Club Westlake, Nautical Boat Club Austin CC and Nautical

Boat Club - Westwood CC, which were three previously company-affiliated Nautical Boat Clubs located in and around Austin, Texas.

**Nicholas J. Marsello, Director of Development**

Mr. Marsello has been our Director of Development since May 2023 based in Malvern, Pennsylvania. From December 2022, to April 2023, Mr. Marsello was between positions. From June 2014 to November 2022, Marsello was a Sales Manager for Freedom Mortgage Corporation in Malvern, Pennsylvania.

**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**

You must pay us an initial franchise fee of \$60,000 for a Nautical Boat Club at the time you sign your Franchise Agreement.

Unless otherwise agreed, you will have 180 days from signing the Franchise Agreement to secure an approved Marina for your Nautical Boat Club and secure financing for your Fleet. If you are unable to secure an approved Marina within this time period, you will have the one-time option to (a) choose another potential Marina site (which Marina site must be approved by us within 270 days of the original signing date of your Franchise Agreement or else we may terminate the Franchise Agreement), or (b) sign a mutual termination and release agreement with us to terminate the Franchise Agreement. If you fail to secure a site and do not select one of these options within 180 days of signing your Franchise Agreement, we have the right to terminate your Franchise Agreement. Following any such site-related termination by you or us, we will refund 40% of the initial franchise fee you paid and retain 60%. Except as noted above, the initial franchise fee is non-refundable once paid.

We do not charge you any fee for your initial training before you open your Nautical Boat Club, but if you send more persons to be trained or require additional training beyond our standard initial training program we may charge you additional training fees (current a per diem charge of \$400 per day per person).

You have a grand opening advertising obligation totaling \$15,000, of which \$10,000 is payable to us 60 days before the opening of your Nautical Boat Club. We will use these monies to help execute your grand opening advertising plan. See Items 6, 7 and 11.

[continued on the following page]

## ITEM 6 OTHER FEES

Name of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Royalty Fee	<p>6% of Gross Sales<sup>(2)</sup> you actually billed to Members or other third parties during the applicable calendar month; subject to additional payment if you fail to satisfy the then current Minimum Annual Royalty Payment for any operating year.</p> <p>There is no Minimum Annual Royalty Payment during your first year of operations at the Nautical Boat Club, and then the Minimum Annual Royalty Payment is \$12,000 for the second year of operations at the Nautical Boat Club and then \$24,000 for the third and each subsequent year of operations at the Nautical Boat Club, and throughout the terms of any renewal franchise agreements for the Nautical Boat Club opened by you.</p>	<p>Paid every calendar month by automatic debit from your account on the 10<sup>th</sup> day of each month following each calendar month with respect to the greater of your Gross Sales you actually billed to Members or other third parties for the preceding calendar month or the then current Minimum Annual Royalty Payment for such calendar month.</p>	<p>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.</p> <p>Our Technology and Operating Platform calculates and details the Royalty Fees. Your reports must be sent to us by the 2<sup>nd</sup> of the month.</p> <p>We will determine if your payment of monthly Royalty Fees during any year of operations fails to satisfy the then current Minimum Annual Royalty Payment, and if necessary you must pay to us the difference between the total actual monthly Royalty Fees you paid to us and the applicable Minimum Annual Royalty Payment when you pay us your Royalty Fees for the next calendar month following the end of the operating year.</p>
Brand Fund Contribution	Currently 1% of Gross Sales, but we may increase the Brand Fund Contribution to up to 3% of Gross Sales on written notice to you	<p>Paid every calendar month by automatic debit from your account on the 10<sup>th</sup> day of each month following each calendar month with respect to the greater of your Gross Sales you actually billed to Members or other third parties for the preceding calendar month</p>	<p>You pay the Brand Fund Contribution directly to us, but we reserve the right to create a separate entity to manage the Brand Fund.</p>
Local Ad Expenditure	The greater of 7% of Gross Sales each calendar year or \$30,000 (prorated for partial calendar years)	Spent as incurred, and reconciled and reported quarterly	<p>You must spend an amount equal to the Local Ad Expenditure yourself on approved advertising and marketing for your Nautical Boat Club.</p>
Grand Opening Advertising	\$15,000, with \$10,000 payable to us 60 days before you open and the remaining \$5,000 to be spent by you	As incurred	<p>You must pay to us/spend this total amount on advertising the grand opening of the Nautical Boat Club during the 60 days before and 90 days after the opening of your Nautical Boat Club, but we will credit the Grand Opening Advertising amount you spend to your Local Ad Expenditure requirement during your first year of operations.</p>

<b>Name of Fee <sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Technology Systems Fee	Currently \$400 per month, but we may institute and charge a fee of up to \$1,000 a month	Payable monthly	We will notify you and provide you at least 30 days prior notice before we institute or change the amount of the Technology Systems Fee
Additional Training (Per Diem Fee)	Per diem fee up to \$400, plus expenses	As incurred.	We will provide initial training for two persons for free. However, we may assess you a per diem fee for any additional training, which may be at your option or required by us.
Initial Technology and Operating Platform Fees and Costs	An amount set by our then current third-party vendor, currently a \$1,450 initial fee	As assessed by invoice by the third-party vendor.	You must purchase or obtain an initial license for our then current Technology and Operating Platform
Continuing Third Party Technology Systems and Services Fees and Costs	A monthly amount set by us or the then current vendors, currently \$450 per boat per year for the Technology and Operating Platform, \$70 a month for QuickBooks Online Plus \$12.50 per Business Standard License and \$6.00 per Business Basic License with \$6.99 per user added for Backup and Management Services	As assessed by invoice by the third-party vendor.	You must purchase or obtain licenses for our then current technology systems and services that work with our then current Technology and Operating Platform, and pay the then current monthly fees. We currently have third-party vendors for each of these technology systems and services. We reserve the right to collect these amounts from you and remit them to the third-party vendors directly.
Transfer Fee	The greater of \$30,000 or one-half of the then-current initial franchise fee at the time of the transfer.	You pay us a \$1,000 non-refundable deposit at the time you submit your transfer application; you pay the remaining balance at the time of approved transfer	Payable in connection with the transfer of your Nautical Boat Club assets, a transfer of direct or indirect ownership of your business entity, or the Franchise Agreement.
Renewal Franchise Fee	25% of the then-current Initial Franchise Fee	On entering into a renewal franchise agreement with us when the term of your existing Franchise Agreement expires.	Payable if you qualify to obtain a renewal franchise from us and choose to enter into a renewal franchise agreement with us.
Non-Compliance Fees	\$250 to \$1,000 per contractual deviation or default.	When billed.	Due if you deviate from any contractual requirement, including Brand Standards. Non-Compliance Fees compensate us for administrative and management costs, not for our damages due to your default. The fee is \$250 for the first violation, \$500 for the first repeat violation, and \$1,000 for second and each subsequent repeat violation.
Testing Samples or Inspecting Proposed Supplier Facilities	Actual cost of such inspection or testing.	On invoice.	Payable to us if you propose an alternative product or service, or an alternative supplier, and we elect to test the samples of the proposed product or service, or inspect the proposed supplier's facilities.
Audit Fees and Costs	Cost of audit plus the travel, lodging and meal expenses of the individuals who conduct the audit	On invoice.	Paid if audit shows an understatement of more than 3% of Gross Sales in any fiscal year.

Name of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Interest	The lesser of 18% per annum or the highest lawful rate of interest permitted by applicable state and federal law	As incurred.	Interest is charged on any amount not received by us as of the applicable due date. See California addendum.
Late Fee	\$25 per day	As incurred.	In addition to accrued interest, we may impose a late fee for each day the respective amount remains unpaid.
Insurance	An amount equal to the costs incurred by us to secure insurance.	On invoice.	If you do not provide proof of insurance to us as required under the Franchise Agreement, we may secure insurance for you and charge the cost to you.

### Explanatory Notes

- (1) Except as described above, all fees are uniformly imposed by and paid to us and all fees are non-refundable. In limited instances, such as the financial hardship of a franchisee, we may choose to waive all or a portion of these fees, but are under no obligation to do so.
- (2) “Gross Sales” means the aggregate of all sales and other income of Franchisee from whatever source derived, regardless of whether collected in the form of check, cash, credit or otherwise, arising out of, in connection with or relating to Your Franchise and the sale of Products and/or performance of services to Members including, without limitation, (a) income from New Member Initiation Fees, Membership Renewal Fees, monthly Membership Dues, Boat Damage Waivers; and (b) all proceeds from any business interruption insurance, but excluding i) all refunds and approved discounts made in good faith to a Member; ii) any sales, goods and services and equivalent taxes which are collected by You for or on behalf of any governmental or other public body and actually remitted to such body; iii) damage charges, gas, sales tax, or other pass through income generated by Your Nautical Boat Club and iv) the value of any coupon, voucher or other allowance authorized by Us and issued or granted to Members of Your Franchise received or credited by You or Us in full or partial satisfaction of the price of any Product or service offered in connection with Your Nautical Boat Club. We reserve the right to institute policies in the Brand Standards Manuals or otherwise in writing and occasionally, regarding the inclusion in Gross Sales of any pre-paid goods or services and the delivery and redemption thereof.

## ITEM 7 ESTIMATED INITIAL INVESTMENT

### YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Initial Franchise Fee <sup>(1)</sup>	\$60,000	As arranged	Upon signing Franchise Agreement	Us
Real Estate <sup>(2)</sup>	\$16,200 to \$47,250	As arranged	As agreed	Third Parties
Office Rental <sup>(3)</sup>	\$4,500 to \$13,500	As arranged	As agreed	Third Parties

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Leasehold Improvements <sup>(4)</sup>	\$5,000 to \$10,000	As arranged	As agreed	Contractor/ Architect
Fleet Inventory <sup>(5)</sup>	\$390,000 to \$720,000	As arranged	As agreed	Vendors
Furniture, Fixtures, and Equipment <sup>(6)</sup>	\$2,500 to \$10,000	As arranged	As agreed	Vendors
Computer Hardware and Software	\$2,000 to \$5,000	As arranged	As agreed	Vendors
Exterior Signage <sup>(7)</sup>	\$2,500 to \$5,000	As arranged	As agreed	Vendors
Soft Costs <sup>(8)</sup>	\$2,500 to \$5,000	As arranged	As agreed	Vendors
Insurance <sup>(9)</sup>	\$15,000 to \$25,000	As arranged	As agreed	Insurance Company
Boat Outfitting Equipment, Supplies & Toys for 7 Boats	\$5,000 to \$10,000	As arranged	As agreed	Vendors
Training Costs <sup>(10)</sup>	\$1,500 to \$2,500	As arranged	Before training	Vendors
Security and Utility Deposits <sup>(11)</sup>	\$1,000 to \$2,000	As arranged	As agreed	Vendors and Utility Companies
Business Licenses <sup>(12)</sup>	\$1,000 to \$2,000	As arranged	As agreed	Licensing Authority
Advertising Expenses <sup>(13)</sup>	\$30,000 to \$50,000	As arranged	As agreed	Service Providers and Us
Additional Funds – From signing the Franchise Agreement to up to 10 months from opening your Nautical Boat Club <sup>(14)</sup>	\$30,000 to \$70,000			
<b>Totals:</b> <sup>(15)</sup>	<b>\$563,700 to \$1,037,250</b>			

### Explanatory Notes

1. On signing the Franchise Agreement, you must pay us \$60,000. Unless otherwise agreed, you will have 180 days from signing the Franchise Agreement to secure an approved Marina for your Nautical Boat Club and secure financing for your Fleet. If you are unable to secure an approved Marina within this time period, you will have the one-time option to (a) choose another potential Marina site (which Marina site must be approved by us within 270 days of the original signing date of your Franchise Agreement or else we may terminate the Franchise Agreement), or (b) sign a mutual termination and release agreement with us to terminate the Franchise Agreement. If you fail to secure a site and do not select one of these options within 180 days of signing your Franchise Agreement, we have the right to terminate your Franchise Agreement. Following any such site-related termination by you or us, we will refund 40% of the initial franchise fee you paid and retain 60%. Except as noted above, the initial franchise fee is non-refundable once paid.
2. We expect you will lease slips for your Fleet at an approved Marina Site and also secure space for your Office at the Marina Site. You will need to rent a minimum of 6 boat slips for your Fleet. Slip rent costs typically ranges from \$300 to \$600 per boat. The amounts in the chart reflect 9 months (April to December) of rent for 6 to 8 boat slips. The cost of slip rent depends upon a number of factors, such as availability, whether or not you are

side-tying to a dock, leasing open slips, leasing covered slips, the quality of the marina, the amenities it provides, the geographical location of the marina and slip rental demand. If you purchase the land or build your own marina, your short-term and opening costs will be substantially higher, and will vary depending on the market for real estate in your area.

3. We expect you will need a minimum of 200 square feet of either land or water-based office space at the marina to adequately operate your business and to receive potential members comfortably. The type of office space will depend on the available options at the marina. Office space on land at a marina typically runs from \$500 to \$1,500 per month. If space on land is not available, a floating office is an option. Either a prefabricated structure can be purchased or one custom constructed on a floating platform at a cost of approximately \$20,000 to \$50,000. You will also need about 100 square feet of storage space (less if dock boxes are used) for spare parts, equipment, water toys and supplies.
4. Your Nautical Boat Club must be established in accordance with our current Nautical Boat Club design, which includes your office being decorated in a nautical theme.
5. You will purchase at least 6 new, top-of-the-line boats for your initial Fleet. Most of the boats will be fully equipped with upgraded engine, trim, stereo, carpet/flooring, tow bars, wake towers, board racks, swim platforms, colors, and seating. The boats will range from 18 to 26 feet in length. Boat costs will average between \$65,000 and \$120,000 per boat. Most franchisees obtain bank financing for their Fleet with 20% cash down depending on the bank and its expertise in the marine industry. We typically see a 4 to 7-year loan term, and your monthly payment will depend upon the amount you finance, the number of years you finance and the interest charged by the bank. During the second year of operation, we typically see franchisees add 1 to 2 additional boats to their Fleet and then add 1 additional boat for every 8 to 10 projected new Members. Our standard typically requires that boats in the Fleet be replaced after 1 to 2 years of service depending upon their amount of use and general appearance.
6. The furniture, fixtures and equipment costs are based on the costs charged by our vendors for the furniture, fixtures and equipment required in our Brand Standards Manual, policy statements, directives, bulletins and memoranda that contain prescribed or recommended standards, procedures, policies and advice relating to a Nautical Boat Club's operation and management and to market the products and services offered by a Nautical Boat Club. These amounts do not include your computer hardware and software costs for the Technology and Operating Platform.
7. Your signage costs will depend on your type of Office and whether you have architectural, municipal or lease restrictions on the signage you can use at your Nautical Boat Club.
8. Soft costs include items such as collateral materials (e.g. cards, brochures, letterhead, etc.), permits, fees, architecture fees, meeting costs, title reports, legal services, soil analysis, printing of plans and ancillary items.
9. You must carry insurance as required in the Franchise Agreement. The amount in the table represents our best estimate of the premiums required for commercial general liability insurance coverage of not less than \$1,000,000 based on our prior experience in Texas. Worker compensation may also be required by your state's statute. If your employees will be using their personal vehicles to conduct club business, you are strongly advised to carry

owned and non-owned automobile liability in the amount of \$1,000,000. If you finance your boat Fleet, most lenders will require you to carry Hull insurance. Our estimate for Hull coverage is approximately 2% of the insured boat's hull value or around \$125 to \$300 per boat per month. Your costs may vary from those described in the table due to your market conditions.

10. The amounts shown include estimated travel, lodging, meal and incidental expenses for two trainees to attend our required initial training program. Such amounts will vary depending on the number of trainees that attend the initial training program, the distance traveled, method of travel and choice of accommodations.
11. Security and utility deposits include estimated deposits for leased Marina Site and Office premises and equipment, telephone service and other utilities.
12. The range given provides our best estimate of the costs you will incur for business permits and licenses required to open and operate your Nautical Boat Club. Your costs may vary, however, based on a variety of factors, including, for example, local and state licensing requirements.
13. You must spend a minimum of \$15,000 for advertising to promote your Nautical Boat Club during the 60 days before and 90 days after you open plus an additional minimum of \$30,000 during the first year you are open, of which \$10,000 is payable to us 60 days before the opening of your Nautical Boat Club. We will credit the total \$15,000 grand opening expenditure to your minimum during the first year you are open.
14. Additional Funds includes expenses for wages, occupancy costs, debt service, professional expenses and other recurring expenses before the opening of the Nautical Boat Club, and during the first 3 to 6 months of operation (total of approximately one year before and after opening your Nautical Boat Club).
15. These figures are an estimate of your pre-opening and initial operating expenses for the period beginning when you sign your Franchise Agreement to the end of the first calendar year of operations after you open your Nautical Boat Club. We typically expect new Nautical Boat Clubs to open in March or April of the calendar year based on the seasonality of our business so depending on when you sign your Franchise Agreement, these figures could include up to 9 to 10 months of your Nautical Boat Club being open for business through the end of the calendar year. These figures are based in part on our activities as a franchisor and our affiliates' prior experience in operating up to 6 Nautical Boat Clubs in Texas (with the first of these affiliate-operated Nautical Boat Clubs opening in 2004 and our operations continuing until these affiliate-operated Nautical Boat Clubs were sold to a franchisee effective close of business December 31, 2021).

Costs and expenses described above are not refundable.

## **ITEM 8**

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

You must develop your Nautical Boat Club premises and acquire your Fleet, Office, Technology and Operating Platform, furniture, fixtures and equipment and all necessary signs for your Nautical Boat Club according to the standards and specifications established by us and as contained in the



Franchise Agreement and Brand Standards Manual. We may modify the standards and specifications occasionally. We will notify you of any modifications we require you to make. We formulate and modify these specifications and standards based on research, industry trends and our general business plan.

We have developed our current Technology and Operating Platform with a third-party vendor. You must purchase and use our then current Technology and Operating Platform in the operation of your Nautical Boat Club. The Technology and Operating Platform assists you with, among other things, boat scheduling, administration of boat club rules, check out sheets, management statistics and reports. You will purchase a license for the Technology and Operating Platform from our then current vendor. Our current vendor is Stellar Software, LLC at 3423 Piedmont Rd. Suite 597 NE Atlanta, GA 30305. You will pay our third-party vendor their then current initial and continuing fees to obtain and use the Technology and Operating Platform, currently a \$1,450 implementation fee and a continuing fee of \$450 per boat per year. You must obtain updates to the Technology and Operating Platform from our third-party vendor at their cost. We reserve the right to require you to purchase ancillary hardware or software that might be needed to use any such updates or modifications to the Technology and Operating Platform, and we and our affiliates may in the future be the direct vendor for the Technology and Operating Platform.

You must also purchase or obtain a license for our then current suite of third-party hardware and software systems and services that we have designated for use with the Technology and Operating Platform, including currently QuickBooks Online Plus, Thryv, Microsoft Office 365 – Business Premium, but we and our affiliates may in the future be the direct vendor for some of these hardware and software systems and services. We are the direct vendor for Microsoft Office 365.

We currently have preferred vendor contracts with Barletta Boat Company, LLC, MasterCraft Boat Company, Pontoon Boat, LLC (Bennington), Crest Marine, LLC and Malibu Boats, LLC pursuant to which we have secured preferred boat pricing and/or warranty coverage for us and our franchisees. You must purchase boats from our preferred vendors unless we authorize a variance, which we may provide or reject in our sole discretion. We may also occasionally develop and maintain a list of suitable suppliers and manufacturers for your Fleet and/or accessories. Except as noted above, you may purchase from any manufacturers or dealers if we determine that the manufacturer's boats conform to the specifications in the Brand Standards Manual. All vessels and accessories must meet or exceed the minimum specifications in the Brand Standards Manual.

Your employees must wear uniforms and adhere to a dress code that we set while at work at your Nautical Boat Club.

As of the date of this Disclosure Document, we do not require you to purchase and resell any Nautical Boat Club branded products at your Nautical Boat Club. However, we reserve the right to do so in the future and, if ever instituted, you will sell Nautical Boat Club branded products at your Nautical Boat Club to the extent we make them available, and you will purchase those products from us or our designated affiliates or suppliers, and those products must be used for resale on the Nautical Boat Club premises only. Any branded products that you sell may only be available from us or our designated affiliates or suppliers.

None of our officers own or control any interest in an approved or designated supplier.

You must maintain your Fleet, water toys, accessories and all your equipment, signage, decorations, fixtures, furnishings and leasehold improvements used in connection with your

Nautical Boat Club in good order and repair and you must promptly replace your Fleet, equipment, signage, decorations, fixtures, furnishing and leasehold improvements as they become worn, damaged, obsolete, out of style or mechanically impaired and when offered or applicable, enter into preventative maintenance programs as further described in the Brand Standards Manual. We presently require you to purchase only new boats and to replace boats in your Fleet at such intervals that at least 80% of your Fleet is 3 years or newer.

Neither we nor any of our affiliates are currently a supplier except as noted above in this Item 8.

We reserve the right to designate specific vendors and suppliers in the future.

If you desire to purchase any supplies or products from a supplier which has not already been approved, you must obtain our prior written approval, which may take up to 90 days from our receipt of all requested information, including information regarding the supplier's fiscal strength, demonstrated customer service, product quality, product safety and a strong regional presence. Additionally, as a condition to granting approval, we may require you to submit samples of the proposed supplier's products and to arrange for us to visit the supplier's facilities. If we elect to test the samples or inspect the proposed supplier's facilities, you may be charged a fee not to exceed the actual cost of such inspection or testing. We do not issue criteria for supplier approval.

We have not established any purchasing or distribution cooperatives.

Currently, Barletta Boat Company, LLC, MasterCraft Boat Company, Pontoon Boat, LLC (Bennington), Crest Marine, LLC and Malibu Boats, LLC all have contracts with us to pay us a 3% rebate on the price of boats (excluding the motor as to Crest Marine, LLC, Barletta Boat Company, LLC, Pontoon Boat, LLC (Bennington)) and related items you purchase from these vendors. We plan to retain these rebates.

We also have a contract with our current mandatory supplier of our Technology and Operating Platform (Stellar IMS, whose contact is Matt Kraft, 3423 Piedmont Rd NE Suite 597, Atlanta, GA 30305), which requires the vendor to pay us a rebate equal to 3% of the monthly software fee franchisees pay the vendor.

We plan to pursue other similar vendor arrangements with other current or future required, recommended or approved suppliers to the franchise system.

During the last fiscal year ended December 31, 2023, we received revenues totaling \$175,075 from payments or rebates from approved suppliers based on our franchisees' purchases from these suppliers, which amounts to 12.82% of the revenues of \$1,365,827.

Except as noted above, we do not currently contract with any other manufacturers and suppliers to provide us marketing allowances on volume purchases or offer volume discounts on supplies and products, but we reserve the right to do so in the future. Any such marketing allowances received by us as a direct result of your purchase of supplies or products may be retained by us or our affiliates. Third parties may make payments to us from the sale of items to you. Neither we nor our affiliates negotiate purchase arrangements with suppliers for the benefit of franchisees, but we reserve the right to do so in the future.

The Brand Standards Manual requires that you obtain and install in the Office of your Nautical Boat Club data processing equipment, computer hardware, required dedicated telephone and

power lines, modems, printers, and other computer related accessory or peripheral equipment needed to operate our Technology and Operating Platform. Additionally, we may require that you input and maintain in your computer certain other software programs, data and information that we prescribe.

You must also obtain and maintain at your own expense insurance policies with insurers reasonably satisfactory to us covering the items specified in the Brand Standards Manual, including personal injury, public liability and property damage of not less than \$1,000,000. Worker compensation may also be required by your state's statute. Automobile liability and hull insurance may also be mandatory or recommended.

Our current minimum insurance requirements are as follows:

- Commercial general liability insurance, including products liability coverage, and broad form contractual liability coverage, written on an "occurrence" policy form in any amount of not less than \$1,000,000 combined single limit per occurrence and \$1,000,000 in the aggregate. Such insurance will insure the contractual liability of You under this Agreement.
- Business automobile liability insurance written on an "occurrence" policy form in an amount of not less than \$1,000,000 combined single limit per occurrence and in the aggregate, including owned, leased, non-owned and hired automobile coverage (only required if You or any of Your employees use an automobile or other vehicle in connection with any aspect of operating the Nautical Boat Club or if one or more of Your officers or other employees maintain automobiles which are owned or leased by You).
- Workers' compensation insurance in the minimum amount mandated by Your state's law (if applicable), unless Your state requires or permits employers to participate in a state-administered insurance pool (in which case You either must or may adopt and maintain a qualifying plan, as applicable).

We must be named as "Additional Insured" in the required insurance policies that you obtain. If you do not provide proof of insurance to us as required under the Franchise Agreement, we may secure insurance for you and charge the cost to you.

If you decide to lease the marina slips and Office for your Nautical Boat Club, you must include in the lease specific provisions relating to notice of default, transfer rights and termination; such provisions are provided to you in the Lease Rider attached as Exhibit D to the Franchise Agreement. Before you sign a lease for your Nautical Boat Club premises, you must establish to our reasonable satisfaction that the above provisions are contained in any lease, and you must deliver to us a definitive copy of the lease, which will require our approval.

You may not make any alterations to your Nautical Boat Club, nor any replacements, relocations or alterations of fixtures, equipment, furniture or signs without our approval.

Your failure to comply with the standards and specifications described above will constitute a breach of the Franchise Agreement and may affect your right to obtain additional franchises or a renewal franchise. We do not grant any material benefits to you based on your use of designated or approved sources.

We estimate that the purchases described above will equal approximately 60% to 75% of the total cost to establish your Nautical Boat Club (excluding Fleet costs), and approximately 30% to 50% of your ongoing operating expenses.

## ITEM 9 YOUR OBLIGATIONS

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

Obligation	Section In Franchise Agreement	Item In Disclosure Document
a. Site selection and acquisition/ lease	Sections V and VII.A.	7, 11
b. Pre-opening purchases/leases	Section VIII.A.	7, 8, 11
c. Site development and other pre-opening requirements	Section VII.A.	5, 6, 7, 8, 11
d. Initial and ongoing training	Section VII.B.	7, 11
e. Opening	Summary Pages; Sections V and VII.A.	5, 7, 11
f. Fees	Summary Page, Sections VIII.A.-D.	5, 6, 7
g. Compliance with standards and policies/ Operating Manuals	Section IX.A.	8, 11
h. Trademarks and proprietary information	Sections X.A. and X.B.	13, 14
i. Restrictions on products/services offered	Section IX.B.	11, 16
j. Warranty and customer service requirements	Sections IX.C. and VII.D.	Not applicable
k. Territorial development and sales quotas	Sections V, VII.D. and VIII.B.	Not applicable
k. Ongoing product/ service purchases	Section IX.A.	8
l. Maintenance, appearance and remodeling requirements	Section IX.A.	11
m. Insurance	Section XII.A.	7, 8
n. Advertising	Sections VIII.D.-E.	5, 6, 7, 11
o. Indemnification	Section XII.B.	6
p. Owner's participation/ management/staffing	Sections VII.C.-E. and XII.E.-F.	11, 15
q. Records/reports	Sections VIII.C. and VIII.G.	Not applicable
r. Inspections/audits	Sections VIII.H.-I.	6
s. Transfers	Sections XI.A.-C.	6, 17
t. Renewal	Section IV.B.	6, 11, 17
u. Post-termination obligations	Section XI.F.	17
v. Non-competition covenants	Section IX.B.	17
w. Dispute resolution	Sections XIII.D.-H.	17

## ITEM 10 FINANCING

We do not currently offer you any direct or indirect financing, nor do we receive any payments from any person offering financing to or arranging financing for a prospective Nautical Boat Club franchisee. We do not guarantee your note, lease or any other financial obligation.

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

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

Before you open your Nautical Boat Club, we will:

1. Assist with Marina Site selection and lease negotiation (Section VI.A.2. of the Franchise Agreement).
2. Provide guidance on Fleet purchases and bank financing (Section VI.A.3. of the Franchise Agreement).
3. Make recommendations for the layout of your Nautical Boat Club (Section VI.A.4. of the Franchise Agreement).
4. Connect you with the then current third-party vendor for the Technology and Operating Platform (Section VI.A.5. of the Franchise Agreement).
5. Lend you our Brand Standards Manual (Section VI.A.6. of the Franchise Agreement). A copy of the Table of Contents to our Brand Standards Manual is attached as Exhibit E to this Disclosure Document. The Brand Standards Manual contains a total of 166 pages. You will agree in your Franchise Agreement that we are not joint employers of your employees and other personnel. We do not and will not share or codetermine any of your employees' essential terms and conditions of employment. More specifically, in no case do we have any authority to determine or set your employees': (1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and/or (7) working conditions related to the safety and health of employees. You alone have sole authority to determine any or all your employees' essential terms and conditions of employment.
6. Provide marketing guidelines and requirements on how to develop the advertisements; how to do television, radio, direct mail, digital, social media, boat show and print advertising (Section VI.A.7. of the Franchise Agreement).
7. Provide you with an initial training program in English concerning the opening, managing and operations of a Nautical Boat Club, instruction on how to operate the Software program, membership sales, advertising and public relations, Dock Master's responsibilities and boat maintenance procedures (Section VI.A.8. of the Franchise Agreement).
8. Provide pre-opening assistance to you by providing an advisor at your Marina Site for 5 to 7 days, sequential or not, before, during and after your opening to offer

general advice for opening, managing, marketing and operating a Nautical Boat Club (Section VI.A.9. of the Franchise Agreement).

After you open your Nautical Boat Club, we will provide the following services and assistance to you:

1. Follow-up with you for about 60 days after you open your Nautical Boat Club for business and provide on-site consultation if needed as we determine and at our expense to further assist you in managing, marketing and operating your Nautical Boat Club in accordance with the System's standards (Section VI.B.2. of the Franchise Agreement).
2. Advise and provide you with additional updates to the Brand Standards Manual and any Technology and Operating Platform updates (Section VI.B.3. of the Franchise Agreement).
3. Hold periodic conferences that you may be required or permitted to attend to discuss operations strategy and networking (Section VI.B.4. of the Franchise Agreement).
4. After your initial training period, be reasonably available to give you additional advisory assistance as described in the Brand Standards Manual on a reasonable request basis or when we deem it necessary (Section VI.B.5. of the Franchise Agreement).
5. Manage the Brand Fund, provide you a template for your own website and make the System's stock advertising copy available to you and review any new proposed advertising that you send to us. We will inform you of the marketing concepts we make available to franchisees generally (Section VI.B.6. of the Franchise Agreement).
6. Make available, from time to time, advice or guidance relative to suggested prices for the services and products you offer at your Nautical Boat Club. You are not obligated to follow that advice and have the sole right to determine the minimum prices to be charged the services and products you offer at your Nautical Boat Club. (Section VI.B.7 of the Franchise Agreement).

### Site Selection

You must locate and obtain our approval for your Marina Site within the Designated Area and then sign an approved lease (with a form of Lease Rider attached as Exhibit D to the Franchise Agreement) within 180 days of your signing the Franchise Agreement. You must also secure financing for your fleet during this 180-day period. This 180-day period is described in your Franchise Agreement as your Marina Site and Fleet Acquisition Date. We may extend this time period in our sole discretion if we determine that you have taken, and continue to take, all necessary action to find an acceptable Marina Site. If you fail to locate a Marina Site that is acceptable to us or if you and we fail to agree on a site by your Marina Site and Fleet Acquisition Date, we may terminate your Franchise Agreement, at our option, and retain 60% of the initial franchise fee you paid to us when you signed your Franchise Agreement.

We may require you to submit to us some or all of the following in reviewing your Marina Site:

- (1) a completed site review form we designate, which may include demographic information, a site plan, population-related information and other information;
- (2) if the premises for the proposed site are to be leased, satisfactory evidence that the lessor will agree to the minimum requirements contained in the lease rider to be signed between us, you and the lessor attached to the Franchise Agreement as Exhibit D; and
- (3) any other information or materials as we may require, such as a letter of intent or other document which confirms your favorable prospects for obtaining the proposed site.

On receipt of all requested documentation, we will use all reasonable efforts to notify you of our approval or disapproval in writing within 30 days. All of our decisions are final. If we do not accept a site you propose, you may select another site, subject to our acceptance and before your Marina Site and Fleet Acquisition Date. Our approval of a site does not constitute an assurance, representation or warranty of any kind, express or implied, as to the (1) suitability of the site for your Nautical Boat Club, (2) the financial success of operating your Nautical Boat Club at the site or (3) any other purpose.

Some factors that we consider in approving your Marina Site include the body of water itself, the affluence of the nearby population, the existence of competitors, the appearance, condition, amenities, services and the access and visibility of the property from adjoining roads or highways.

As noted above, you must sign an approved lease and secure financing for your Nautical Boat Club no later than 180 days from the date you sign your Franchise Agreement. Extensions may be granted based on certain contingencies at our option.

We estimate the time from the date you sign the Franchise Agreement to the date you open your Nautical Boat Club to be between 6 and 12 months. However, this time estimate may vary depending on numerous factors, including your ability to obtain a lease at a suitable marina, financing arrangements for your Fleet, building permits, zoning and local ordinance compliance, weather conditions or delayed delivery or installation of furniture, fixtures, equipment and signs. The above time frames are based on diligent efforts on your part.

### Opening Requirements

You must open your Nautical Boat Club for business no later than 1 year after signing the Franchise Agreement.

You must open your Nautical Boat Club regardless of any change in industry conditions or other circumstances adversely affecting the process that may arise. We may extend the time periods if an act of God is responsible for a delay in opening or if we determine that you have taken, and continue to take, all necessary action to open your Nautical Boat Club at the earliest possible date. Your Nautical Boat Club may not open for business until we have notified you that your Nautical Boat Club Marina Site and Office meets our standards for completion of construction and opening. We will not unreasonably delay this notification. If you fail to open your Nautical Boat Club

within the required time period, your Franchise Agreement may be terminated at our option without a refund of any amounts paid at the time of termination.

### Training Program

Before opening your Nautical Boat Club, up to two persons affiliated with you and approved by us must successfully complete to franchisor's satisfaction initial training we provide to you. You must begin the training program at least 30 days before the date on which your Nautical Boat Club is scheduled to open, and you must attend 5 to 7 days of training. Before you arrive for training, we will grant you access to one electronic copy of the Brand Standards Manual. We will not charge you a fee for the training of up to two persons. We may charge you a fee for any additional required or optional training and training for subsequent trainees (current a per diem fee of \$400 per person per day). All training will be provided at a location we designate, and will consist of both on the job and classroom training. You must pay for you and your employees' travel expenses and room, board and wages during training. We may periodically make other mandatory or optional training available to your employees as well as other programs, seminars and materials, and you will ensure that all employees, as we direct, satisfactorily complete any required training within the time specified. We do not currently have any routinely scheduled mandatory or optional training programs that you or your employees must attend.

Classes will be conducted at our headquarters in Austin, Texas or at the Nautical Boat Club - Westlake in Austin, Texas or another location we designate. Our training program is overseen by Tom Gardiner. Mr. Gardiner has 17 years of experience operating Nautical Boat Clubs as a licensee of our predecessor NTI Florida, and began training franchisees in 2012.

An outline of the initial training is as follows:

#### **TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The-Job Training</b>	<b>Location</b>
Operations	5-10	5-10	Austin, TX
Software	5-10	5-10	Austin, TX
Marketing	5-10	5-10	Austin, TX
Fleet	5-10	5-10	Austin, TX
<b>Totals</b>	<b>20-40</b>	<b>20-40</b>	

In connection with the opening of your Nautical Boat Club, one of our representatives will provide you with on-site opening assistance. The representative may typically provide on-site pre-opening and opening supervision and assistance to you for approximately 5 to 7 days. If we decide we need to return for additional onsite training, you will remit to us the per diem fee (currently \$400 per person per day) then being charged to franchisees generally for opening assistance, including remittance of any expenses incurred by our representative(s), such as costs of travel, lodging, meals and wages.

### Advertising

You have a grand opening advertising obligation totaling \$15,000, of which \$10,000 is payable to us 60 days before the opening of your Nautical Boat Club. We will use these monies to help execute your grand opening advertising plan. See Items 5, 6 and 7.



We created in late 2021 and will administer the Nautical Boat Club Brand Fund (the “Brand Fund”), to research, develop and implement standardized and consistent advertising and marketing for Nautical Boat Clubs and to otherwise develop and enhance the Nautical Boat Club system. Currently, you must contribute 1% of your Gross Sales to the Brand Fund, but we reserve the right to require you to contribute up to 3% of your Gross Sales to the Brand Fund on delivery of written notice to you. Our company-affiliated Nautical Boat Clubs (if any) will also contribute the same percentage of their Gross Sales to the Brand Fund that we require franchised Nautical Boat Clubs to contribute. We allocate Brand Fund dollars without any guaranteed level of support for any Nautical Boat Club or market, however, it is in our best interest to ensure that all Nautical Boat Clubs and markets are supported. (Franchise Agreement, Article VII.F.).

We retain full creative and content control over all advertising. Placement of advertising for a specific Nautical Boat Club or within a local market is determined by us, but we will consult with you as we deem appropriate. However, we retain the ultimate right to determine whether placement strategies developed for specific Nautical Boat Clubs and local markets are reasonable and in the best interest of the Nautical Boat Club System. (Franchise Agreement, VII.F.).

We may be paid our administrative costs and overhead for providing services to Brand Fund. (Franchise Agreement, Section VII.F.).

We will prepare an unaudited accounting of Brand Fund contributions and expenditures annually and you may request a copy of the results of that accounting upon written request. We have no obligation to audit the Brand Fund, and have no intention of auditing the Brand Fund. (Franchise Agreement, Section VII.F.).

We intend that all Brand Fund contributions will be spent in the fiscal year in which they are received, however, any funds not so spent will be held over and spent during the next fiscal year. (Franchise Agreement, Section VII.F.).

Although we intend for the Brand Fund to be of perpetual duration, we maintain the right to change, modify or terminate the Brand Fund. The Brand Fund will not be terminated, however, until all monies in Brand Fund have been expended for advertising and promotional purposes. (Franchise Agreement, Section VII.F.).

No Brand Fund contributions will be used for advertising that is principally a solicitation for the sale of new franchises.

During our 2023 fiscal year, the Brand Fund collected \$188,906 and expenditures were spent as follows: 87% on branding and design, 11% video production, 2% on copywriting. Advertising will be disseminated through all usual forms of media including television, radio, print, outdoor, internet, direct mail and signage. Except for the internet, the media utilized are either regional or local. We currently use an in-house branding team to create our advertising, but we may use any outside advertising agency as we deem appropriate in the future.

In addition to your contribution to the Brand Fund, you must spend the greater of \$30,000 or 7% of your Gross Sales on approved local marketing expenditures (“Local Ad Expenditure”) during each calendar year. You must provide us, by the 15th day of each calendar quarter and in a format approved by us, an accurate accounting of the previous calendar quarter's expenditures on local advertising and promotion along with supporting documentation. We will determine in the Brand Standards Manual or otherwise in writing to you what constitutes approval local marketing.

We reserve the right to create and require or permit your participation in system-wide advertising campaigns we may create. You may develop advertising materials for your own use, at your cost and according to our standards and requirements; however, unless other agreed with you we must review and approve of the advertising materials in advance. We will approve your advertising materials if/when they are consistent with our brand image and with quality control.

We reserve the right to prepare and provide you with certain types of marketing or advertising templates. If you elect to accept these materials, we may require you to reimburse us our out-of-pocket costs associated with developing and providing these materials.

We do not maintain or intend to create any advertising council composed of franchisees.

We do not require you to participate in any local or regional advertising cooperative.

### Our Website and Your Website

We have established an Internet website that provides information about Nautical Boat Clubs. We have sole discretion and control over the website (including timing, design, contents and continuation) and may (but are not required to) include at the website interior pages containing information about each franchisees' Nautical Boat Club.

We will provide you a Nautical Boat Club website template that you will need to customize and maintain to provide information about your Nautical Boat Club, but (1) we reserve the right to register and own the copyrights related to the content of your Internet website and/or register any domain names used in your Internet website; (2) your Internet website must be limited to information regarding your Nautical Boat Club; (3) you must follow our website template and any other specifications that we may require in the Brand Standards Manuals, including as to use of our Marks and prospective franchisee solicitation materials and links; and (4) you must indemnify us with respect to your use of any such Internet website. We may revoke approval at any time for your Internet website if you fail to continue to meet our standards (Section VIII.E. of the Franchise Agreement).

### Nautical Boat Club Intranet

We may establish and maintain an intranet facility through which members of the entire Nautical Boat Club chain, including franchised and company-operated, may communicate with each other and through which we may disseminate updates to the Brand Standards Manual and other confidential information (the "Intranet"). We have no obligation to maintain the Intranet indefinitely. We will establish policies and procedures for the Intranet's use (Section VIII.F. of the Franchise Agreement).

### Computer Hardware and Software

You must acquire, install and use our Technology and Operating Platform and other computer hardware and software systems and services that are specified by and/or acceptable to us, and that include the capability to operate and support our Technology and Operating Platform, which we will use to collect, compute, store and report your Nautical Boat Club's Gross Sales, as well as other financial data and operating information as detailed in Item 8. Your electronic systems must include Microsoft-compatible computers and peripheral equipment (printers) acceptable to us that

are able to operate and support our Technology and Operating Platform and related systems. Our current minimum hardware and software requirements (in addition to the Technology and Operating Platform) are below:

- Hardware Requirements:
  - Single CPU - Intel Quad-Core 2.0 GHz
  - 64-bit operating system, x64-based processor
  - RAM - 16 GB+
  - Hard Disk Space – 256SSB GB+
  - WiFi Connectivity
  - External Monitor Capability
  - Dual Monitors
  - Android Tablet 8” or larger
  - Laser & Color Printers
  - WebCam
  - Mouse, Keyboard, etc.
- Software Requirements:
  - Windows 10 Home or Professional

You must also obtain and maintain certain other hardware and software systems and services from our then currently approved vendor(s), including a suite of products including QuickBooks Online Plus;; Microsoft Office 365 – Business Premium; and Managed Services: Audit, Inventory, Patching, Antivirus & Malware & Reporting Website Hosting. See Items 6 and 8.

You must also install and continually maintain high-speed Internet services (Section IX.A. of the Franchise Agreement; Section B of the Software License Agreement). There are no contractual limitations on our right to access any information or data maintained on your electronic systems.

We expect the total initial cost to obtain the Technology and Operating Platform and related hardware and software systems and services for your Nautical Boat Club will range from approximately \$2,000 to \$5,000 and the yearly continuing license fees and costs to maintain the Technology and Operating Platform and related hardware and software systems and services for your Nautical Boat Club will range from approximately \$2,820 to \$6,870 depending on the number of boats.

Before the opening of your Nautical Boat Club, and occasionally after opening, we may inspect your electronic systems to ensure that they are sufficient for proper operation of the Nautical Boat Club consistent with our standards as contained in the Brand Standards Manual. On inspection, we may require you to update some or all of your electronic systems as we specify (Section IX.A. of the Franchise Agreement).

You must, at your own expense, upgrade the Technology and Operating Platform and related hardware and software, as necessary, in order to comply with our standards as contained in the Brand Standards Manual, and you must, at your own expense, upgrade or replace systems, hardware and software whenever we require it. There are no contractual limits on the frequency or cost of your obligation to obtain these upgrades. Except as described above, there are no contractual limitations on the frequency and cost of the obligation to require updates. We estimate that the total annual cost of maintenance, updating, upgrading and support contracts for the

Technology and Operating Platform and related hardware and software systems and services for your Nautical Boat Club will range from approximately \$250 to \$1,500.

Other than the suite of related products hardware and software systems and services noted above, we do not currently recommend or require you to use any specific brands or models of computer hardware as long as you are using the MS Windows OS; however, we reserve the right to establish requirements on 30 days' notice to you. We also reserve the right to restrict or prohibit your use of any electronic systems that we believe could expose some or all of our proprietary information to competitors or unauthorized third parties.

You must take all appropriate measures to protect and keep confidential our information and your Members' information, which may increase costs.

You are not currently required to purchase, obtain a license for or use any proprietary software or hardware directly from us or our affiliates. Neither we, nor any of our affiliates must provide ongoing maintenance, repairs, upgrades or updates to your software, hardware or other electronic systems.

Except as noted above, we have no obligation to assist you in obtaining hardware, software or related services. We may create, and periodically modify, a list of approved items and/or suppliers, and you may not, after receipt of notice of such creation or modification, reorder any item from any supplier which is no longer approved. If you propose to purchase any item from a supplier that we have not previously approved in writing, you must notify us and submit to us information regarding the supplier as we may request. We may impose reasonable testing, inspection and supervision fees on you or the approved suppliers to cover our costs and fees in connection with evaluating the suppliers.

We have the right, as often as we deem appropriate, including on a daily basis, to independently access all your computer systems that you must maintain in connection with the operation of the Nautical Boat Club and to retrieve all information relating to the Nautical Boat Club's operations. We are not obligated to provide or assist you in obtaining hardware or software items or services.

## **ITEM 12 TERRITORY**

Under the Franchise Agreement, you are granted the right to operate one Nautical Boat Club at Marina Site specified in the Franchise Agreement. You have no right to use other channels of distribution, such as the Internet, catalog sales, telemarketing, or other direct marketing, to make sales outside your Designed Area (defined below). Your use of the Marks or any element of the System at any other address or in any other channel of distribution without our express prior written authorization will constitute willful infringement of our rights in the Marks and the System. You will not receive an exclusive territory. You may face competition from other franchisees, from boating clubs that we own, or from other channels of distribution or competitive brands that we control.

If you and your Owners are in full compliance with the Franchise Agreement and all other agreements with us, we will not operate or authorize anyone except you to begin operation of a Nautical Boat Club from a physical location within the area designated in the Summary Pages of your Franchise Agreement (the "Designated Area").

We will determine your Designated Area when we sign the Franchise Agreement. The typical Designated Area is expected to encompass a population of 50,000 to 100,000 people and encompass a 5 to 10 mile radius around the Office located on your Marina Site, but your Designated Area may be larger or smaller depending on the body of water on which your Marina Site will be located and/or the access to and from the different sides of the body of water.

1. We and our affiliates may establish and operate, and license others to establish and operate, Nautical Boat Clubs or other establishments located anywhere outside the Designated Area's physical boundaries, regardless of proximity to or competitive impact on your Nautical Boat Club and regardless of whether these establishments market their products and services in or draw members from the Designated Area.

2. We reserve all other rights related to the System, the Marks, the Technology and Operating Platform and any other aspects of the Nautical Boat Club system, regardless of proximity to or competitive impact on your Nautical Boat Club.

We reserve the right to use alternative distribution, including the Internet, within your Designated Area, both under our principal trademarks and different trademarks. We need not pay you any compensation for soliciting or accepting orders inside your Designated Area, or for soliciting or accepting referrals or applications from members in your Designated Area.

You may not relocate your Nautical Boat Club without our prior written consent.

You have no rights of first refusal, options or similar rights to acquire additional franchises within the Designated Area or contiguous territories.

If you fail to comply with your Minimum Annual Royalty Payment requirements, then you will be deemed to be in default and we may (in addition to our other remedies) terminate your Franchise Agreement. The "Minimum Monthly Royalty Payment" is equal to \$0 during your first year of operations at the Nautical Boat Club, \$12,000 for the second year of operations at the Nautical Boat Club and then \$24,000 for the third and each subsequent year of operations at the Nautical Boat Club, and throughout the terms of any renewal franchise agreements for the Nautical Boat Club opened by you. We will determine if your payment of monthly Royalty Fees during any year of operations fails to satisfy the then current Minimum Annual Royalty Payment, and if necessary you must pay to us the difference between the total actual monthly Royalty Fees you paid to us and the applicable Minimum Annual Royalty Payment when you pay us your Royalty Fees for the next calendar month following the end of the operating year. We calculate the Minimum Annual Royalty Payment on a yearly basis to account for seasonality at some Nautical Boat Clubs.

Except with respect to your Minimum Annual Royalty Payment obligations, your rights with respect to the Designated Area are not dependent on your achieving a certain sales volume, market penetration or other contingency and other than indicated above there are no circumstances that permit us to modify your rights with respect to the Designated Area.

We have no express obligation or implied duty to insulate or protect your revenues from erosion as the result of any of your Nautical Boat Club's competition with other Nautical Boat Clubs or other businesses.

Neither we nor our affiliates operate or plan to operate or franchise businesses under a different trademark that will sell similar goods or services to those you offer and sell through your Nautical Boat Club.

### **ITEM 13 TRADEMARKS**

We are the owner of the Marks under which your Nautical Boat Club will operate and holds registrations for the following principal Marks on the Principal Register of the United States Patent and Trademark Office:

<b>Trademark</b>	<b>Reg. Date (App. Date)</b>	<b>Reg. No. (App. Date)</b>	<b>Expiration Date</b>
NAUTICAL BOAT CLUB	02/03/2015	4,682,986	02/03/2025
NAUTICAL BOAT CLUB and Design	04/21/15	4,722,283	04/21/25
DON'T BUY A BOAT!	02/28/2006	3,061,691	02/28/2026
BOATING COUNTRY CLUB	01/02/2007	3,190,457	01/02/2027
DON'T RENT A BOAT	09/18/2018	5,564,100	09/18/2028
BOAT LIFE WITHOUT LIMITS	(03/06/2024)	(98435850)	Not Applicable

We or our predecessor NTI Florida have filed all required affidavits and renewals for our trademark registrations. Except as described above, no agreement significantly limits our rights to use or license the use of any of the Marks.

There are no currently effective determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, nor are there any pending infringement, opposition or cancellation proceedings involving the Marks or any pending material federal or state court litigation regarding our use or ownership rights in any of the Marks.

We know of no superior prior rights or infringing uses of the Marks that could materially affect their use.

If we modify or discontinue the use of the Marks, you must promptly comply with and adopt, at your own expense, all such modifications in accordance with the directions and time frames we provide you in supplements to the Business Operations Modules.

You must notify us of any infringements of or challenges to the Marks that come to your attention and actively cooperate with us in the investigation of any infringement or challenge. We will take whatever action we deem appropriate. We are not contractually obligated to defend the Marks. However, we intend to defend them vigorously. As between us and you, we have the right to make a final determination of infringement or other unlawful use and to control all legal proceedings related to the Marks and to compromise or settle all infringement claims.

You may not use the Marks as a part of your corporate or other legal name, and you must comply with our instructions in filing and maintaining trade name or fictitious name registrations. You must sign any documents we require to protect the Marks or to maintain their continued validity

and enforceability. In addition, you may not directly or indirectly contest the validity of our ownership of the Marks or of our rights in the Marks.

Absent advance written permission from us, you will have no right to use any of the Marks on or in connection with the Internet anywhere in the world, including, but not limited to, use in metatags in your website, online directories (e.g., Yelp.com), top level or country code domain names (e.g., nauticalboatclub.com), folder extensions in domain names (e.g., company.com/nauticalboatclub), social media user names (e.g., Facebook, Twitter), sponsored advertising programs (e.g. Google AdWords), or as a part of any mobile device application name or program, (collectively “Online Materials”). You may not otherwise copy or publish to or link or deep link to any of our websites in connection with social media websites, such as Pinterest.com, by way of example only.

On expiration or termination of your Franchise Agreement for any reason, you must, among other things, immediately discontinue the use of all the Marks and take appropriate action to remove the Marks from the premises in which your Nautical Boat Club is located, including, but not limited to, the removal of any outdoor or indoor signage. You must not use any of the Marks or use the phrase or a phrase similar to “formerly known as Nautical Boat Club” in any way in any printed or Online Materials anywhere in the world.

## ITEM 14 PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

We currently own rights to or licenses for a number of copyrights that are material to the franchise as follows:

U.S. Copyright Title	App. Date	App. No.	Reg. Date	Reg. No.	Asmt Recordal
Copyright: Membership Agreement (1994 Version)	02/01/1995	TXu 672-577	02/01/1995	TXu000672577	V3204P420 & V3543D184
Copyright: 1994 Advertising And Marketing Materials	02/14/1995	TXu 639-166	02/14/1995	TXu000639166	V3204P420 & V3543D184
Copyright: Boat Reservation Form (1992 Version)	02/16/1995	TXu 685-611	02/06/1995	TXu000685611	V3204P420 & V3543D184
Copyright: Found!! A New Profit Center For Your Marina	02/02/1996	TXu 719-079	02/02/1996	TXu000719079	V3204P420 & V3543D184
Copyright: I Fed The Prop Shark In Canyon Lake (with Shark and Propeller)	02/02/1996	TX 4-191-331	02/02/1996	TX0004191331	V3204P420 & V3543D184
Copyright: Shipwreck Party	02/02/1996	TX 4-217-342	02/02/1996	TX0004217342	V3204P420 & V3543D184
Copyright: Nautical Toys Boat Club Software Code (1995)	09/11/1996	TXu 758-951	09/11/1996	TXu000758951	V3543D184
Copyright: Nautical Toys Boat Club Software Manual (1995)	09/11/1996	TXu 773-467	09/11/1996	TXu000773467	V3543D184
Copyright: Membership Agreement, Shared Membership Agreement and Beach Boat Club (2005)	03/03/2005	TXu 1-255-549	03/03/2005	TXu001255549	
Copyright: Nautical Toys Boat Club 2005 and 2006 Television Commercials	09/08/2006	PAu 3-083-947	09/08/2006	Pau003083947	
Copyright: Nautical Toys Boat Club 2006 Advertising Materials	09/08/2006	TXu 1-327-483	09/08/2006	TXu001327483	
Copyright: Nautical Toys International Confidential Operations Manual (2010)	09/08/2006	TXu 1-327-482	09/08/2006	TXu001327482	
Copyright: Nautical Toys Web Content	05/21/2008	TXu1-664-301	05/21/2008	TXu001664301	
Copyright: Nautical Toys International Confidential Software and Operations Manual (2010)	07/19/2010	TXu-1-688-739	07/19/2010	TXu001688739	

Copyright: Nautical Toys Website Update (2010)	07/28/2010	TXu 1-717-590	07/28/2010	TXu001717590	
Copyright: Nautical Toys-Combined Websites Update 2011	05/11/2011	TXu 1-787-045	05/11/2011	TXu001787045	
Copyright: Nautical Toys International – Software Manuals/User Guides (2013 Update)	03/18/2013	TX 7-696-896	03/18/2013	TX0007696896	
Copyright: Nautical Toys International – Software Source Code (2013 Update)	03/18/2013	TXu 7-696-890	03/18/2013	TXu007696890	

We intend to renew all copyrights as and when they come up for renewal.

There are no current material determinations of the United States Patent and Trademark Office, the United States Copyright Office, or a court regarding any patent or copyright material to the franchise and the Nautical Boat Clubs. There are no agreements that limit the use of any patent, patent application, or copyright material to the franchise and the Nautical Boat Clubs.

We have no obligation to protect any patent, patent application, or copyright material to the franchise and the Nautical Boat Clubs; or to defend you against claims arising from your use of any patented or copyrighted items material to the franchise and the Nautical Boat Clubs.

We do not know of any patent or copyright infringement that could materially affect material to the franchise and the Nautical Boat Clubs.

We claim copyright protection to our Brand Standards Manual and the information contained in it is proprietary.

The System and the components of the System, the contents of the Brand Standards Manual and of all training materials and computer programs developed by us or in accordance with our standards any other confidential information that we impart to you with respect to a Nautical Boat Club's operation or management, whether through the Brand Standards Manual or otherwise (collectively, "Proprietary Information") belong exclusively to us and the ideas and information in the Brand Standards Manual are our sole and exclusive property.

You and your Owners must hold the elements of the System, the Proprietary Information and the contents of the Brand Standards Manual in strict confidence, must not disclose any Trade Secret or any operating or management procedure to any person other than your Education Director and your employees that must receive disclosure to understand their job duties and must instruct and routinely remind your employees that the System, the Proprietary Information and the contents of the Brand Standards Manual are confidential and may not be disclosed or appropriated. If you are a business entity, you must not disclose any element of the System, any of the Proprietary Information or the contents of the Brand Standards Manual or make the Brand Standards Manual available to any shareholder, director, officer, partner, member or manager of the business entity other than your Education Director and other senior executive officers, if any, who are actively and regularly involved in your Nautical Boat Club's management.

You and your Owners must not use any element of the System, any of the Proprietary Information or the operating, management or marketing procedures in the Brand Standards Manual in connection with the operation of any establishment or enterprise other than your Nautical Boat Club, and must promptly discontinue use of the System, the Proprietary Information and the operating, management and marketing procedures in the Brand Standards Manual upon the transfer, termination or expiration of your Franchise Agreement.



You and your Owners must not, without our prior written consent, copy or permit any person to copy or reproduce any part of the Brand Standards Manual and any other printed, graphic or audio/visual item designated by us as containing Proprietary Information or otherwise permit their use or inspection by any person other than you, your Education Director, employees who need to be disclosed to in order to perform their job duties and our authorized representatives.

All training materials (whether available electronically or in hardcopy) and all computer programs developed by us or by following our standards contain information, embody procedures or facilitate business practices that are proprietary to us and fall within the parameters of our Proprietary Information.

You and certain of your employees are bound by non-compete covenants concerning the proprietary information and may be required to enter into confidentiality agreements.

## **ITEM 15**

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

You must personally participate in the operation of your Nautical Boat Club and manage it during your Nautical Boat Club operational period. The operational period is that period of time that the Marina Site at which your Nautical Boat Club is located is normally open during the year. We normally require that your Nautical Boat Club have an operational period of at least 7 months each year, and we require you to spend not less than 40 hours per week at your Nautical Boat Club during the operational period. However, we may grant you the right to employ a manager to personally manage your Nautical Boat Club on a full-time, on premises basis. Any approved manager must have successfully completed our initial training program and must not have any interest or business relationship with any of our competitors. You will be fully responsible for all of your manager's actions.

Before opening your Nautical Boat Club, you and your manager (if we have agreed to allow you to have a manager) must attend and complete, to our satisfaction, initial training we conduct.

We require that you obtain signed Confidentiality Agreements and Covenants Not to Compete in the form attached as Exhibit B to the Franchise Agreement from each manager.

If you are a business entity, your Owners (and their respective spouses) must sign the Personal Guaranty and Owners' Undertaking attached as Exhibit A to the Franchise Agreement.

## **ITEM 16**

### **RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must open your Nautical Boat Club during the operational period and the business hours and days of operation provided in the Brand Standards Manual, unless we provide you a written exception. We typically expect new Nautical Boat Clubs in most climates to open in March of the calendar year based on the seasonality of our business, but certain Nautical Boat Clubs in Florida are not seasonal and may open at any time during the year.

If there occurs a global, regional or local crisis such as a pandemic or other similar event, you must cooperate fully with us as to how we respect to the crisis, and you must implement any remediation plan we institute, which may include us requiring a temporary closure of your Nautical Boat Club

as part of the crisis remediation plan (whether or not all or other Nautical Boat Clubs are required to temporarily close).

You must offer to your Members those products and services we approve occasionally. You cannot offer or sell any products or services not approved by us. We have the right to change the types of approved products and services without limitation, and you must promptly comply with the new requirements.

You may not sell any product or service from catalogues or any Internet website without our prior written permission. You may sell products and services only to Members for individual consumption (rather than for re-sale to others).

Except as described above, there are no other restrictions on the types of goods and services you must offer or the customers to whom you may sell.

## **ITEM 17**

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

#### **THE FRANCHISE RELATIONSHIP**

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

<b>PROVISION</b>	<b>SECTION IN FRANCHISE AGREEMENT</b>	<b>SUMMARY</b>
a. Length of the franchise term	Section IV.A.	10 years
b. Renewal or extension of the term	Section IV.B.	If you are not in default, you can obtain up to two additional renewal franchises of 5 years each
c. Requirements for you to renew or extend	Section IV.B.	Not be in default, have satisfactory inspections, give, written notice, sign new, then current Franchise Agreement (which may contain materially different terms and conditions from your original Franchise Agreement), pay a renewal franchise fee, sign general release, upgrade club.
d. Termination by you	Not applicable	Not applicable.
e. Termination by us without cause	Not applicable	Not applicable.
f. Termination by us with cause	Section XI.E.	Subject to applicable state law, we can terminate if you default
g. "Cause" defined defaults which can be cured	Section XI.E.	Subject to applicable state law, you have 30 days to cure most defaults.
h. "Cause" defined defaults which cannot be cured	Section XI	You have no right to cure certain defaults, including Abandonment; submission of false records, illegal transfer, multiple breaches or commission of same default in any 12 month period; loss of possession of your Marina Site; failure to satisfy Minimum Monthly Royalty Payment; disclosure of Proprietary Information; commission of crime or unethical actions; underpayment to us; failure to timely pay or report to us; harm to System, Marks, Technology and Operating Platform or Proprietary Information; failure to maintain Fleet; failure to maintain insurance; failure to use Technology and Operating Platform; threat to public safety or health.

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
i. Your obligations on termination/non-renewal	Section XI	Complete de-identification; return Brand Standards Manual and Proprietary Information, change telephone numbers; pay all amounts due; cease operating; cease use of Marks.
j. Assignment of contract by us	Section XIII	We can freely assign.
k. "Transfer" by you - Definition	Sections XI.A.-C.	Includes transfer of interest in Franchise Agreement, the assets of your Nautical Boat Club or direct or indirect ownership interests in you if you are a business entity.
l. Our approval of transfer by you	Section XI.A.	We have the right to approve all transfers.
m. Conditions for our approval of transfer	Section XI.A.	Full compliance; transferee qualifies; all amounts due are paid in full; completion of training; transfer fee paid; transferee agrees to be bound by the terms of the then current Franchise Agreement; you sign or deliver other required documents, including a release
n. Our right of first refusal to acquire your business	Section XI.A.	We can match any offer
o. Our option to purchase your business	Section XI.F.	<p>At our option exercisable in writing to you within 15 days of the expiration or earlier termination of the Franchise Agreement, unless you or your affiliates own or control the real estate on which the Nautical Boat Club is located, you will assign to us or our designee your interest in the lease, including your interest in all leasehold improvements, without additional compensation.</p> <p>At our option exercisable in writing to you within 15 days of the expiration or earlier termination of the Franchise Agreement, you must sell to us or our designee any or all of the Nautical Boat Club's assets, including furniture, fixtures, equipment, and signs at the lesser of your cost or then-current fair market value, We may set off against the purchase price any amounts that you owe us.</p>
p. Your death or disability	Section XI.B.	Franchise or ownership interest must be assigned to an approved buyer within 1 year.
q. Non-competition covenants during the term of the franchise	Section IX.B.	Subject to applicable state law, no involvement with a competing business anywhere in the world. A competing business is a business that operates public or private membership boat clubs, private or public boat rental businesses or other similar boating services to the general public.
r. Non-competition covenants after the franchise is terminated or expires	Section IX.B.	Subject to applicable state law, no involvement in competing business which is located (i) on the Marina Site; or (ii) within the Designated Area, or (iii) within fifty (50) miles of the perimeter of the Designated Area, or (iv) within fifty (50) miles of the perimeter of the territory of any other Nautical Boat Club
s. Modification of the agreement	Section XIII.A.	No modification, but Brand Standards Manual and System are subject to change
t. Integration/ merger clause	Section XIII.A.	Subject to applicable state law, only the terms of the Franchise Agreement are binding. Any other promises or representations outside of the Disclosure Document or Franchise Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Not applicable	Not Applicable

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
v. Choice of forum	Section XIII.E.	Subject to applicable state law, disputes are submitted to the state and federal courts located in Travis County, Texas.
w. Choice of law	Section XIII.D.	Subject to applicable state law, Texas law applies.

## ITEM 18 PUBLIC FIGURES

We do not employ or use public figures or a celebrity in our management or to promote our franchises.

## 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 Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

### ANALYSIS OF HISTORICAL GROSS SALES, EBITDA MARGIN AND REVENUES PER BOAT FOR FRANCHISED NAUTICAL BOAT CLUB THAT WERE OPEN AND OPERATING DURING THE FISCAL YEARS 2021 TO 2023

This analysis contains historical average and median Gross Sales, EBITDA margin and average revenue per boat incurred in operating all then existing franchised Nautical Boat Club that were open and operating during each of the 2021, 2022 and 2023 fiscal years. Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

As of the last fiscal year ended December 31, 2023, there were 24 franchised Clubs open and operating in the United States, specifically in Florida (3), Georgia (1), Wisconsin (1), South Carolina (2), Tennessee (7), and Texas (10). Of these 24 Clubs, 20 were open and operating for the entire 2022 fiscal year and included in this analysis.

As of the fiscal year ended December 31, 2022, there were 20 franchised Clubs open and operating in the United States, specifically in Georgia (1), Wisconsin (1), South Carolina (2), Tennessee (7), and Texas (9). Of these 20 Clubs, 19 were open and operating for the entire 2022 fiscal year and included in this analysis.

As of the fiscal year ended December 31, 2021, there were 14 franchised Clubs open and operating in the United States, specifically in Georgia (1), Wisconsin (1), South Carolina (3), Tennessee (6), and Texas (3). Of these 14 Clubs, 13 were open and operating for the entire 2021 fiscal year and included in this analysis.

All of the Clubs reflected in this analysis (20 Clubs for the 2023 fiscal year financial performance information, 19 Clubs for the 2022 fiscal year financial performance information and 14 Clubs for the 2021 fiscal year financial performance information) represent the standard prototype currently under development that you will develop if you purchase a franchise under this Disclosure Document.

The table below presents Total Gross Sales of Clubs in the Analysis, Total Clubs in the Analysis, Average Gross Sales Per Club, Median Gross Sales Per Club, Total Clubs Above the Average Gross Sales Per Club, Highest Gross Sales Per Club, Lowest Gross Sales Per Club, EBITDA Margin, Total Boats in the Analysis and Average Revenue Per Boat information for each of the 2021, 2022 and 2023 fiscal years for the franchised Clubs that were open and operating for the full respective 2021, 2022 and 2023 fiscal years.

The information in the table is derived from our franchisee's sales reports provided to us as required in their Franchise Agreement. The information is unaudited and unverified by us.

You should conduct an independent investigation of the costs and expenses you will incur in operating your Club. Current franchisees or former franchisees listed in Exhibits F and G of this Disclosure Document may be one source of information.

<b>Fiscal Year</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Total Gross Sales of Clubs in the Analysis</b>	12,407,792.77	\$18,764,603	\$18,584,403
<b>Total Clubs in the Analysis</b>	13	19	20
<b>Average Gross Sales Per Club</b>	954,445.60	\$987,610.69	\$929,220
<b>Median Gross Sales Per Club</b>	747,946.86	\$984,370.16	\$834,649
<b>Total Clubs Above the Average Gross Sales Per Club</b>	5	8	7
<b>Highest Gross Sales Per Club</b>	*\$3,117,258	*\$3,572,581	*\$3,061,291
<b>Lowest Gross Sales Per Club</b>	*\$249,212	*\$183,511	*\$110,530
<b>EBITDA Margin</b>	40%	37%	34%
<b>Total Boats in the Analysis</b>	202	286	290

<b>Average Revenue Per Boat</b>	\$61,424.72	\$65,610.50	\$64,804
<b>Median Revenue Per Boat</b>	\$62,848	\$71,476	\$62,502

**Important Notes:**

1. We have one Nautical Boat Club\* that has one main Marina Site (Gross Sales of approximately \$3,117,258 in 2021, \$3,572,582 in 2022, and \$3,061,291 in 2023) and two additional smaller Marina Sites, one with Gross Sales of approximately \$454,600 in 2021, \$521,000 in 2022, and \$446,948 in 2023 and the other with Gross Sales of approximately \$324,714 in 2021, \$372,144 in 2022, and \$318,374 in 2023).
2. Gross Sales is as defined in the Franchise Agreement, namely the aggregate of all sales and other income You generate from whatever source derived, regardless of whether collected in the form of check, cash, credit or otherwise, arising out of, in connection with or relating to Your Franchise and the sale of Products and/or performance of services to Members including, without limitation, (a) income from New Member Initiation Fees, Membership Renewal Fees, monthly Membership Dues; Boat Damage Waivers and (b) all proceeds from any business interruption insurance, but excluding i) all refunds and approved discounts made in good faith to a Member; ii) any sales, goods and services and equivalent taxes which are collected by You for or on behalf of any governmental or other public body and actually remitted to such body; iii) damage charges, gas, sales tax, or other pass through income generated by Your Nautical Boat Club; and iv) the value of any coupon, voucher or other allowance authorized by Us and issued or granted to Members of Your Franchise received or credited by You or Us in full or partial satisfaction of the price of any Product or service offered in connection with Your Nautical Boat Club.
3. We define EBITDA as Earnings Before Interest, Taxes, Depreciation, and Amortization, and the EBITDA Margin is produced by dividing the EBITDA by the Gross Sales. One location self-reported EBITDA and did not include a 2020 number so it is omitted for 2020 EBITDA and EBITDA Margin purposes. One location did not have reliable expense reporting for 2021 or 2022 so we set their EBITDA at \$0 or 0%.
4. This analysis does not account for Franchisee owner benefit, so expenses include owner salaries, officer salaries, bonuses, and any other benefits afforded to those who act as employees. Adjustments are made for management company payments to clubs who have parent entities or holding companies for vessels.
5. This franchisee analysis does not reflect all cost information you will incur in operation of your Clubs and is designed solely to provide you with certain key performance and cost information for you to determine your potential sales, performance and costs. This Analysis does not include information regarding:
  - (a) Brand Fund Contributions (but no franchised or company-affiliated Nautical Boat Clubs had a mandatory Brand Fund Contribution during the 2020 fiscal year). Only partial year brand fund contributions in 2021.

(b) Interest expense you would incur if you finance any of the initial investment for the Nautical Boat Club Clubs.

(c) Does not include service of debt on assets on balance sheet. (Expenses to maintain that equipment is included in the expenses.)

Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

**Some Nautical Boat Clubs have sold or earned this amount. Your individual results may differ. There is no assurance that you'll sell or earn as much.**

Other than the preceding financial performance representation, we do 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 Club, however, we may provide you with the actual records of that Club. 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 Tom Gardiner at 2215 Westlake Drive, Suite 102, Austin, TX 78746, 833-622-2628 or ahoy@nauticalboatclub.com, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20 OUTLETS AND FRANCHISEE INFORMATION

**TABLE NO. 1  
SYSTEMWIDE OUTLET SUMMARY  
FOR FISCAL YEARS 2021 TO 2023**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2021	13	20	+7
	2022	20	21	+1
	2023	21	24	+3
Company-Affiliated*	2021	6	0	-6
	2022	0	0	0
	2023	0	0	0
<b>Totals</b>	<b>2021</b>	<b>19</b>	<b>20</b>	<b>+1</b>
	<b>2022</b>	<b>20</b>	<b>21</b>	<b>+1</b>
	<b>2023</b>	<b>21</b>	<b>24</b>	<b>+3</b>

\*Our affiliates sold 6 company-affiliated Nautical Boat Clubs to a new franchisee effective close of business December 31, 2021.

**TABLE NO.2**  
**TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS**  
**(OTHER THAN THE FRANCHISOR)**  
**FOR FISCAL YEARS 2021 TO 2023**

State	Year	Number of Transfers
*Texas	2021	0
	2022	0
	2023	0
<b>Totals</b>	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>0</b>
	<b>2023</b>	<b>0</b>

\*A franchisee sold 2 franchised Nautical Boat Clubs to another existing franchisee in March 2023.

**TABLE NO. 3**  
**FRANCHISED OUTLETS STATUS SUMMARY**  
**FOR FISCAL YEARS 2021 TO 2023**

State	Year	Outlets Operating at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations -Other Reasons	Outlets Operating At Year End
Florida	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	3	0	0	0	0	3
Georgia	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
South Carolina	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	1	2
	2023	2	0	0	0	0	0	2
Tennessee	2021	5	1	0	0	0	0	6
	2022	6	1	0	0	0	0	7
	2023	7	0	0	0	0	0	7
Texas*	2021	3	6	0	0	0	0	8
	2022	8	1	0	0	0	0	9
	2023	9	0	0	0	0	0	9
Wisconsin	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>Totals</b>	<b>2021</b>	<b>13</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>20</b>
	<b>2022</b>	<b>20</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>21</b>
	<b>2023</b>	<b>21</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>24</b>

\*Our affiliates sold 6 company-affiliated Nautical Boat Clubs to a new franchisee effective close of business December 31, 2021.



**TABLE NO. 4**  
**COMPANY-OWNED OUTLETS STATUS SUMMARY**  
**FOR FISCAL YEARS 2021 TO 2023**

State	Year	Outlets Operating at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets Operating At End of Year
Texas	2021	6	0	0	0	6	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
Totals	2021	6	0	0	0	6	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0

\*Our affiliates sold 6 company-affiliated Nautical Boat Clubs to a new franchisee effective close of business December 31, 2021.

**TABLE NO. 5**  
**PROJECTED OPENINGS**  
**AS OF JANUARY 1, 2024**

State	Franchise Agreements Signed But Not Open as of January 1, 2023	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company Owned Outlets in the Next Fiscal Year
Florida	1	1	0
Tennessee	0	0	0
Totals	1	1	0

### **List of Current Franchisees**

Attached at Exhibit C is a list of the names, addresses and telephone numbers for our current franchisees as of our last fiscal year ended December 31, 2023.

### **List of Former Franchisees**

Attached as Exhibit D is a list of our former franchisees who were terminated, not renewed, or voluntarily or involuntarily ceased to do business under a Franchise Agreement during our previous fiscal year ended December 31, 2023. No franchisee failed to communicate with us during the 10 weeks preceding the date of this Disclosure Document.

**If you buy this franchise, your contact information may be disclosed to other buyers when you leave the system.**

### **Purchase of Previously-Owned Franchise**

If you are purchasing a previously-owned franchised outlet, we will provide you additional information on the previously-owned franchised outlet in an addendum to this Disclosure Document.

## **Confidentiality Clauses**

During the last 3 fiscal years, we have not signed any agreements with franchisees that contain confidentiality clauses that would restrict a franchisee's ability to speak openly about their experience.

## **Trademark-Specific Franchisee Organizations**

We are not currently aware of any trademark-specific franchisee organizations associated with the franchise system which we have created, sponsored or endorsed, or any independent franchisee organizations that have asked to be included in this Disclosure Document.

## **ITEM 21 FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit F are the following financial statements:

1. Interim, unaudited financial statements for the three month period ended March 31, 2024.
2. Audited Balance Sheets as of December 31, 2023 and December 31, 2022, and related statements of income and changes in members' equity and cash flows for the years ended December 31, 2023, December 31, 2022 and December 31, 2021.

Our fiscal year ends on December 31<sup>st</sup> each year.

## **ITEM 22 CONTRACTS**

The following agreements are attached as exhibits to this Disclosure Document:

- |           |   |                     |
|-----------|---|---------------------|
| Exhibit B | – | Franchise Agreement |
| Exhibit G | – | General Release     |

## **ITEM 23 RECEIPTS**

You must sign two copies of the Receipt attached as the last two pages to this Disclosure Document. After execution, you keep one copy and return the other to us.

## **EXHIBIT A**

### **STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS**

#### **State Administrators**

##### **CALIFORNIA**

Commissioner of Financial Protection and Innovation  
Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013  
(213) 576-7505 or (866) 275-2677  
Website: <http://www.dfpi.ca.gov/>  
Email: [Ask.DFPI@dfpi.ca.gov](mailto:Ask.DFPI@dfpi.ca.gov)

##### **HAWAII**

Securities Examiner  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813  
(808) 586-2722

##### **ILLINOIS**

Illinois Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(312) 814-3892

##### **INDIANA**

Indiana Secretary of State  
302 W. Washington St., Room E-111  
Indianapolis, Indiana 46204  
(317) 232-6681

##### **MARYLAND**

Office of Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202  
(410) 576-6360

##### **MICHIGAN**

Consumer Protection Division  
Antitrust and Franchise Unit  
Department of Attorney General  
P.O. Box 30213  
Lansing, Michigan 48909

##### **MINNESOTA**

Commissioner of Commerce  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, Minnesota 55101-2198  
(612) 296-6328

##### **NEW YORK**

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21st FL  
New York, NY 10005  
212-416-8222

##### **NORTH DAKOTA**

North Dakota Securities Commissioner  
600 East Blvd Avenue  
State Capitol Fifth Floor Dept 414  
Bismarck, North Dakota 58505-0510  
(701) 328-4712

##### **RHODE ISLAND**

Director of Department of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 69-1  
Cranston, Rhode Island 02920  
(401) 222-3048

##### **SOUTH DAKOTA**

Department of Labor and Regulation  
Division of Securities  
124 S Euclid, Suite 104  
Pierre SD 57501  
(605) 773-4823

##### **VIRGINIA**

State Corporation Commission  
Division of Securities and Retail Franchising  
1300 East Main Street, 9<sup>th</sup> Floor  
Richmond, Virginia 23219  
(804) 371-9051

##### **WASHINGTON**

Securities Division,  
Department of Financial Institutions  
PO Box 41200  
Olympia, WA 98504-1200  
(360) 902-8760

##### **WISCONSIN**

Division of Securities  
Department of Financial Institutions  
P.O. Box 1768  
Madison, Wisconsin 53701 or  
345 West Washington Avenue, 4<sup>th</sup> Floor  
Madison, Wisconsin 53703  
(608) 266-8559

## **Agents for Service of Process**

### **CALIFORNIA**

Commissioner of Financial Protection and Innovation  
Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013  
(213) 576-7505 or (866) 275-2677  
Website: <http://www.dfpi.ca.gov/>  
Email: Ask.DFPI@dfpi.ca.gov

### **HAWAII**

Commissioner of Securities  
Department of Commerce and Consumer Affairs  
Business Registrations Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813

### **ILLINOIS**

Illinois Attorney General  
500 South Second Street  
Springfield, Illinois 62706

### **INDIANA**

Secretary of State  
201 State House  
200 W. Washington Street  
Indianapolis, Indiana 46204

### **MARYLAND**

Maryland Securities Commissioner  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

### **MICHIGAN**

Consumer Protection Division  
Antitrust and Franchise Unit  
Department of Attorney General  
525 W. Ottawa Street  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
Lansing, Michigan 48913

### **MINNESOTA**

Commissioner of Commerce  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, Minnesota 55101

### **NEW YORK**

Secretary of State  
State of New York  
41 State Street  
Albany, New York 11231

### **NORTH DAKOTA**

North Dakota Securities Commissioner  
600 East Boulevard, Fifth Floor  
Bismarck, North Dakota 58505

### **OREGON**

Department of Consumer & Business Services  
Division of Finance and Corporate Securities  
Labor and Industries Building  
Salem, Oregon 97310

### **RHODE ISLAND**

Director  
Department of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 69-1  
Cranston, Rhode Island 02920

### **SOUTH DAKOTA**

Department of Labor and Regulation  
Division of Securities  
124 S Euclid, Suite 104  
Pierre SD 57501

### **TEXAS**

Nautical Boat Clubs, LLC  
16107 FM 2769, Suite C  
Austin, Texas 78641

### **VIRGINIA**

Clerk of the State Corporation Commission  
1300 East Main Street, 1<sup>st</sup> Floor  
Richmond, Virginia 23219

### **WASHINGTON**

Director of Financial Institutions  
Securities Division  
150 Israel Rd. S.W.  
Tumwater, Washington 98501

### **WISCONSIN**

Commissioner of Securities  
Fourth Floor  
345 West Washington Avenue  
Madison, Wisconsin 53703

**EXHIBIT B**

**FRANCHISE AGREEMENT**



**NAUTICAL BOAT CLUBS, LLC**

**NAUTICAL BOAT CLUB  
FRANCHISE AGREEMENT**

**FRANCHISE NUMBER: [INSERT FRANCHISE NUMBER]**

## SUMMARY PAGES

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

Mandatory Site and Fleet Financing Date: \_\_\_\_\_

Mandatory Opening Date: \_\_\_\_\_

You (Franchisee): \_\_\_\_\_

Your Corporate Address: \_\_\_\_\_

Office Address (if different than Your Corporate Address): \_\_\_\_\_

Designated Area: The geographic area encompassed within the following geographic area surrounding Your Office Address: \_\_\_\_\_.

Marina Site: The following marina: \_\_\_\_\_.

Your Phone Number: \_\_\_\_\_ Your Email Address: \_\_\_\_\_

Your Main Contact Person: \_\_\_\_\_

Initial Franchise Fee: \$60,000

Royalty Fee: 6% of Gross Sales Billed (as defined in Section VIII.B.)

Minimum Annual Royalty Payment: The minimum dollar amount of Royalty Fee payments You must pay to Us each operating year during the term of this Agreement, as follows:

<b>Operating Year (the first operating year begins with the first full calendar month following Your Opening Date)</b>	<b>Minimum Annual Royalty Payment by Operating Year</b>
1/Calendar Months 1-12	\$0
2/Calendar Months 12-24	\$12,000
3/Calendar Months 25 and beyond (including for each Year under any renewal franchise agreement)	\$24,000

Technology Systems Fee: Currently \$400, but may range from \$0 to \$1,000 per month

Grand Opening Expenditure: \$15,000, with \$10,000 payable to Us at least 60 days before Your Nautical Boat Club is scheduled to open.

Brand Fund Contribution: Currently 1% of Gross Sales Billed, but an amount up to 3% of Gross Sales Billed

Local Marketing Expenditure: The greater of 7% of Gross Sales Billed, or \$30,000 per calendar year, prorated for partial calendar years, subject to a one-time credit for the approved amounts spent as the Grand Opening Expenditure during the first calendar year of operations.

Non-Compliance Fees: \$250 for each deviation from a contractual requirement under this Agreement, including any Brand Standards, identified in writing by Us, provided that Non-Compliance Fee will double to \$500 if We discover that the same (or a substantially similar) deviation on one or more consecutive, subsequent visits to or inspections of Your Nautical Boat Club and will double against to \$1,000 for the second and each subsequent repeat deviation. (The Non-Compliance Fee does not apply to payment defaults for which We may charge interest).

Your Owner Information:

The following is a list of stockholders, partners or other interest holders in You, including all investors who own or hold a direct or indirect interest in You, and a description of the nature of their interest.

Name and Address	Percentage of Ownership/Nature of Interest

\*Designates those of Your Owners who will execute the Personal Guaranty and Owners' Undertaking form set forth in Exhibit A.

Insurance Requirements:

Commercial general liability insurance, including products liability coverage, and broad form contractual liability coverage, written on an "occurrence" policy form in any amount of not less



than \$1,000,000 combined single limit per occurrence and \$1,000,000 in the aggregate. Such insurance will insure the contractual liability of You under this Agreement.

Business automobile liability insurance written on an “occurrence” policy form in an amount of not less than \$1,000,000 combined single limit per occurrence and in the aggregate, including owned, leased, non-owned and hired automobile coverage (only required if You or any of Your employees use an automobile or other vehicle in connection with any aspect of operating the Nautical Boat Club or if one or more of Your officers or other employees maintain automobiles which are owned or leased by You).

Workers’ compensation insurance in the minimum amount mandated by Your state’s law (if applicable), unless Your state requires or permits employers to participate in a state-administered insurance pool (in which case You either must or may adopt and maintain a qualifying plan, as applicable).

## **FRANCHISE AGREEMENT**

This Agreement is entered into between the Franchisee identified on the Summary Pages (hereinafter referred to as either “Franchisee”, “You”, “Your” or “Yourself”) and Nautical Boat Clubs, LLC, with its principal place of business at 16107 FM 2769, Suite C, Volente, Texas 78641 and principal email at [ahoy@nauticalboatclub.com](mailto:ahoy@nauticalboatclub.com) (hereinafter referred to as “Franchisor” “We” “Our” or “Us”). The Summary Pages to this Agreement are an integral part of this Agreement.

### **I - RECITALS**

WHEREAS, We have developed and operate a System of private membership boating clubs (“Nautical Boat Clubs”) which is a members-only Boating Country Club® that offers its members the usage of boats and accessories at designated times and for designated time periods based on payment of an initial fee and continuing monthly membership dues, and We have created Marks, Proprietary Information, Technology and Operating Platform and other materials for use with the System; and

WHEREAS, You understand Our System and the terms and conditions herein and wish to become Our Franchisee;

NOW, THEREFORE, the parties agree as follows:

### **II – FRANCHISE**

We grant a Franchise to You to use Our System at one approved marina location set forth in the Summary Pages (“Marina Site”) in the designated area set forth in the Summary Page (“Designated Area”), and to represent Yourself to the public as an authorized Nautical Boat Club Franchisee all based solely on the terms stated herein.

### **III – DEFINITIONS**

Capitalized terms in this Agreement have the meaning given herein and no other meaning. Some are defined below. Others are defined elsewhere where they appear within quotation marks.

- A. **Brand Standards Manual:** A compilation of documents from Us, whether delivered singularly or as a printed Brand Standards Manual or a document file that We download onto Your computer that sets requirements, standards, rules and procedures for establishing, equipping, staffing, operating, marketing, supply and other aspects of Our System including, without limitation, operations and training, advertising planning, equipment, training, etc. The Brand Standards Manual is further defined herein.
- B. **Technology and Operating Platform:** The then-current computer software program developed by or for Us and designated by Us from time to time as specified or required in connection with the operation of Nautical Boat Clubs, which may include, without limitation, Our required boat scheduling, administration of boat club rules, check out sheets, damage reports, management statistics and reports, including any updated, supplements, modifications or enhancements made thereto, from time to time, all related documentation, and the tangible media upon which such programs are recorded and the database and structure thereof.
- C. **Products:** Our System’s boats, equipment, water toys, safety package, safety equipment, spare parts, computer programs and hardware specifications, signs, forms, agreements, rules, documents and other related items specified in the Brand Standards Manual together with such modifications and items that We add to the System by amending the Brand Standards Manual.

- D. **Proprietary Information:** Information We disclose to You or that You obtain due to Your use of Our System or Your relationship with Us or other System participants, including, without limitation, Our System's Brand Standards Manual, forms, documents, our Technology and Operating Platform and other software program(s), product and market research, customers, customer lists, Franchisees, operations, show-how, know-how, Your locally developed confidential information and updates or changes to any of the same.
- E. **Marks:** Our System's trademarks, service marks, trade names, trade dress, logos, indicia, colors, decor and arrangement, publicly displayed copyrighted works, and any items symbolizing its public good will including, but not limited to the Nautical Toys International Ship's Wheel Design, and NAUTICAL BOAT CLUB logo and DON'T BUY A BOAT!® and BOATING COUNTRY CLUB® and DON'T RENT A BOAT™. The marks are defined further herein. The Brand Standards Manual and other related materials such as advertisements, promotional materials and television commercials have been registered with the United States Registrar of Copyrights.
- F. **System:** Our standard concepts and methods and such standard benefits and limitations for Nautical Boat Clubs that are Franchised to Our Franchisees generally in association with the Marks, including but not limited to operational guidelines, opening guidelines, the Technology and Operating Platform (defined below), initial and ongoing training programs, business methods, designs, arrangements and standards, including those pertaining to Fleet acquisition, Marina Site selection, Office construction, building design, signage and layouts, equipment, products, preparation and specifications for products and services, virtual desktop applications, training, methods of inventory control and requirements and policies regarding personnel, accounting and financial performance, advertising and marketing programs and information technology, all of which We may improve, further develop or otherwise modify and such other benefits and assistance that We agree in writing from time to time to provide You. All are subject to the terms of this Agreement and the Brand Standards Manuals.

#### **IV – TERM AND RENEWAL FRANCHISES**

- A. This Agreement has a primary term of 10 years. The beginning date is the Effective Date set forth in the Summary Pages.
- B. You have an option to obtain up to two additional renewal Franchises of 5-years each. The renewal Franchise will be on all terms then being currently offered by Us to potential Franchisees. As a condition to Your obtaining a renewal Franchise, You must notify Us in writing at least twelve months prior to the end of the term that You want to obtain a renewal Franchise and pay Us a renewal franchise fee equal to 25% of the then current initial franchise fee. Your obtaining a renewal Franchise is also subject to changes required by Us to bring You into compliance with Our System's then current standards and Your strict compliance with this Agreement and Brand Standards Manuals during the prior term. Failure to give proper notice is a knowing waiver of any right to a renewal Franchise. The Terms of the renewal Franchise Agreement may be materially different than those herein, including, without limitation, related royalty fees. You and all of Your shareholders, partners and spouses thereof, must sign the new renewal Franchise Agreement and a general release of all claims against Our personnel and Us to obtain a renewal Franchise. Uncontested operation without a written renewal or renewal Franchise is under the terms hereof and is terminable at will by either party upon ninety days written notice.

## **V – FRANCHISEE’S MARINA SITE AND DESIGNATED AREA**

Franchisor grants You a limited Franchise to represent yourself to the public as an authorized Nautical Boat Club Franchisee and to use Our System at the Marina Site on the terms stated in this Agreement. We will not locate or authorize any other party to locate a Nautical Boat Club that operates under the Marks and uses Our System within Your Designated Area as long as You are in full compliance with this Agreement. We do not grant You an exclusive marketing area. Customers in Your Designated Area may choose to join a Nautical Boat Club located outside of Your area.

You are solely responsible for identifying Your specific Marina Site and signing a lease in a form acceptable to Us. Unless We otherwise agree in writing, You must secure Your landlord’s execution of Our Lease Rider in the form attached as Exhibit D to this Agreement.

If You lose Your right to maintain possession of Your Nautical Boat Club due to the expiration of Your lease or the sale of the marina where Your Nautical Boat Club is located prior to the expiration of this Agreement, You will be allowed to open another Nautical Boat Club within the same Designated Area. No refunds will be due from Us if a new Marina Site location does not materialize.

## **VI – OBLIGATIONS OF THE FRANCHISOR**

A. **Pre-Operational Obligations:** Franchisor will provide the following assistance to You before Your Nautical Boat Club opens for business:

1. **System Franchise:** We will permit You to use the System, the Marks and the Proprietary Information at Your Nautical Boat Club and represent yourself as an authorized Nautical Boat Club Franchisee as set forth herein. You must use the System’s Marks in accordance with the requirement set forth in the Brand Standards Manual.
2. **Marina Site:** We will assist with Your Marina Site selection and Your lease negotiation.
3. **Fleet Purchase Guidance:** We will provide you guidance regarding the purchasing and financing of your Fleet.
4. **Boat Club Plans:** We will make recommendations for the layout of Your Nautical Boat Club, including Your Office (as defined below).
5. **Access to the Technology and Operating Platform:** We will connect you with our then current Technology and Operating Platform either directly or through our then current third-party vendor.
6. **Brand Standards Manual:** We will lend You one copy of the Brand Standards Manual for operating a Nautical Boat Club and managing, marketing and operating Your Nautical Boat Club for the duration of this Agreement and update the same, as We deem useful. The Brand Standards Manual will list the recommended variety of boats, equipment, water toys, safety package, safety equipment, spare parts and related items approved for use with the System and identify at least one source capable of providing them to You. The Brand Standards Manual will also be used as a training manual during the initial training and operation of Your Nautical Boat Club. Our System does not include any personnel policies or procedures or security-related

policies or procedures that we (at our option) may make available to you in the Brand Standards Manual or otherwise for your optional use. You will determine to what extent, if any, these policies and procedures might apply to your operations at Your Nautical Boat Club. We neither dictate nor control labor or employment matters for franchisees and their employees and we are not responsible for the safety and security of Your Nautical Boat Club employees or patrons.

7. **Marketing Material:** We will provide pre-opening marketing guidelines and requirements in the Brand Standards Manual. The marketing materials will instruct You how to develop the advertisements; how to do, television, radio, direct mail, boat show and classified and print advertising. The marketing materials will also include a customized direct mail piece/brochure layout and videotaped commercial which You may use to promote Your Nautical Boat Club through the local television network.
  8. **Initial Training:** We will provide You with an initial training program in English concerning the opening, managing and operations of a Nautical Boat Club, instruction on how to operate the Technology and Operating Platform, membership sales, advertising and public relations, Dock Master's responsibilities and boat maintenance procedures. The initial training period is expected to comprise approximately 5 to 7 days, depending on the trainee's rate of accomplishing the training goals and includes on-the-job-training at Your Nautical Boat Club's Marina Site. We will make such other training available to You as We deem appropriate, subject to the terms set forth elsewhere in this Agreement. The initial training may be conducted during and in conjunction with the time We provide You with Our on-site opening assistance.
  9. **On-Site Pre-Opening Assistance:** We will provide pre-opening assistance to You by providing an advisor at Your Marina Site for approximately 5 to 7 days, sequential or not, prior to, during and after Your opening to offer general advice for opening, managing, marketing and operating a Nautical Boat Club®. The advisor's responsibility and authority is limited to giving general advice concerning the System's standards. You have the sole and exclusive authority and responsibility to instruct Your employees and the sole responsibility for Your Nautical Boat Club and its operations, including as to the safety and employment practices You institute with Your employees.
- B. **Post-Operational Obligations:** We will provide the following assistance to You after Your Nautical Boat Club opens for business:
1. **System Franchise:** We will permit You to use the System, the Marks and the Proprietary Information at Your Nautical Boat Club and to represent yourself as an authorized Nautical Boat Club Franchisee as set forth herein. You must use the System, the Marks and the Proprietary Information in accordance with the requirements set forth in the Brand Standards Manual and this Agreement.
  2. **Start-Up Consultation:** We will continue to follow-up with You for about 60 days after You open Your Nautical Boat Club for business and will provide on-site consultation at Your Marina Site if needed as determined by Us and at Our expense to further assist You in managing, marketing and operating Your Nautical Boat Club in accordance with the System's standards. Our consultant's responsibility and authority is limited to giving general advice concerning the System's standards. You have the

exclusive authority to instruct Your employees and the sole responsibility for Your Nautical Boat Club and its operations.

3. **Software and Operational Updates:** We will advise and provide You with additional updates to the Brand Standards Manual and any Technology and Operating Platform updates both of which are to be downloaded by You through Our Website or E-mail as such updates are developed; but We reserve the right to require You to pay a pro rata portion of our actual costs in connection with any major upgrade to the Technology and Operating Platform no more often than once every five years during the term of this Agreement.
4. **Periodic Conference:** You may be asked to attend one or more conferences to discuss operations strategy and networking if We determine that periodic conferences are needed. You will be given at least 30 days' notice of any such conference. There will be no charge for You to attend the conference; however, You will be responsible for Your own travel, food and lodging expenses.
5. **Additional Assistance:** After Your initial training period, We will be reasonably available to give You additional advisory assistance as set forth in the Brand Standards Manual on a reasonable request basis or when We deem it necessary. Assistance may be in person, telephonic or by publication through Our Website as We deem appropriate. If You request on Site assistance and if Our personnel are available, We will provide a representative at Your business to provide the additional training or assistance to You. You will be responsible for paying Us for all travel, food, car rental and lodging expenses plus \$400 per day and will be due and payable upon the completion of such assistance.
6. **Brand Fund, Website, Marketing and Advertising Assistance:** We will manage the Brand Fund. We will provide you a template for your own Website that You will have to customize for Your Nautical Boat Club. We will also make the System's stock advertising copy available to You (subject to reimbursement of Our costs at Our discretion) and review any new proposed advertising that You send to Us. We will inform You of the marketing concepts We make available to System Franchisees generally.
7. **Pricing Guidance.** We will make available, from time to time, advice or guidance relative to suggested prices for the services and products offered at Your Nautical Boat Club that, in Franchisor's judgment, constitutes good business practice. Such advice and/or guidance will be based on Our experience and the experience of Our franchisees in operating Nautical Boat Clubs generally and an analysis of the costs of such services and products and prices charged for competitive services and products. Such advice and/or guidance will not be deemed or construed to impose upon You any obligation to charge any fixed, minimum prices for the services and products offered at Your Nautical Boat Club. You will not be obligated to accept any such advice or guidance as to minimum prices and will have the sole right to determine the minimum prices to be charged from time to time by Your Nautical Boat Club.

## **VII – OBLIGATIONS OF FRANCHISEE**

- A. **Your Marina Site and Office:** You are obligated to equip, staff, open and operate at Your own expense Your Nautical Boat Club at an approved location on the Marina Site in Your

Designated Area and at no other place. You will be obligated to construct and base Your operations from an approved office location (“Office”) on the Marina Site. You will employ qualified persons to adapt the pre-site facility evaluation to the Marina Site and to comply with all applicable laws, regulations, ordinances, lease requirements and market conditions being especially mindful of zoning, signage, access, health, environmental and storage requirements. You are solely responsible for supervising and paying for equipment, supplies, financing, fixtures, signs, working capital and all other aspects of creating and opening Your Nautical Boat Club.

- B. **Training:** We will provide the instructional and training materials used in the initial training program without charge to You. You (and/or Your manager if approved as noted below) will successfully complete Our initial training program to Our satisfaction before or during the time when We are providing on-site opening assistance to You at Your Marina Site, unless agreed otherwise. Thereafter, whoever exercises direct on-site management of Your Nautical Boat Club must have successfully completed Our initial training program. You are solely responsible for the selection and evaluation of Your personnel and may not rely on Our suggestion or approval of such persons. We are in no way responsible for the selection or the performance, honesty or any other quality of Your personnel. Our duty is strictly limited to offering training experiences and no more. In all cases, You have the sole responsibility and authority for Your employees' terms and conditions of employment. You or any of Your personnel may be required to attend additional training at Your cost. In no case will the System or Brand Standards Manual include any personnel policies or procedures or security-related policies or procedures that We (at Our option) may make available to You in the Brand Standards Manual or otherwise for Your optional use. You will determine to what extent, if any, personnel or security-related policies and procedures might apply to operations at Your Nautical Boat Club. We neither dictate nor controls labor or employment matters for franchisees and their employees and We are not responsible for the safety and security of Your Nautical Boat Club employees or patrons.
- C. **Management:** You must participate in the operation of Your Nautical Boat Club and manage it during Your Nautical Boat Club’s operational period (“Operational Period”). The Operational Period is that period of time that the Marina Site on which Your Nautical Boat Club is located and is normally open during the year. The parties agree that the Operational Period of Your Nautical Boat Club will not be less than seven months each year. If You have obtained Our written approval to hire another person to manage Your Nautical Boat Club, You must employ an approved manager to personally manage Your Nautical Boat Club on a full-time, on premises basis. Your manager must have successfully completed Our training program and not have any interest or business relationship with any Competitive Business (as defined below). You have sole authority to control Your manager’s actions and compensation and may remove any manager at any time because you are solely responsible for your own employment practices. Your reputation for credit worthiness is a material part of the System. You will promptly pay all obligations when due, including without limitation, those to Us, Your employees, landlords, suppliers, taxing authorities and any third parties who have extended You credit. You are required to use only the Technology and Operating Platform for all membership billing invoices and statements and for all member reservations. Your failure to use the Technology and Operating Platform is a material breach of this Agreement and may result in immediate termination of this Franchise Agreement without notice.
- D. **Best Efforts:** You will use Your best efforts to market, develop and maximize use of the System throughout Your Designated Area including, without limitation, aggressively advertising and promoting it, obtaining and maintaining all facilities, Your Fleet, equipment, trained staff, etc. as described in the Brand Standards Manual; diligently enforce Our Club

Rules; continuously operate the System at its full capacity for the full term of this Agreement and will comply with all other Agreements which relate to Your use of the System and operation of Your Nautical Boat Club. You will satisfy Your Minimum Annual Royalty Payment obligations to Us each calendar month. You will fully cooperate with Our efforts to sell additional Nautical Boat Clubs.

- E. **Grand Opening Advertising:** You will pay to us and/or expend an amount We set in the Summary Pages on newspaper, direct mail or advertising through other media during the 60 days before and 90 days after the opening of Your Nautical Boat Club (“Grand Opening Advertising Expenditure”). We must approve Your franchise grand opening advertising plans.
- F. **Brand Fund:** Recognizing the value of advertising, marketing and promotion and the importance of the standardization and consistency throughout Our markets of advertising, marketing and promotion to the furtherance of the goodwill, public image and the success of Nautical Boat Clubs and the Nautical Boat Club System, You agree to pay us the Brand Fund Contribution set forth in the Summary Pages to the Nautical Boat Club Brand Fund (the “Brand Fund”), at the same time and in the same manner you pay us Royalty Fees. The Brand Fund Contribution will be expended for national, regional or local advertising and the creation and development of promotional materials and market research for the Nautical Boat Club System. As set forth below, in order to most efficiently utilize the advertising dollars generated throughout the Nautical Boat Club System, We will have creative and content control over all advertising, marketing and promotion, while placement of such advertising, marketing and promotion at a specific Nautical Boat Club or within a local market will be determined by Us with consultation with You. We, however, reserve the ultimate right to determine whether placement strategies developed for a specific Nautical Boat Club or within a local market by You are reasonable and in the best interests of the Nautical Boat Club System. We make no representation and undertakes no obligation or fiduciary duty to make the expenditures described in this Article on a basis which is equivalent or proportionate to Your contribution, or to ensure that any particular franchisee benefits directly or pro rata from such expenditures. The Brand Fund, all contributions thereto, and any earnings thereon, will be used exclusively to pay any and all costs of maintaining, producing, placing and preparing market research, advertising, marketing materials or promotional activities for the Nautical Boat Club System. All sums paid by You to the Brand Fund will be maintained in a separate ledger or account from Our funds and will not be used to defray any of Our expenses except as provided herein or as We may incur in activities reasonably related to administration or direction of the Brand Fund, advertising and marketing programs for franchisees or the Nautical Boat Club System or the development of the Nautical Boat Club System. The Brand Fund and its earnings will not otherwise inure to the benefit of Us. We will maintain a separate bookkeeping account for the Brand Fund. We, upon reasonable request from You, will provide You with an annual accounting of receipts and disbursements of the Brand Fund, but we will not audit the Brand Fund or provide you any copy of any audit for the Brand Fund. It is anticipated that all contributions to, and earnings of, the Brand Fund will be expended for market research, advertising, marketing, placement and/or promotional purposes during the taxable year in which contributions and earnings are received. If, however, excess amounts remain in the Brand Fund at the end of a taxable year, all expenditures in the following taxable year(s) will be made first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from contributions. The Brand Fund is not, and will not be, an asset of Ours. Although the Brand Fund is intended to be of perpetual duration, We maintain the right to terminate the Brand Fund; provided, however, that the Brand Fund will not be terminated until all monies in the Brand Fund have been expended for the purposes stated herein. You understand that the activities of the Brand Fund are intended to maximize the



public's awareness of all franchised Nautical Boat Clubs and the Nautical Boat Club System and that We accordingly undertake no obligation to insure that any individual franchisee (including You) or any individual Nautical Boat Club benefits directly or on a pro rata basis from the placement, if any, of such advertising or marketing in its local market. You further acknowledge that Your failure to derive any such benefit, whether directly or indirectly, will not be cause for Your nonpayment or reduction of its Brand Fund Contribution.

G. **Obligation to Participate in Actual Business Operations:** If You are a business organization or entity (i.e. a corporation, partnership, limited liability company or other similar entity) ("Business Entity"), You agree:

- (a) The Business Entity must conduct no business other than Your Franchised Business.
- (b) One of Your approved Owners must actively manage the Business Entity and own, control and direct its operations either through binding written agreements, governing documents or voting power.
- (c) You must provide Us with copies of all governing documents of the Business Entity (Articles of Incorporation or Organization, Bylaws, agreements among Owners, etc.).
- (d) The governing documents of the Business Entity must recite that the issuance and assignment of any ownership interest (i.e. corporate stock, partnership or membership interests are restricted by the terms of the Franchise Agreement.
- (e) All issues and outstanding ownership interests must bear a legend reciting or referring to the restriction of the Franchise Agreement on the issuance and transfer of ownership interests in the Business Entity.
- (f) You must promptly notify Us of any proposed changes in the principal Owners and the governing documents of the Business Entity, and ensure compliance with the Transfer restrictions in this Agreement

## **VIII – PAYMENTS TO BE MADE BY FRANCHISEE**

A. **Royalty Fee:** In consideration for the Franchise granted herein and Our administrative and lost opportunity costs, and Our costs and risks in developing the System, the Marks, the Technology and Operating Platform and the assistance specified herein, You will pay a continuing monthly Royalty Fee in the amount of Your Gross Sales You actually billed to Members or other third parties ("Gross Sales Billed") set forth in the Summary Pages, subject to the Minimum Annual Royalty Payment described below and in the Summary Pages. For purposes of this Agreement, "Gross Sales" means the aggregate of all sales and other income You generate from whatever source derived, regardless of whether collected in the form of check, cash, credit or otherwise, arising out of, in connection with or relating to Your Franchise and the sale of Products and/or performance of services to Members including, without limitation, (a) income from New Member Initiation Fees, Membership Renewal Fees, monthly Membership Dues; Boat Damage Waivers and (b) all proceeds from any business interruption insurance, but excluding i) all refunds and approved discounts made in good faith to a Member; ii) any sales, goods and services and equivalent taxes which are collected by You for or on behalf of any governmental or other public body and actually remitted to such body; iii) damage charges, gas, sales tax, or other pass through income generated by Your Nautical Boat Club; and iv) the value of any coupon, voucher or other allowance authorized by Us and issued or granted to Members of Your Franchise received or credited by You or Us in full or partial

satisfaction of the price of any Product or service offered in connection with Your Nautical Boat Club. We reserve the right to institute policies in the Brand Standards Manuals or otherwise in writing and from time to time, regarding the inclusion in Gross Sales of any pre-paid goods or services and the delivery and redemption thereof.

**If during any operating year, the total actual monthly Royalty Fees payable to Us are less than the applicable Minimum Annual Royalty Payment set forth in the Summary Pages for such operating year, You must pay to Us the difference between the total actual monthly Royalty Fees you paid to Us and the applicable Minimum Annual Royalty Payment when you pay Us Your Royalty Fees for the next calendar month following the end of the operating year. Your failure to timely pay Us the Minimum Annual Royalty Payment is a material default of this Agreement.**

- B. **Payment Terms:** Royalty Fees will be payable without notice or demand on the 10th day of each calendar month with respect to Your Gross Sales Billed for the immediately preceding calendar month (unless the 10<sup>th</sup> day is a weekend or holiday, in which case payment is due the next business day). You will authorize Us and Our bank to credit and debit Your account directly for the payment of all Royalty Fees, reimbursements and other amounts payable hereunder by signing and delivering the Authorization Agreement for Pre-authorized Payments attached to this Agreement at Exhibit C. You will at all times maintain a balance of not less than \$1,000 in the account designated on Exhibit C to this Agreement. All other reimbursements and payments will be due and credited upon demand. By notice in writing to You, We may from time to time change the payment/credit interval, the payment/credit date and/or the manner of payment/credit.

On or before the 2<sup>nd</sup> day of each calendar month, You must report to Us Your Gross Sales Billed for the previous calendar month using our then current process and format set forth in the Brand Standards Manual. If You fail to report Gross Sales Billed for any calendar month by the deadline, We will calculate Your Royalty Fee based on Gross Sales on the basis of 150% of Gross Sales Billed for the last calendar month in which You reported Gross Sales Billed and will draft Your account accordingly. Adjustments in the Royalty Fees and other amounts actually due will be calculated and settled within 10 days after You furnish the required Gross Sales Billed information.

You will not be entitled to withhold Royalty Fees, reimbursements and other amounts due hereunder on account of Our breach or alleged breach of its obligations under this Agreement or any other agreement between the parties or their respective Affiliates; Our performance under this Agreement constitutes no part of the consideration for Your obligation to pay Royalty Fees and other amounts due.

If You fail to or are unable to pay any Royalty Fees, reimbursement or other payment to Us or Our designee by the date on which such payment is due, the amount payable will bear interest from the date it became due through the date of payment at the lesser of (i) 18% per annum, or (ii) the highest lawful rate of interest permitted by applicable state and federal law, and You will pay to Us a late fee of U.S. \$25 per day the respective payment remains unpaid. Such late fee will be paid to Us in addition to, and not in lieu of, any other rights We may have at law or in equity as a result of late payment by You. Nothing in this Agreement will obligate You or any guarantor of Your obligations to pay, or entitle Us or its designee to collect, interest in excess of the maximum rate applicable law permits. If, for any reason, We or Our designee charges or receives interest in excess of the maximum rate permitted by applicable law, the excess will be applied as a payment against the principal amount of Your other obligations

under this Agreement. If no other obligations are due, We or Our designee will promptly refund the excess payment to the party that paid it.

- C. **Brand Fund Contribution:** You must pay the Brand Fund Contribution set forth in the Summary Page at the same time and in the same manner you pay Us Royalty Fees based on the Gross Sales for the preceding calendar month. The Brand Fund Contribution will be expended for national, regional or local advertising and promotional materials and market research for the Nautical Boat Club System, under the terms and conditions set forth in Article VII.
- D. **Minimum Local Marketing Expenditure:** You may spend as much money advertising Your Nautical Boat Club as You desire, but You must at a minimum spend an amount equal to the applicable Minimum Local Marketing Expenditure set forth in the Summary Pages during each calendar year of the term of this Agreement.
- E. **Internet:** We have established an Internet website that provides information about Our System and the Products and services offered by Nautical Boat Clubs. We have sole discretion and control over the website (including timing, design, contents and continuation) and may (but are not required to) include at the website interior pages containing information about Our franchisees' Nautical Boat Clubs. We will provide You with a template website design that you must customize and maintain to provide information about You and Your Nautical Boat Club, provided that (1) We reserve the right to register and own copyrights related to the content of your Internet website and/or register any domain names used in your Internet website; (2) Your Internet website must be limited to information regarding You and Your Nautical Boat Club; (3) You must follow our template and any other specifications that We may require in the Brand Standards Manuals, including as to use of our Marks and prospective franchisee solicitation materials and links; and (4) You must indemnify Our Indemnitees with respect to any Losses and Expenses incurred by Our Indemnitees arising from third party claims with respect to Your use of any such Internet website. Notwithstanding, We reserve the right to revoke approval at any time for Your Internet website if it fails to continue to meet Our standards, and You agree that upon such revocation, You will immediately discontinue use of such Internet website.
- F. **Intranet:** We have the sole right (but no obligation) to develop an Intranet through which We and Our franchisees can communicate by e-mail or similar electronic means. You agree to participate in and use the facilities of the Intranet in strict compliance with the standards, protocols and restrictions that We include in the Brand Standards Manuals (including, without limitation, standards, protocols and restrictions relating to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements).
- G. **Books and Records:** You will maintain complete and accurate electronic or other books and records relating to the operation of Your Franchise, permit Our representatives to inspect such books and records and, within 45 days after the end of each fiscal year of Your Franchise, submit to Us a balance sheet, income statement and statement of cash flow for the year then ended together with a copy of the first pages of your annual tax return(s). These financial statements will be prepared in accordance with the accounting principles and practices Franchisor prescribes. In addition to the annual reports required above, no later than the last day of the month following the close of each fiscal quarter (other than the fourth fiscal quarter), You will deliver to Us copies of your sales tax reports as of the end of such fiscal quarter. We reserve the right require additional electronic or other reports from time to time.

- H. **Inspections:** You will permit Our representatives to conduct unannounced quality and service inspections of Your Franchise at any time during normal business hours, including by shadowing You and Your employees, agents or representatives. You will promptly correct any condition noted as “unsatisfactory” or “needs improvement” in a QSC or staff evaluation report.
- I. **Audit:** You will permit Us to conduct special audits of Your books and records relating to Your Franchise’s operation at any time during the term, and for three years after this Agreement expires, terminates or is transferred. All such books and records will be kept available for at least three years after the termination, expiration or transfer of this Agreement for any reason. If an audit establishes that You understated Gross Sales Billed for any fiscal year by more than 3%, You will pay the audit’s cost, including the travel, lodging and meal expenses of the individuals who conduct the audit. Otherwise, We will bear the audit’s entire cost. You will promptly pay Us any deficiency established by an audit, together with interest as provided in this Agreement.
- J. **Crisis Management Events:** Upon the occurrence of a Crisis Management Event, You must immediately inform Us by telephone or electronic means, must cooperate fully with Us with respect to Our response to the Crisis Management Event, and must implement such remediation plan as may be instituted by Us, which may include Us requiring a temporary closure of Your Nautical Boat Club as part of the Crisis Management Event remediation plan. For purposes of this Agreement, a Crisis Management Event means any event that occurs at or otherwise involves Your Nautical Boat Club premises, or that occurs generally at a local, regional, national or even global scale, which has or may cause harm or injury to customers or employees, such as contagious diseases, natural disasters, terrorist acts, shootings or other acts of violence, or any other similar circumstance which may materially and adversely affect the System or the goodwill symbolized by the Marks.

## **IX – RESTRICTIONS**

- A. **Standards:** You will manage Your Nautical Boat Club in accordance with Your own business judgment, subject to the restrictions herein and the standards prescribed by Us. You acknowledge Your responsibility to the public and other System Franchisees to maintain the System’s standards, that You benefit from the standards and that the standards herein and in the Brand Standards Manual(s) are reasonably necessary. The standards may now or in the future include, without limitation, written requirements, specifications, prohibitions and restrictions for: Your Nautical Boat Club; Products and their use and warranties; use and protection of Proprietary Information and the Marks; acquisition, repair or replacement and use of Your Fleet, equipment, services, goods, signs, intangibles, supplies of suppliers, procedures, sales techniques, ordering, paying, selling, maintenance, repairs, alternations, replacement, hiring, training, skill standards, data entry and transmission and all other matters related to the conduct of the Franchised business contemplated by this Agreement or the Brand Standards Manual(s). You will comply with the System’s standards at Your sole expense. The Brand Standards Manual(s) explain and supplement this Agreement and is binding on You except to the extent it contradicts this Agreement. All additions and revisions to the Brand Standards Manual(s) by Us will be E-mailed to You or available on Our Website and You will download them into the computer so that they become a part of Your Brand Standards Manual(s), and become effective upon receipt by You. We may change the System, including, without limitation, its Marks, Products and Proprietary Information, by amending the Brand

Standards Manual(s) except that amendments to the Brand Standards Manual(s) that are contrary to this Agreement, are ineffective. You will adopt the same at Your sole expense. You will be responsible for ensuring that Your Brand Standards Manual(s) conform to Our master Brand Standards Manual(s). Your Fleet will not be used as rental boats. You will not allow outside businesses to use Your Fleet for their commercial interests; for example companies that are engaged in waterskiing, parasailing, wakeboarding, boat handling or other similar commercial enterprises. You acknowledge the importance of operating Your Nautical Boat Club in full compliance with this Agreement and the Brand Standards, and that any deviation from any contractual requirement, including any Brand Standard, is a violation of this Agreement and will trigger incalculable administrative and management costs for Us to address the violation (separate and apart from any damages Your violation might cause to the System, Our business opportunities, or the goodwill associated with the Marks). Therefore, You agree to be pay us certain fees (“Non-Compliance Fees” as set for in the Summary Pages) as and when applicable, which Non-Compliance Fees are a reasonable estimate of Our administrative and management costs and not a penalty. We need not give You a cure opportunity before charging the Non-Compliance Fees, and charging the Non-Compliance Fee does not prevent Us from seeking to recover damages to the System, Our business opportunities, or the goodwill associated with the Marks due to Your violation, seeking injunctive relief to restrain any subsequent or continuing violation, and/or formally defaulting You and terminating this Agreement in accordance with its terms.

- B. **Your Non-Competition Obligations:** You acknowledge and agree that We would be unable to protect Our System, the Proprietary Information and the Technology and Operating Platform against unauthorized use or disclosure or to encourage a free exchange of ideas and information among System Franchisees if Our franchisees were permitted to hold interests in or perform services for any business, other than their Nautical Boat Clubs authorized under their agreements with Us, which operates public or private membership boat clubs, private or public boat rental businesses or other similar boating services to the general public (“Competitive Business”). You also acknowledge that We have granted the Franchise to You in consideration of and in reliance upon Your agreement that You and Your Owners will deal exclusively with Us. You therefore agree that, without Our prior written consent, during the term of this Agreement, neither You, nor any of Your Owners nor any immediate family member of You or Your Owners will (a) have any direct or indirect interest as a disclosed or beneficial owner in, or perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for, a Competitive Business, located or operating within the United States, its territories or commonwealths, or any other country, province, state or geographic area in which We have used, sought registration of or registered the Marks or similar marks or operate or license others to operate a business under the Marks or similar marks, or (b) employ or seek to employ any person who is employed (as an employee or independent contractor) by Us, Our subsidiaries or by any other Nautical Boat Club Franchisee, nor induce nor attempt to induce any such person to leave his or her employment without the prior written consent of such person's employer. In addition, for two years after the expiration or termination of this Agreement or the effective date of an approved transfer of this Agreement, You and Your Owners will not directly or indirectly own any interest in, manage, be employed by, advise, assist, or participate in the operation of any Competitive Business which is located (i) on the Marina Site; or (ii) within the Designated Area, or (iii) within 50 miles of the perimeter of the Designated Area, or (iv) within 50 miles of the perimeter of the territory of any other Nautical Boat Club. In the event any dispute regarding the enforceability of this Section is resolved in Our favor, the two-year period (or such other period as may be deemed reasonable by the court) will run from the later of the date of the order permitting its enforcement, or the date You or Your Owner complies with this Section.

The restrictions of this Section will not apply to the ownership of publicly-traded ownership interests that constitute less than 5% of a class of ownership interests issued and outstanding.

- C. **Ethical Conduct:** You will not allow or engage in unsafe, unlawful or unethical practices, will deal fairly and honestly with each of Your Nautical Boat Clubs Members, comply with all applicable laws, ordinances, bonds, regulations and maintain all necessary permits and licenses and rely solely on Your attorney's advice in all matters. You will not engage in any activity that results, or may reasonably be anticipated to result in litigation against or public criticism of the System or Us. You will never threaten to breach this Agreement or indicate to any entity that You are not bound by it. You understand and agree that Our duties are discharged if You have not been entirely truthful in these regards.
- D. **No Joint Employer Status.** We and You are not joint employers of Your employees and other personnel. We do not and will not share or codetermine any of Your employees' essential terms and conditions of employment. More specifically, in no case do We have any authority to determine or set Your employees': (1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and/or (7) working conditions related to the safety and health of employees. You alone have sole authority to determine any or all of Your employees' essential terms and conditions of employment.

### **X – RELATIONSHIP**

- A. **Proprietary Information:** You expressly agree that You will receive specialized training and Proprietary Information pursuant to this Agreement. Any use, disclosure, copying or appropriation of Our Proprietary Information or any part of Our System for any purpose not expressly permitted herein causes immediate, great and irreparable injury to Our System and to Our other Franchisees. You, Your Owners, and those of Your employees and agents who have access to any Proprietary Information (collectively "Associated Persons") have a confidential relationship with Us concerning Our Proprietary Information. Proprietary Information and all documents containing the same always belong solely to Us and will not be used, disclosed, copied or appropriated during or after the duration of this Agreement without Our prior written consent. You will maintain the Proprietary Information in the strictest of confidence and require all employees, agents and other individuals who have access to the Proprietary Information to sign a non-competition Agreement on Our forms. On termination, You will immediately return all originals, copies and derivative works of the Technology and Operating Platform, Brand Standards Manual(s) and other materials containing any Proprietary Information of bearing any of the Marks and not retain any such items with the exception of Your copy of this Agreement, correspondence between the parties and any documents that You must retain to comply with any law. We have no adequate remedy at law in the event of any breach or threatened breach by You or Your Associated Persons of this Agreement or any confidentiality or non-competitions Agreement or any confidential relationship concerning Proprietary Information, and are entitled, without showing actual damages or placing any bond, and in addition to other remedies, to an immediate injunction prohibiting any conduct in violation thereof.

You must treat the Brand Standards Manual, any other manuals created for or approved for use in the operation of the Franchised Business, and the information contained in them as confidential, and must use all reasonable efforts to maintain this information as secret and

confidential. You must not copy, duplicate, record, reproduce these materials or otherwise make them available to any unauthorized person. The Brand Standards Manual will remain Our sole property and must be kept by You in a secure place at the club.

We may revise the contents of the Brand Standards Manual, and You must comply with each new or changed standard. The Brand Standards Manual, and Your obligation, may be modified to reflect changes in the System. In the event of disputes as to contents of the Brand Standards Manual, the terms of the master copy maintained by Us at Our home office will be controlling. If You misplace or lose the Brand Standards Manual, another copy will be loaned to You by Us upon receipt of a further payment from You of \$250.00 as reimbursement for the misplaced or lost copy.

We will disclose to You certain confidential or proprietary information and trade secrets. Except as is necessary for the operation of the club and as We approve, You may not, during the term or any time after the expiration or termination of the Franchise Agreement, regardless of the cause of termination, directly or indirectly, use for Your own benefit or communicate or divulge to any person or entity, or use for the benefit of any other person or entity, any trade secrets, confidential information, knowledge or know-how concerning the services, advertising, marketing, designs, plans or methods of the Franchised Business or the System. You may disclose to Your employees only that confidential, proprietary or trade secret information as is necessary to operate the business and then only while the Franchise Agreement is in effect. Any and all information, knowledge or know-how including materials, equipment, marketing and other data which We designate as secret or confidential will be deemed secret and confidential for purposes of the Franchise Agreement.

You will promptly comply with Our directives concerning telephone service, listings and advertising including assigning to Us upon Our written request, any telephone number owned by Your or any of Your Associated Persons.

- B. **Trademarks and Copyrights:** We claim copyright protection in the Brand Standards Manual, Our Technology and Operating Platform, documents, television commercials, advertisements, brochures and other promotional materials. These materials have been registered with the United States Registrar of Copyrights. These materials are proprietary and are Our property. The Brand Standards Manual, Our Technology and Operating Platform and Software Help file are copyrighted, confidential works of Ours and may only be used by You to the extent provided in this Franchise Agreement.

You will promptly make full written disclosure to Us of all changes, developments and improvements reasonably related to the System, and hereby assign all of Your rights, title and interest in them to Us. You agree to execute any document, in recordable form, that We determine is necessary to reflect such ownership. All intangible rights and goodwill created for or by use with the System or Your Nautical Boat Club including, without limitation, Your own marks, trade names, trade dress, personalities, copyrightable works, Websites etc., always belong solely to Us and will survive this Agreement.

Whenever You use “Don’t Buy a Boat!®”, “Don’t Rent A Boat®”, “Boating Country Club®”, Nautical Boat Club®” or the Logo in any printed or advertising materials, the “®” public notification symbol must always be included. The Home Page on Your Website must follow our template, include Our copyright notification and link to Our Website and to all other Clubs in the Nautical Toys Boat Club System, and must be in a format that has been approved by Us.

All customer information, customer lists, customer records and Agreements which are related to or derived from Your use of the System at Your Nautical Boat Club are part of the System,

are owned by Us, are licensed to You during the term of this Agreement solely for use in operating Your Nautical Boat Club under Our limited time license to You, and will not be sold or further used by You after termination in any manner. You acknowledge and agree that any such continued use or sale of such customer information by You constitutes the theft and misappropriation of Our trade secrets under applicable law.

Any use of the Marks by You outside the scope of this Agreement is an infringement of Our rights. You will not infringe on the Marks during or after the term of this Agreement. You agree the Marks are valid and enforceable trademarks and We have the sole right to use them. You have investigated the full trade area for Your Nautical Boat Club and verify that none of the Marks are currently being used by third parties therein that would conflict with Your proposed use of the Marks. You will immediately and actively assist, without charge or expense to Us, in Our prosecution or defense of Our claimed rights in the Marks, permit Us to control any litigation or proceeding thereon, not take any action in derogation thereof, immediately report to Us any infringements thereof and cooperate fully and execute any papers useful to accomplish these purposes. You have no right to make any demands of any third parties due to the third party's use of any of Our Marks or to prosecute any such claims. We may change the System, including without limitation, its Marks, Products and Proprietary Information, by amending the Brand Standards Manuals except that amendments to the Brand Standards Manuals that are contrary to this Agreement are ineffective. You will adopt the same at Your sole expense.

#### **XI –TRANSFER, PUBLIC OFFERINGS AND TERMINATIONS**

- A. **Transfer:** A material part of the consideration hereof is Our personal confidence in You, the individuals and entities signing with or for You and the owners of interest in You (collectively, the "Owners"). Neither You nor any of Your Owners may directly or indirectly transfer any part of this Franchise Agreement, the Franchised business, any direct or indirect ownership interest in You or any right nor duty hereunder without Our prior written consent, not to be unreasonably withheld. We have the right to reasonably approve or disapprove any person or entity that would like to acquire any part of legal or effective ownership in You. Before You or any of Your Owners enter into any sale, conveyance, assignment, subfranchise, division, delegation, pledge, succession, gift, encumbrance, option agreement, management or operating agreement, security agreement, lien or any other act, by operation of law or otherwise, which has or could have the effect of changing any of Your ownership, management or control (collectively, "Transfer") You must: **1.** Give sixty days prior written notice thereof to Us, at Our election, pay Us a non-refundable deposit of \$1,000 at the time you submit the transfer request and then pay us a transfer fee equal to the greater of \$22,500 or one-half of the then-current initial franchise fee at the time of the transfer (minus the deposit) at closing on the transfer. The notice must identify what is to be transferred, the proposed transferee and all terms and conditions thereof. We have an irrevocable right of first refusal for sixty-days to enter the proposed agreement on like terms or their reasonable equivalent in cash. Any material change in the terms of any offer comprised a new offer subject to Our right of first refusal. We may require a deposit by the proposed transferee of ten percent of the total proposed consideration in Our escrow account during the sixty-day period to insure bonafideness. **2.** Obtain Our written approval for the proposed transferees or successors (approval contingent on their personally meeting with Us at Our headquarters, satisfying high financial, business reputation, credit rating, ability and ethical standards, receipt of all normally required transferee data, meeting Our then current criteria for new Franchisees and providing Us adequate assurance that the transferee will successfully operate the Franchised boat club). **3.** Pay all amounts then due and fully prepay all notes or other agreements to pay Us monies over time, if any. **4.** Execute a general release of all claims against Us, Our affiliates, officers, directors,



employees and agents in a form satisfactory to Us and guarantee transferee's performance for a period equal to the remaining term of the Agreement, and 5. Obtain the transferees' execution of Our then current Franchise Agreement for the remainder of the Agreement's term and successor Franchises or renewals, which agreement may be materially different than Our Agreement with You, including, without limitation, additional and greater payments, royalties, fees and contributions, and the assumption by the transferees of all of Your liabilities related to the Agreement on forms satisfactory to Us. If transferee is a member of the transferor's immediate family, restrictions 1 and 3 do not apply, but we may require You to pay a non-refundable fee in an amount necessary to reimburse Us for Our costs and expenses, including, without limitation, legal and accounting fees, associated with the proposed transfer. If transferee is a corporation or partnership, all its shareholders and partners (and their respective spouses) must guaranty the transferee's obligations pursuant to Our form of Personal Guaranty and Owners' Undertaking set forth as Exhibit A to this Agreement. An unauthorized Transfer is voidable by Us and comprises a general release of all claims against Us, Our affiliates, officers, directors, employees and agents.

We have no restrictions on Our ability to transfer this Agreement, the Marks, the System or the Technology and Operating Platform, or any of Our rights under or with respect to this Agreement, the Marks, the System or the Technology and Operating Platform.

- B. **Death or Incapacity:** Within one year of the death or mental incapacity of You or any person who is an Owner of You, the executor, administrator or personal representative of such person will transfer the ownership interest to a third party approved by Us. Any such Transfer will be subject to the same conditions as any other transfer under Section XI, A. above, except that if the transferee is a member of such persons' immediate family, then no transfer restrictions apply except that the transferee must execute Our then current Agreement for the remaining term and must complete the System training at Your Club's location to Our satisfaction. We will be reimbursed for all travel, lodging, food and car rental expenses plus \$400 per day to cover such training costs. We may terminate this Agreement if the interest is not timely disposed.
- C. **Public or Private Offerings By You:** You may make public or private offerings of securities or partnership interests in You only with Our prior written approval, which may be denied at Our discretion. The offering will not imply, by using Our Marks or otherwise, that We are participating in the offering in any way and will make clear that Our review is limited solely to aspects which may affect the relationship between You and Us. You will submit to Us all materials required for the offering, whether the materials are submitted to governmental authorities or not, at least sixty days prior to use or filing, and a fee to reimburse Us for Our costs and expenses, including, without limitation, legal and accounting fees, associated with Your proposed offering.
- D. **Insolvency:** You are in default and all rights granted herein to You automatically terminate without notice to You if You become "insolvent", defined as: voluntarily suspending normal business operations, or becoming unable to pay debts as they mature; You are adjudicated bankrupt or insolvent; a receiver or other custodian (permanent or temporary) of Your assets or property, or any part thereof is appointed by any court; a proceeding for compensation of creditors is instituted by or against You; You make a general assignment for the benefit of creditors; a petition of bankruptcy is filed by You; a petition of bankruptcy is filed against You and is not opposed by You; a final judgment against You remains unsatisfied for thirty days (unless a supersedes bond is filed); You are dissolved; execution is levied against Your property

or business; or any suit to foreclose any lien or mortgage against the premises or equipment of Your Nautical Boat Club is not dismissed within thirty days of institution.

E. **Material Breach:** Maintaining the System's standards, goodwill, Marks and Proprietary Information is essential for continued growth and profitability of the System, protection of other System Franchisees and meeting the public's expectations of the System. The terms of this Agreement are reasonable and essential to preserve the interests of all concerned. Upon any default in performance by You, We may deliver a notice of intent to terminate specifying the default and a date, at least thirty days hence, by which You may avoid termination by curing the default to Our satisfaction, which notice of intent to terminate will become effective without further notice to You according to its terms if not timely complied with. Defaults comprised of Your insolvency or substantial material breaches are exceptions to the procedure described above. In addition, each of the following events are deemed to be a substantial material breach and We may terminate this Agreement by delivering notice of termination to You without notice or opportunity to cure (such termination is deemed for good cause and will be effective upon the date stated therein and according to its terms):

1. You abandon Your Nautical Boat Club or fail to actively operate it during the normal boating months, or if you are not open during normal business hours and days at the Marina Site where Your Nautical Boat Club is located;
2. You maintain or submit false records;
3. You effect, or attempt to effect a Transfer in violation of this Agreement;
4. You breach this Agreement two or more times in any twelve-month period or commit the same default twice in any twelve-month period;
5. You lose the right to possession of the Marina Site on which Your Nautical Boat Club operates (provided that if the Marina Site is damaged destroyed or sold, You have six months to relocate or reconstruct);
6. You forfeit the right to transact business in Your Designated Area or become incapacitated or unable to fully operate Your Nautical Boat Club;
7. You fail to pay your Royalty Fees for any calendar month and fail to cure the deficiency by making full payment to Us within ten (10) days following written notice and opportunity to cure;
8. You fail to timely pay any Minimum Annual Royalty Payment deficiency for any operating year and fail to cure the deficiency by making full payment to Us within ten (10) days following written notice and opportunity to cure;
9. You disclose any Proprietary Information in violation of this Agreement or disrupt or attempt to disrupt the standard operation of Our System;
10. You breach any of Your Ethical Conduct Duties or are convicted or plead nolo contendere to criminal misconduct relevant to operation of the System or to any felony;
11. If there is a discrepancy of 2% or greater in the amount of Royalty Fees and the amount reported to Us;
12. You failure to completely and accurately record all business and to timely pay all moneys and deliver all required, complete accurate records to Us exactly when due as required by this Agreement;
13. You fail to affirmatively protect the System, its Marks, Proprietary Information, intellectual property and reputation;
14. You fail to adequately maintain all boats in Your Nautical Boat Club fleet during the full boating season;
15. You fail to maintain the required insurance coverage to comply with any law, rule, regulation, ordinance and lease provisions;

16. You fail to run all required Member information through the Technology and Operating Platform;
17. You fail to prevent any threat to public or employee's health or safety due to Your operations; and
18. You fail to open your Nautical Boat Club by the Mandatory Opening Date set forth in the Summary Pages.

F. **Termination:** On termination, all rights granted to You hereunder immediately terminate and You and/or Your Owners will:

1. Immediately and permanently cease to represent yourself as being associated with Us;
2. Discontinue all use of the System, the Technology and Operating Platform (including any virtual desktop through which you access and use the Technology and Operating Platform), the Marks and any similar marks, logos, or indicia, Our copyrighted materials and Proprietary Information specifically including, without limitation, immediately modifying or removing any reproduction or colorable imitation of the Marks that is likely to cause confusion or mistake or to deceive;
3. Cause Your governing documents and all licenses, permits and contracts to be amended to delete all parts of the System's Marks;
4. Abide by all confidentiality, non-competition and noninterference covenants with Us;
5. Refrain from using, by advertising or any other manner whatsoever, the Marks, or any other terms, logos, or slogans having like or substantially like messages or representations; We have the right to immediately enter the premises where Your Nautical Boat Club was conducted, without being guilty of trespass or any other tort and effect the above at Your expense;
6. Immediately pay Us all moneys then due, together with all other damages, costs and expenses, including attorney's fees incurred by Us as a result of Your breach;
7. Assist in either amicably winding up Your Nautical Boat Club;
8. At Our option exercisable in writing to You within 15 days of the expiration or earlier termination of this Agreement, unless you or your Affiliates own or control the real estate on which the Nautical Boat Club is located, you will assign to Us or Our designee your interest in the lease, including Your interest in all leasehold improvements, without additional compensation. If We do not request assignment of the lease within 15 days of the expiration or earlier termination of this Agreement, then within 20 days after termination or expiration of this Agreement, you will modify the Nautical Boat Club premises (including, without limitation, the changing of the color scheme and other distinctive design features, and the changing of and assigning to US of, the telephone numbers) as may be necessary to distinguish the appearance of the Nautical Boat Club from that of other Nautical Boat Clubs, and will make such other specific additional changes to the Nautical Boat Club as we may reasonably request for that purpose;
9. At Our option exercisable in writing to You within 15 days of the expiration or earlier termination of this Agreement, sell to Us or our designee any or all of the Nautical Boat Club's assets, including furniture, fixtures, equipment, and signs at the lesser of your cost or then-current fair market value, We may set off against the purchase price any amounts that You owe Us. You must exercise commercially reasonable efforts to effect such sale to Us, and You acknowledge and agree that We may seek specific performance from any court of competent

jurisdiction to compel you to effect such sale to Us in accordance with this Agreement;

10. Remove from Your website all links to Nautical Boat Clubs, LLC and to links of all other boats clubs that are Franchised by Nautical Boat Clubs, LLC;

Termination of this Agreement due to any cause other than expiration of term is, at Our option, good cause for Us to terminate this Agreement and/or any or all of any other Agreements We may have with You without any liability by Us to You, any parties hereto, or any third parties. We reserve the right to seek any other relief to which We may be entitled.

## **XII – OTHER TERMS**

- A. **Insurance:** You will obtain, at a minimum, prior to doing any boat club business, insurance of the types and at the levels set forth in the Summary Pages, naming Us as an “additional insured” and waiving subrogation against Us together with such other insurance as may be required by any law, lease, or special risk. You will deliver to Us such evidence of insurance and its maintenance. You will not make any claim against Us, or any entity performing any duty for Us, to recover any loss covered, or which should have been covered by such insurance. Your obligations are not reduced because of any insurance We may carry, nor will any insurance relieve You of liability under the indemnity provisions herein. We highly recommend that You carry non-owned automobile insurance if Your employees will be using their personal vehicles for club business. The insurance policies will include a statement that they cannot be canceled or altered without at least thirty-days written notice to Us and must be obtained only from insurance companies which meet Our standards. You will deliver to Us such evidence of insurance and its maintenance as required by the Agreement. You will not make any claim against Us or any entity performing and duty for Us to recover any loss covered. Your obligations are not reduced because of any insurance We may carry, nor will any insurance We carry relieve You of liability under the indemnity provisions herein. We, at Our option, may obtain such insurance and/or make payments necessary to keep such insurance in force if You fail to do so, and You will immediately reimburse Us for such payments.
- B. **Claims and Indemnity:** You agree to hold harmless and indemnify Us, Our affiliates and Our and their respective directors, officers, employees, shareholders, agents, successors and assigns, past or present, in their corporate or individual capacities (“Our Indemnitees”), to the fullest extent permitted by law, against all compensatory, exemplary, and punitive damages; fines and penalties; attorneys’ fees; experts’ fees; court costs; costs associated with investigating and defending against claims; settlement amounts; judgments; and all other costs associated with any of the foregoing (“Losses and Expenses”) incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof, whether or not a formal proceeding or action has been instituted (each, a “Claim”) arising directly or indirectly from, as a result of, or in connection with (i) acts, errors, or omissions by You, Your Owners or Your agents or employees in connection with Your establishment or operation of Your Nautical Boat Club, (ii) a breach by You, Your Owners, or Your agents or employees of any warranty, representation, agreement or obligation in this Agreement or in any other agreement with Us or Our Affiliates; (iii) a violation, breach or asserted violation or breach by You, Your Owners, or Your agents or employees of any federal, state or local law, regulation, ruling, standard or directive or any industry standard, and regardless of whether such claim resulted from any strict or vicarious liability imposed by law on Our Indemnitees; and (iv) any actual or alleged claim that We and You are joint employers of any of Your employees or personnel; provided, that this indemnity will not apply to any liability arising from the gross negligence or willful acts of Our Indemnitees (except to the

extent that joint liability is involved, in which event the indemnification provided herein will extend to any finding of comparative or contributory negligence attributable to You). You agree to give Us prompt notice of any claim of which You are aware for which indemnification is required, and, at Your expense and risk, We may elect to assume (but are under no circumstance obligated to undertake) the defense and/or settlement of the claim, provided that We will seek Your advice and counsel. Our assumption of the defense does not modify Your indemnification obligation. We may take such actions as We deem reasonably necessary and appropriate to investigate, defend, or settle any Action or take such other remedial or corrective actions as may be reasonably necessary for the protection of Our Indemnitees, the System, the Marks, the Proprietary Information or Nautical Boat Clubs generally. This Section will survive the expiration or termination of this Agreement.

- C. **Impossibility:** If performance of this Agreement is hindered or prevented by an act of God, enactment of legislation or governmental order or regulation, lack of supplies, labor unrest, terrorist threat or unavailability, shortages, transportation delays, or unexpected demand, the required performance timetable will be extended, to the extent so prevented, except with respect to the duty to timely pay moneys when due.
- D. **Accord and Satisfaction:** Payments by You to Us of any amount less than what is due are deemed payments on account regardless of any endorsement to the contrary. Endorsing any check or accepting any amount from You will not bind Us to such endorsement or any claim that acceptance was an accord and satisfaction for less than the full amount due or to any other condition. Payments from You will be applied first to any interest or penalty owing to Us and then to the earliest amounts due Us.
- E. **Representations:** You have studied Our System and the terms and conditions herein. You have been specifically advised that You must have enough money on hand to pay all opening expenses and other expenses necessary for the period it will take for Your Nautical Boat Club to become profitable, if ever. You represent and promise that You are not obtaining this Franchise for investment purposes and have no present intention to sell or transfer Your Nautical Boat Club in whole or in part, that You are sufficiently capitalized and have sufficient capabilities to fund and staff Your Nautical Boat Club, and that entry into this Agreement and performance there under will not breach the terms of any other agreement. You represent and promise that You are and will remain financially able to make all payments needed to open and maintain Your Nautical Boat Club as required herein. You have examined an operational Nautical Boat Club, the Technology and Operating Platform which also includes the Systems Operational Brand Standards Manual and Software Help files, and Your Designated Area and agree that all of these comply with this Agreement, all representation and Your expectations. You and Your Owners hereby release Our Indemnitees from any known or unknown acts, breaches or causes of action in exchange for Our grant of rights herein. You acknowledge and agree that Your sales and earnings, if any, will be primarily determined by the demand in Your Designated Area, the efficiency with which You operate Your Nautical Boat Club, competition, Your efforts and Your Nautical Boat Club management skills; that markup, costs and sales volumes are different for every business and are subject to fluctuations; and that Your actual sales margins, profits, losses, etc. may differ substantially from any figures You may have seen from any source.
- F. **Security and Guaranty:** As a condition precedent to this Agreement, each Owner and their respective spouse will sign either the form of Personal Guaranty and Owners' Undertaking attached as Exhibit A to this Agreement or the form of Confidentiality Agreement and

Covenant Not To Compete attached as Exhibit B to this Agreement, as determined by Us in Our sole discretion.

### **XIII – MISCELLANEOUS**

- A. **Entire Agreement:** This Agreement, its exhibits and the Brand Standards Manuals, as the Brand Standards Manuals may be revised from time to time as permitted herein, comprise the entire agreement of the parties and supersedes all prior representation and agreements with respect to its subject matter. No representations have been made to induce execution hereof, which are not included. This Agreement may not be amended or waived and no representations may be made by Us, except as set forth here or in writing signed by Us. The rights and Franchises granted by Us are limited, nonexclusive grants. No representations; grants; obligations; warranties; right to use, sell, copy or display any part of the System, its Marks, Technology and Operating Platform, documents, know-how, copyrights, Proprietary Information or any other tangible or intangible thing or service; duties or limitations will be implied against Us unless expressly stated herein. Any approval requested of Us is deemed denied if not timely granted. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representations We made in the Franchise Disclosure Document described in Section XIII.Q. below that We furnished to You.
- B. **Waivers:** You will make a timely written request to Us whenever this Agreement requires Our approval. Our approval must be in writing to be effective and relied upon by You. We assume no liability or obligation and make no representation or warranty by denying, granting, or providing any waiver, approval, advice, consent or suggestions to You for any neglect, delay or denial of any requests thereof. Failure by Us to exercise any right, power or option or to insist on strict compliance with the terms hereof or the Brand Standards Manuals will not comprise a waiver with respect to any other or subsequent breach of the same or different nature nor a breach or default. No custom or practice waives Our right to demand exact compliance with this Agreement. Our rights and remedies herein are cumulative with any other rights or remedies that may be granted by law or equity. The description of any breach or default in any notice by Us will not preclude the later assertion of other additional defaults or breaches. Subsequent acceptance by Us of any payments or performance is not a waiver of any preceding breach by You.
- C. **Materiality:** You expressly agree that each detail of the System is important and each term herein is reasonable and necessary for the protection of Us, other Franchisees and consumers who rely on the uniformity, standards and enforcement of the System to maintain demand for Nautical Boat Clubs and protect their goodwill. Our duties are expressly contingent on strict compliance by You with all terms of this Agreement and the Brand Standards Manuals. Any breach hereof, or of the Brand Standards Manuals by You, is deemed a material and substantial breach. Time is of the essence.
- D. **Governing Law:** Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§1051 *et. seq.*), this Agreement will for all purposes be governed by and interpreted and enforced in accordance with the Internal laws of the State of Texas, except that its choice of law and conflict of law rules will not apply. Notwithstanding the above, You and Your Owners agree that the Texas Business Opportunity Act and the Texas Deceptive Trade Practice Act (and any successor laws, rules or regulations thereto) do not apply to the transactions contemplated by this Agreement.

- E. **Venue:** The parties mutually agree that the U.S. District Court for the Central District of Texas, or if such court lacks jurisdiction, the state courts located in Travis County, Texas, will be the exclusive venue and exclusive forum in which to adjudicate any suit, proceeding, claim, demand, investigation, or inquiry, whether formal or informal (each an “Action”) arising from or relating to this Agreement and any guarantees hereof, undertakings hereunder provided and relationship established thereby, however, with respect to any Action (i) for monies owed, (ii) for injunctive or other extraordinary relief, or (iii) involving the possession or disposition of, or other relief relating to, real property, the Marks, the Proprietary Information or the Technology and Operating Platform, We may bring such action in any court of competent jurisdiction. The parties irrevocably submit to the jurisdiction of such courts and waive any objections to either the jurisdiction of or venue in such courts. The parties mutually agree that personal jurisdiction may be effected by service of process and that when so made will be as if served personally. This Agreement was executed and accepted at Our place of business in Austin, Texas. The parties anticipate that the performance of certain of Your obligations arising under this Agreement, including the payment of certain monies due Franchisor, will occur in Austin, Texas.
- F. **Damages Waiver:** Except with respect to Your and Your Owners’ obligations to indemnify Us and claims We bring for Your unauthorized use of the Marks or unauthorized use or disclosure of the Proprietary Information or Technology and Operating Platform, the parties waive to the fullest extent permitted by law any right to or claim for any punitive, exemplary, special and consequential damages against the other and agree that, in the event of any Action between the parties, the parties bringing the Action will be limited to equitable relief and to recovery of any direct or general damages it sustains; provided, however that We will have the right to recover lost profits in the event of premature termination of this Agreement.
- G. **Limitations Period.** Except for an Action arising from Your nonpayment or underpayment of amounts You owe Us pursuant to this Agreement, or an Action related to Your unauthorized use of the Marks or unauthorized use or disclosure of the Proprietary Information or Technology and Operating Platform, any and all Actions arising out of or relating to this Agreement or the relationship created hereby will be barred unless an Action is commenced within two years from the date on which the party asserting such Action knew or should have known of the facts giving rise to such Action.
- H. **Jury Trial Waiver.** THE PARTIES IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER PARTY RELATING TO THE RELATIONSHIP BETWEEN THE PARTIES OR ARISING UNDER OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ANY RIGHT OR CURE HEREUNDER.
- I. **Survivability:** All obligations herein concerning payment, confidentiality, indemnification, nondisclosures, the Marks, Proprietary Information, Technology and Operating Platform, non-competition, dispute resolution and all other obligations which, by their terms, express or imply that they are intended to survive expiration or termination hereof, will survive termination hereof unless this clause is particularly and expressly identified in a separate signed document. You expressly agree that neither termination nor the existence of claims by You against Us are a defense to Our immediate enforcement of these obligations and that they are covenants independent of any other portion of this Agreement.

- J. **Savings Clause:** This Agreement will be construed, interpreted and reformed to avoid violating any applicable law, and to preserve its intent to the fullest possible extent. The unenforceability of any part, segment or clause hereof will not affect the validity of the remaining portions hereof as the parties would have executed the remaining portions of this Agreement without such invalid portions except that if any portions relating to restrictions on You or Your payment to Us are finally determined to be unenforceable, We may elect to terminate this Agreement. You expressly agree to be bound to the maximum extent permitted by law, as if separately set forth herein, with respect to any remaining reformed part of this Agreement if it is held to be unenforceable as written.
- K. **Relationship of Parties:** This Agreement does not create a fiduciary relationship between the parties hereto. We and You are and will be independent contractors and nothing in this Agreement is intended to make either party a general or special agent, joint venturer, partner or employee of the other for any purpose.
- L. **Third Parties:** The parties do not intend this Agreement to confer any benefit to any entity other than You and Us except as is otherwise expressly stated herein. You are not entitled to the benefit of any agreement between Us and any other entity unless that agreement specifically grants rights to You by name. This Agreement inures to Our successors and assigns.
- M. **Construction:** Capitalized terms are defined in this Agreement where they appear in quotation marks and have no other meaning. The recitals herein are contractual obligations of the parties. The language of this Agreement will otherwise be construed according to its fair meaning and not for or against either party. All words refer to whatever number or gender the context requires. Headings are for reference purposes only and do not affect or control interpretation in any way. This Agreement and all transactions hereunder will be construed, interpreted and implemented in English.
- N. **Terrorist and Money Laundering Activities:** You and Your Owners represent and warrant to Us that neither You, nor any Owner, nor any of their respective Affiliates is identified, either by name or an alias, pseudonym or nickname, on the lists of “Specially Designated Nationals” or “Blocked Persons” maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (texts currently available at [www.treas.gov/offices/enforcement/ofac/](http://www.treas.gov/offices/enforcement/ofac/)). Further, You and Your Owners represent and warrant that neither they nor any Affiliate referred to above has violated, and each of them agrees not to violate, any law prohibiting corrupt business practices, money laundering or the aid or support of persons who conspire to commit acts of terror against any person or government, including acts prohibited by the U.S. Patriot Act (text currently available at <http://www.epic.org/privacy/terrorism/hr3162.html>), U.S. Executive Order 13224 (text currently available at <http://www.treas.gov/offices/enforcement/ofac/legal/eo/13224.pdf>), or any similar law. The foregoing constitute continuing representations and warranties, and You and Your Owners will immediately notify Us in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate or misleading.
- O. **Notices:** Notices required or permitted hereunder will be in writing and either personally delivered, delivered by email, or delivered by nationally recognized courier service to the then current address for notice purposes unless and until a party designates a different address by written notice to the other party. Our sole address for legal notice is 16107-C FM 2769, Volente, Texas 78641. Your address for notice is set forth in the Summary Pages. Written notices will be deemed delivered on the day of delivery if delivered by hand, email or nationally recognized



courier service, or the attempted delivery date in the event delivery is refused or made impossible by the party being notified. If We are reasonably unable to locate You within three days, You appoint each and every employee and agent of Yours as Your agents to receive notices.

- P. **Disclosure Acknowledgment:** You and Your Owners acknowledge and agree that You received (i) Our then current franchise disclosure document required by the Trade Regulation Rule of the Federal Trade Commission entitled “Disclosure Requirements and Prohibitions Concerning Franchising” at least 14 days prior to execution of this Agreement as required by such Trade Regulation Rule and (ii) a fully completed copy of this Agreement at least 7 days prior to execution as required by such Trade Regulation Rule.
- Q. **Required NASAA Statement:** **The following only applies in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin:** No statement, questionnaire, or acknowledgment signed or agreed to by Us 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 Our behalf. This provision supersedes any other term of any document executed in connection with the franchise.

**IN WITNESS WHEREOF,** We and You have caused this Agreement to be executed effective as of the Effective Date set forth above.

**FRANCHISOR:**

**FRANCHISEE:**

**NAUTICAL BOAT CLUBS, LLC,  
a Texas limited liability company**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## EXHIBIT A

### NAUTICAL BOAT CLUBS, LLC PERSONAL GUARANTY AND OWNERS' UNDERTAKING

In consideration of, and as an inducement to, the execution of the Franchise Agreement dated as of \_\_\_\_\_, 202\_, including any appendices and amendments thereto (the "Agreement"), by and between Nautical Boat Clubs, LLC, with its principal place of business at 16107 FM 2769, Suite C, Volente, Texas 78641 ("Franchisor") and \_\_\_\_\_ ("Franchisee"), each of the undersigned Owners hereby personally and unconditionally: (1) guarantees to Franchisor and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement, that Franchisee will punctually pay and perform the agreements and covenants expressly provided by the terms of the Agreement; and (2) acknowledges that each is included in the term "Owner" as described in the Agreement and without limiting any guarantee of Franchisee's obligations under the Agreement, jointly and severally makes all of the covenants, representations, warranties and agreements of Owners set forth in the Agreement and is jointly and severally obligated to perform thereunder for so long as he or she qualifies as an Owner and thereafter to the extent expressly provided by the terms of the Agreement, including, but not limited to, the covenants, representations, warranties and agreements described in the following sections of the Agreement: Sections XI.A., B. and C. (regarding Transfer), XII.B. (regarding indemnification), IX.B. (regarding non-competition), X.A. (regarding confidentiality) and XIII.D. and E. (regarding governing law and dispute resolution); and (3) represents that each and every representation of Franchisee made in connection with the Agreement is true, correct and complete in all respects as of the time given and as of the time of the undersigned's execution of this Personal Guaranty and Owners' Undertaking.

Any capitalized terms used but not defined in this Personal Guaranty and Owners' Undertaking will have the meaning set forth in the Agreement.

Each of the undersigned waives: (a) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (b) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (c) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; (d) any right he or she may have to require that an action be brought against Franchisee or any other person as a condition of liability; (e) notice of any amendment to the Agreement; and (f) any and all other notices and legal or equitable defenses to which he may be entitled.

Each of the undersigned consents and agrees that: (i) his or her direct and immediate liability under this Personal Guaranty and Owners' Undertaking will be joint and several; (ii) he or she will render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses to do so punctually; (iii) such liability will not be contingent or conditioned upon pursuit by Franchisor of any remedies against Franchisee or any other person; and (iv) such liability will not be diminished, relieved or otherwise effected by any extension of time, credit or other indulgence which Franchisor may from time to time grant to Franchisee or to any other person including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims, none of which will in any way modify or amend this Personal Guaranty and Owners' Undertaking, which will be continuing and irrevocable until satisfied in full.

Each of the undersigned agrees that the U.S. District Court for the Central District of Texas, or if such court lacks jurisdiction, the state courts located in Travis County, Texas, will be the exclusive venue and exclusive forum in which to adjudicate any case or controversy arising from or relating to this Agreement and this Personal Guaranty and Owners' Undertaking. Each of the undersigned irrevocably submits to the jurisdiction of such courts and waives any objections to either the jurisdiction of or venue in

such courts. Each of the undersigned agrees that personal jurisdiction may be effected by service of process and that when so made will be as if served personally. Each of the undersigned irrevocably waives, to the fullest extent the undersigned may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agrees that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of Texas but may be served with the same effect as if served within the State of Texas, by certified mail or any other means permitted by law addressed to the undersigned at the address set forth herein. Nothing contained herein will affect Our rights to bring a suit, action or proceeding in any other appropriate jurisdiction, including any suit, action or proceeding brought to enforce any judgment against one or more of the undersigned entered by a state or federal court.

Each of the undersigned further acknowledges and agrees as follows:

**Each has read the terms and conditions of the Agreement and acknowledges that the execution of this Personal Guaranty and Owners' Undertaking is in partial consideration for, and a condition to the granting of the rights to the Marks and the System, and the Franchisor would not have granted such rights without the execution of this Personal Guaranty and Owners' Undertaking by each of the undersigned;**

**This Personal Guaranty and Owners' Undertaking will remain in force notwithstanding the death of the undersigned, and will be binding on the undersigned's personal representatives; and**

**This Personal Guaranty and Owners' Undertaking will continue and will be enforceable notwithstanding any change in the name or the constitution of the Franchisor or Franchisee.**

Each of the undersigned represents and warrants that the following is a complete and accurate list of all Owners of Franchisee and a full description of the nature and extent of each Owner's ownership interest in Franchisee. Franchisee, and each Owner as to his ownership interest, represents and warrants that each Owner is the sole and exclusive legal and beneficial owner of his ownership interest in Franchisee, free and clear of all liens, restrictions, agreements and encumbrances of any kind or nature, other than those required or permitted by this Personal Guaranty and Owners' Undertaking.

**IN WITNESS WHEREOF**, each of the undersigned has hereunto affixed his signature, under seal, on the same day and year as the Agreement was executed.

**OWNERSHIP INTEREST IN YOU:**

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

**OWNER(S)/SPOUSES:**

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

## EXHIBIT B

### CONFIDENTIALITY AGREEMENT AND COVENANT NOT TO COMPETE

This Confidentiality Agreement (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between Nautical Boat Clubs, LLC, with its principal place of business at 16107 FM 2769, Suite C, Volente, Texas 78641 (“Franchisor”), \_\_\_\_\_, a (“Franchisee”) and \_\_\_\_\_, an individual residing at \_\_\_\_\_ (“Recipient”).

### RECITALS

**WHEREAS**, Franchisor, as the result of the expenditure of time, skill, effort and money, has acquired the right to use and license others to use a distinctive System for the development and operation of private membership nautical boat clubs that operate under the Nautical Boat Club trade name; and

**WHEREAS**, the System includes, but is not limited to, the business methods, designs, arrangements and standards for developing and operating Nautical Boat Clubs, including those pertaining to signage and layouts, equipment, vehicles, specifications for products and services, delivery, training, methods of inventory control and requirements and policies regarding personnel, accounting and financial performance, advertising and marketing programs and information technology, all of which Franchisor may improve, further develop or otherwise modify from time to time; and

**WHEREAS**, Franchisor’s Confidential Information developed and used in connection with the System provides economic advantages to Franchisor and includes information and know-how not generally known to, and not readily ascertainable by proper means by, Franchisor’s competitors who could obtain economic value from knowledge and use of the Confidential Information; and

**WHEREAS**, Franchisor has taken and intends to take all steps to maintain the confidentiality and secrecy of the Confidential Information; and

**WHEREAS**, Franchisor has granted Franchisee the limited right to develop a Nautical Boat Club using the System, the Marks and Confidential Information for the period defined in the Franchise Agreement made and entered into on \_\_\_\_\_, 202\_\_ (“Franchise Agreement”), by and between Franchisor and Franchisee; and

**WHEREAS**, Franchisor and Franchisee have agreed in the Franchise Agreement on the importance to Franchisor and to Franchisee and other licensed users of the System of restricting the use, access and dissemination of the Confidential Information; and

**WHEREAS**, it will be necessary for certain personnel, agents, independent contractors, officers, directors, partners and interest holders of Franchisee, or any entity having an interest in Franchisee to have access to and to use some or all of the Confidential Information in the management and operation of Franchisee’s business using the System; and

**WHEREAS**, Franchisee has agreed to obtain from recipients of Confidential Information written Agreements protecting the System against unfair competition; and

**WHEREAS**, Recipient wishes to remain, or wishes to become employed by or associated with Franchisee; and

**WHEREAS**, Recipient wishes and needs to receive and use the Confidential Information in the course of his or her employment or association in order to effectively perform services for Franchisee; and

**WHEREAS**, Recipient acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Recipient herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein and the payment of \$25 in cash, for which Recipient confirms receipt, the parties agree as follows:

1. Recipient expressly acknowledges that Recipient possesses skills and abilities of a general nature and has other opportunities for exploiting such skills. Consequently, enforcement of the covenants made in this Agreement will not deprive Recipient of any personal goodwill or ability to earn a living.

2. Franchisor and/or Franchisee will disclose to Recipient some or all of the Confidential Information relating to the System. As used in this Agreement, “Confidential Information” will include all items contemplated in the Franchise Agreement’s definition “Confidential Information” as well as any and all other information and materials, including, without limitation, any manuals, drawings, specifications, techniques and compilations of data which Franchisor provides to Franchisee and/or Recipient.

3. Recipient will receive the Confidential Information in confidence and will, at all times, maintain them in confidence, and use the Confidential Information only in the course of his or her employment by or association with Franchisee and then only in connection with the development and/or operation by Franchisee of Nautical Boat Clubs using the System for so long as Franchisee is licensed by Franchisor to use the System.

4. Recipient will not at any time make copies of any documents or compilations containing some or all of the Confidential Information without Franchisor’s written permission.

5. Recipient will not at any time disclose or permit the disclosure of the Confidential Information except to other personnel of Franchisee and only to the limited extent necessary to train or assist other personnel of Franchisee in the development or operation of a Nautical Boat Club using the System.

6. If Recipient has a direct or indirect, legal or beneficial Ownership Interest of any type in Franchisee, including but not limited to (i) in relation to a corporation, the ownership of shares in the corporation; (ii) in relation to a partnership, the ownership of a general partner or limited partnership interest; (iii) in relation to a limited liability company, the ownership of a membership interest; or (iv) in relation to a trust, the ownership of the beneficial interest of such trust, Recipient covenants and agrees that, during the term of the Franchise Agreement and for two years after Recipient ceases to have such ownership interest or for two years after the Franchise Agreement has terminated for any reason, whichever occurs earlier, Recipient will not own or operate, directly or indirectly, or accept employment by or hold an interest in any public or private membership boat clubs, private or public boat rental businesses or other similar boating services to the general public (a “Competitive Business”), except as a strategic-partner of Franchisor. Recipient’s covenant not to compete will apply (i) at the Marina Site; or (ii) within the Designated Area, or (iii) within fifty (50) miles of the perimeter of the Designated Area, or (iv) within fifty (50) miles of the perimeter of the territory of any other Nautical Boat Club. For purposes of calculating the duration of the two-year period, any time during which Recipient (as applicable) is in violation or breach of the covenant will be excluded. Recipient acknowledges that Recipient’s covenant not to compete is reasonable and necessary to protect the business and goodwill of Franchisor and to avoid misappropriation or other unauthorized use of the System and Franchisor’s Confidential Information. Recipient acknowledges and confirms that Recipient possesses the education, training and experience necessary to

earn a reasonable livelihood apart from operating a private membership Nautical Boat Club or boat rental business.

7. The parties agree that the foregoing covenant will be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in Section 6 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Recipient expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of Section 6.

8. Recipient understands and acknowledges that Franchisor will have the right to reduce the scope of any covenant set forth in Section 6, or any portion thereof, without his or her consent, effective immediately upon notice to Recipient; and Recipient agrees that he or she will comply forthwith with any covenant as so modified, which will be fully enforceable notwithstanding the provisions of Section 17 hereof.

9. Recipient will surrender any material or data (however held) containing some or all of Franchisor's Confidential Information to Franchisee or Franchisor, upon request, or upon termination of employment by or association with Franchisee, or upon conclusion of the use for which such information or material may have been furnished to Recipient.

10. Recipient will 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 Confidential Information and the System.

11. All manuals are loaned by Franchisor to Franchisee for limited purposes only and remain the property of Franchisor and may not be reproduced, in whole or in part, without Franchisor's prior written consent.

12. Any capitalized terms used but not defined in this Agreement will have the meaning set forth in the Franchise Agreement.

13. Franchisee will make all efforts to ensure that Recipient acts as required by this Agreement.

14. Recipient agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate cure at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions hereof, Franchisor will be entitled to enforce the provisions of this Agreement and will be entitled, in addition to any other remedies which are made available to it at law or in equity (including any right to terminate the Franchise Agreement, as provided therein), 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.

15. Recipient agrees to pay all expenses (including court costs and attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement.

16. 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 Recipient will not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Recipient.

**17. THIS AGREEMENT SHALL FOR ALL PURPOSES BE GOVERNED BY AND INTERPRETED AND ENFORCED IN ACCORDANCE WITH THE LAW OF TEXAS, WITHOUT REFERENCE TO CONFLICTS OF LAW PRINCIPLES. RECIPIENT HEREBY IRREVOCABLY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON HIM OR HER IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY APPLICABLE LAW. RECIPIENT FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT WILL BE ANY COURT OF COMPETENT JURISDICTION WITH JURISDICTION OVER TARRANT COUNTY, TEXAS; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR MAY BRING SUCH ACTION IN ANY COURT THAT HAS JURISDICTION.**

18. 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. The parties agree that each of the foregoing covenants will be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a party, Recipient expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

19. This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

20. For any breach of the obligations of Section 6 of this Agreement, and due to the difficulty of establishing the precise amount of damages for breach of these obligations, in addition to all other remedies provided for in this Agreement or otherwise available to Franchisor, Recipient agrees to pay Franchisor an amount equal to ten percent (10%) of the gross revenues generated by a Competitive Business with which Recipient is associated for a period equal to the duration Recipient is associated with the Competitive Business. Demand for payment of liquidated damages does not constitute an election of remedies and any payments received will be in addition to and not in lieu of any other remedies to Us at law or in equity.

21. This Agreement is not intended to create, and will not be interpreted or construed as creating, a partnership, joint venture, agency, employment, personal services, fiduciary or other "special" relationship between Franchisor and Recipient, and no representation to the contrary will be binding upon Franchisor.

22. All notices permitted or required to be delivered pursuant to the provisions of this Agreement will be delivered in writing to the appropriate address listed above for Franchisor and Franchisee (for Recipient, the address listed in this Section 22) or such other address as the parties will specify by written notice, and will be deemed so delivered:

- a. at the time delivered by hand;
- b. one day after transmission by email; or
- c. one day after being placed in the hands of a commercial courier service for next day delivery, provided there is proof of delivery; and must be addressed to the party to be notified at the

address listed above for Franchisor and Franchisee (for Recipient, the address listed in this Section 20) or such other address as the party will specify by written notice.

If directed to Recipient, the notice will be addressed to:

\_\_\_\_\_

Attention: \_\_\_\_\_

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

23. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and will inure to the benefit of its respective Affiliates, successors and assigns. The respective obligations of Franchisee and Recipient hereunder may not be assigned by Franchisee or Recipient, without the prior written consent of Franchisor. Any assignment or attempted assignment lacking Franchisor's prior written consent or that otherwise violates the restrictions in this Section will be ineffective against Franchisor.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

**FRANCHISOR:**

**FRANCHISEE:**

**NAUTICAL BOAT CLUBS, LLC,  
a Texas limited liability company**

\_\_\_\_\_

By: \_\_\_\_\_

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

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

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

By: \_\_\_\_\_

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

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

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

**RECIPIENT:**

\_\_\_\_\_

By: \_\_\_\_\_

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

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

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



## EXHIBIT C

### AUTHORIZATION AGREEMENT FOR PRE-AUTHORIZED PAYMENTS

Nautical Boat Clubs, LLC ("FRANCHISOR")

ID NUMBER: \_\_\_\_\_

The undersigned ("DEPOSITOR") authorizes FRANCHISOR to initiate credit and debit entries to and from the Checking Account indicated below at the DEPOSITORY named below, and authorizes DEPOSITORY to debit or credit to such account all entries FRANCHISOR initiates.

#### DEPOSITORY

NAME \_\_\_\_\_ BRANCH \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_

CHECKING ACCOUNT NO. \_\_\_\_\_

ROUTING NUMBER \_\_\_\_\_

DEPOSITOR agrees that this authorization will remain in full force and effect until DEPOSITOR has given FRANCHISOR written notice of its revocation in such time and in such manner as to afford FRANCHISOR and DEPOSITORY a reasonable opportunity to act on the notice.

#### DEPOSITOR'S

NAME \_\_\_\_\_ ID NUMBER \_\_\_\_\_

DEPOSITOR'S SIGNATURE \_\_\_\_\_

TITLE OF PERSON SIGNING (if signed in a representative capacity) \_\_\_\_\_

DATE \_\_\_\_\_

NOTE: ALL WRITTEN DEBIT OR CREDIT AUTHORIZATIONS MUST PROVIDE THAT THE DEPOSITOR MAY REVOKE THE AUTHORIZATION ONLY BY NOTIFYING THE DEBIT OR CREDIT ORIGINATOR (FRANCHISOR) IN THE MANNER SPECIFIED IN THE AUTHORIZATION

## EXHIBIT D

### LEASE RIDER

This Lease Rider is executed as of this \_\_\_\_ day of \_\_\_\_\_, 202\_, by and between \_\_\_\_\_ (“Franchisee”) and \_\_\_\_\_, (“Landlord”) as a Rider to the lease (as amended, renewed, and/or extended from time to time, “the Lease”) for the Marina premises located at \_\_\_\_\_, state of \_\_\_\_\_ (the “Marina Site”) dated as of \_\_\_\_\_.

WHEREAS, Franchisee has executed or intends to execute a Nautical Boat Club Franchise Agreement (the “Franchise Agreement”) with Nautical Boat Clubs, LLC, with its principal place of business at 16107 FM 2769, Suite C, Volente, Texas 78641 (“Franchisor”), for the operation of a Nautical Boat Club at the Marina Site, and as a requirement thereof, the lease for the Marina Site must include the provisions contained in this Rider; and

WHEREAS, Landlord and Franchisee agree that the terms contained herein shall supersede any terms to the contrary set forth in the Lease;

NOW THEREFORE, in consideration of mutual covenants set forth herein, the execution and delivery of the Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Franchisee hereby agree as follows:

1. Landlord shall deliver to Franchisor a copy of any notice of default or termination of the Lease at the same time such notice is delivered to Franchisee.
2. Notwithstanding anything to the contrary contained in the Lease, Franchisee shall have the absolute right to sublet, assign or otherwise transfer its interest in the Lease to Franchisor or its affiliate, or to a business entity with which Franchisee or Franchisor may merge or consolidate, without Landlord’s approval, written or otherwise, and without execution of a guarantee of Franchisor’s obligations thereunder.
3. Franchisee shall, if requested by Franchisor, assign to Franchisor, and Landlord hereby irrevocably and unconditionally consents to such assignment, all of Franchisee’s rights, title and interest to and under the Lease upon any termination or if no renewal franchise agreement is executed, but no such assignment shall be effective unless: (a) the Franchise Agreement is terminated or expires without execution of a renewal franchise agreement; and (b) Franchisor notifies the Franchisee and Landlord in writing that Franchisor assumes Franchisee’s obligations under the Lease.
4. Franchisor shall have the right, but not the obligation, upon giving written notice of its election to Franchisee and Landlord, to cure any breach of the Lease and, if so stated in the notice, to also succeed to Franchisee’s rights, title and interests there under.
5. The Lease may not be modified, amended, renewed or extended in any manner or assigned by Franchisee without Franchisor’s prior written consent.
6. Franchisee and Landlord acknowledge and agree that Franchisor shall have no liability or obligation whatsoever under the Lease unless and until Franchisor assumes the Lease in writing pursuant to Sections 2, 3 or 4 above. Franchisor shall assume all of Franchisee’s obligations under the lease from and after the date of assignment, but shall have no obligation to pay any delinquent

rent or to cure any other default under the lease that occurred or existed prior to the date of the assignment.

7. If Franchisor assumes the Lease, as above provided, Franchisor may further assign the Lease to another person or entity to operate Franchisee's Nautical Boat Club at the Marina Site, subject to Landlord's consent which consent shall not be unreasonably withheld, conditioned or delayed. Landlord agrees to execute such further documentation to confirm its consent to the assignments and subleases permitted under this Rider as Franchisor may request.
8. Landlord and Franchisee hereby acknowledge that Franchisee has agreed under the Franchise Agreement that Franchisor and its personnel or agents shall have the right to enter the Marina Site for certain purposes. Landlord hereby agrees not to interfere with or prevent such entry by Franchisor, its personnel or agents. Landlord and Franchisee hereby further acknowledge that in the event the Franchise Agreement expires (without execution of a renewal franchise agreement) or is terminated; Franchisee is obligated to take certain steps under the Franchise Agreement to de-identify the location as Nautical Boat Club. Landlord agrees to permit Franchisor, its personnel or agents, to enter the Marina Site and remove signs, decor and materials displaying any marks, designs or logos owned by Franchisor, provided Franchisor shall bear the expense of repairing any damage to the Marina Site as a result thereof.
9. Copies of any and all notices required or permitted hereby or by the Lease shall also be sent to Franchisor at the address set forth above or such other address as Franchisor shall specify by written notice to Landlord.
10. Under the Franchise Agreement, any lease for the location of Franchisee's Nautical Boat Club is subject to Franchisor's approval. Accordingly, the Lease is contingent upon such approval.

**LANDLORD:**

**FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

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

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

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

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

## EXHIBIT C

### **LIST OF CURRENT FRANCHISEES** **(as of December 31, 2023)**

<b>Florida</b>	
Nautical Boat Club- Naples (Naples, FL)	Justin Wiernasz  475 North Rd Naples, FL 34104 justinw@nauticalboatclub.com
Nautical Boat Club- Key West (Stock Island, FL)	Justin Wiernasz 6000 Peninsular Ave Key West, FL 33040 justinw@nauticalboatclub.com
Nautical Boat Club- Cape Coral (Fort Myers, FL)	Justin Wiernasz 6179 Black Marlin Lane Cape Coral, FL 33914 justinw@nauticalboatclub.com
<b>Georgia</b>	
Nautical Boat Club-Lanier Islands (Atlanta, GA)	Tim Kiser 7650 Lanier Islands Parkway Parkway Buford, GA 30518 timk@nauticalboatclub.com
<b>South Carolina</b>	
Nautical Boat Club-Irmo (Irmo, SC)	Jon Williams Dukes 1602 Marina Rd, Suite B Irmo, SC 29063 jond@nauticalboatclub.com
Nautical Boat Club-Mount Pleasant (Mount Pleasant, SC)	Jon Williams Dukes 133 Nautical Lane, Suite 326 Mt. Pleasant, SC 29466 jond@nauticalboatclub.com
<b>Tennessee</b>	
Nautical Boat Club-Concord (Concord, TN)	Scott Payne 10903 S Northshore Drive Knoxville, TN 37922scott@nauticalboatclub.com
Nautical Boat Club-Hendersonville (Hendersonville, TN)	Tim Kiser 259 Sanders Ferry Rd Hendersonville, TN 37077 timk@nauticalboatclub.com
Nautical Boat Club-Nashville (Nashville, TN)	Tim Kiser 3361 Bell Rd Nashville, TN 37214 timk@nauticalboatclub.com
Nautical Boat Club-Center Hill/Cookeville (Silver Point, TN)	Tim Kiser 2100 Edgar Evins Park Road Silver Point, TN 38582 timk@nauticalboatclub.com
Nautical Boat Club-West Nashville (Nashville, TN)	Tim Kiser 525 Basswood Drive Nashville, TN 37209 timk@nauticalboatclub.com
Nautical Boat Club-Tims Ford/Twin Creeks (Winchester, TN)	Tim Kiser 91 Slip-A Way

	Winchester, TN 37398 timk@nauticalboatclub.com
Nautical Boat Club-Tellico	Scott Payne 1000 Marina Harbor Drive Maryville, TN 37801 scottp@nauticalboatclub.com
<b>Texas</b>	
Nautical Boat Club-Austin Country Club (Austin, TX)	Alex McLaughlin and Jeff Livermore 4408 Long Champ Drive Austin, TX 78746 <a href="mailto:alexm@nauticalboatclub.com">alexm@nauticalboatclub.com</a> jeffl@nauticalboatclub.com
Nautical Boat Club-Westwood Country Club (Austin, TX)	Alex McLaughlin and Jeff Livermore 3808 W. 35th Austin, TX 78703 <a href="mailto:alexm@nauticalboatclub.com">alexm@nauticalboatclub.com</a> jeffl@nauticalboatclub.com
Nautical Boat Club-Grapevine (Grapevine, TX)	Tim Kiser 2500 Oak Grove Loop S Grapevine, TX 76051 timk@nauticalboatclub.com
Nautical Boat Club-Northshore (Jonestown, TX)	Alex McLaughlin and Jeff Livermore 6612 Lantern View Drive Jonestown, TX 78746 <a href="mailto:alexm@nauticalboatclub.com">alexm@nauticalboatclub.com</a> jeffl@nauticalboatclub.com
Nautical Boat Club-Lakeway (Lakeway, TX)	Alex McLaughlin and Jeff Livermore 103 Lakeway Drive, Suite B Lakeway, TX 78734 <a href="mailto:alexm@nauticalboatclub.com">alexm@nauticalboatclub.com</a> jeffl@nauticalboatclub.com
Nautical Boat Club-Little Elm (Little Elm, TX)	Tim Kiser 900 Lobo Lane Little Elm, TX 75068 timk@nauticalboatclub.com
Nautical Boat Club-Montgomery (Montgomery, TX)	Frank VanZanden 15525 Marina Dr, Suite B Houston, TX 77356 frankv@nauticalboatclub.com
Nautical Boat Club-Volente (Volente, TX)	Alex McLaughlin and Jeff Livermore 16107 FM 2769 Unit C Volente, TX 78641 <a href="mailto:alexm@nauticalboatclub.com">alexm@nauticalboatclub.com</a> jeffl@nauticalboatclub.com
Nautical Boat Club- Westlake (Westlake, TX)	Alex McLaughlin and Jeff Livermore 2215 Westlake Drive, Suite 102 Austin, TX 78746 <a href="mailto:alexm@nauticalboatclub.com">alexm@nauticalboatclub.com</a> jeffl@nauticalboatclub.com
Nautical Boat Club- Sapphire Bay (Dallas, TX)	Tim Kiser 9051 Marina Vista Rowlett, TX 75088 timk@nauticalboatclub.com
<b>Wisconsin</b>	
Nautical Boat Club- Prescott (Prescott, WI)	John Bocock 1149 212th Ave New Richmond WI 54017

	johnb@nauticalboatclub.com
#Nautical Boat Club- Green Bay (Green Bay, WI)	Matt Bauer 101 Bay Beach Rd Green Bay, WI 54302 matt.bauer@southbaymarina.com

*# Franchisee signed the Franchise Agreement but the Nautical Boat Club was not open as of December 31, 2022.*

*\*This franchised Nautical Boat Club is contractually a satellite of another Nautical Boat Club in the same city.*

**EXHIBIT D**

**LIST OF FORMER FRANCHISEES**  
**(as of December 31, 2023)**

<b>None</b>	

## **EXHIBIT E**

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NAUTICAL BOAT CLUB  
FRANCHISE OPERATIONS MANUAL

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**EXHIBIT F**  
**FINANCIAL STATEMENTS**

**THESE FINANCIAL STATEMENTS HAVE BEEN PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED AN OPINION WITH REGARD TO THEIR CONTENT OR FORM.**

# NAUTICAL BOAT CLUBS, LLC

## Balance Sheet

As of March 31, 2024

	TOTAL
<b>ASSETS</b>	
Current Assets	
Bank Accounts	
1001 First United Checking 3877	42,864.26
1002 First United MM 5582	1,000.29
1005 1st United Brand Chk 3907	55,456.87
1006 1st United Tech Chk 4103	88,274.16
1009 1st United ICS Chk 1803	821,980.50
1072 Bill.com Money Out Clearing	0.00
<b>Total Bank Accounts</b>	<b>\$1,009,576.08</b>
Accounts Receivable	
1200 Accounts Receivable	206,534.47
<b>Total Accounts Receivable</b>	<b>\$206,534.47</b>
Other Current Assets	
1205 Rebate Receivables	167,647.45
1206 AR Brand Fund Rec	11,425.20
1207 AR BF Tech Rec	5,100.00
1210 AR YE ADJ	-32,589.51
<b>Total Other Current Assets</b>	<b>\$151,583.14</b>
<b>Total Current Assets</b>	<b>\$1,367,693.69</b>
Fixed Assets	
1610 Furniture and Equipment	431.92
1699 Accumulated Depreciation	-688.07
<b>Total Fixed Assets</b>	<b>\$ -256.15</b>
Other Assets	
1690 Software	392.94
1810 Nautical Toys Franchise	315,000.00
1899 Accumulated Amortization	-276,423.29
<b>Total Other Assets</b>	<b>\$38,969.65</b>
<b>TOTAL ASSETS</b>	<b>\$1,406,407.19</b>

	TOTAL
<b>LIABILITIES AND EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 Accounts Payable	5,300.00
<b>Total Accounts Payable</b>	<b>\$5,300.00</b>
Credit Cards	
2112 AMEX Platinum 51009	234.93
2140 DL AMEX CORP	
2141 DL Amex TG 22007	5,728.22
2145 DL Amex BW 22023	0.00
2147 DL Amex KG 21033	0.00
<b>Total 2140 DL AMEX CORP</b>	<b>5,728.22</b>
2160 CHASE CC CORP	
2161 Chase SW Visa TG 3243	25,754.09
2162 Chase SW Visa BW 3275	0.00
2163 Chase SW Visa KG 9936	0.00
2164 Chase SW Visa RG 3150	0.00
2165 Chase SW Visa NM 1120	0.00
<b>Total 2160 CHASE CC CORP</b>	<b>25,754.09</b>
2190 American Express - Gold	0.00
2195 Chase Card Services VISA	0.00
<b>Total Credit Cards</b>	<b>\$31,717.24</b>
Other Current Liabilities	
2350 Accrued Expenses	0.00
2400 Payroll Liabilities	11,172.94
2450 Deferred Revenue - Current	26,240.00
2455 Deferred Revenue	219,374.67
2550 Current Portion LT Debt	0.00
<b>Total Other Current Liabilities</b>	<b>\$256,787.61</b>
<b>Total Current Liabilities</b>	<b>\$293,804.85</b>
Long-Term Liabilities	
2501 Current Portion L-T Debt	0.00
<b>Total Long-Term Liabilities</b>	<b>\$0.00</b>
<b>Total Liabilities</b>	<b>\$293,804.85</b>
Equity	
3000 Opening Balance Equity	0.00
3010 Members' Equity - BOY	1,089,206.86
3101 Shareholder Distributions	-918,654.99
3102 Partner 1 Contributions	802,192.59
3110 Partner 1 Draws	-219,335.39
3114 Partner One Draws - Medical	-482.00
3120 Kemah - Draws	-261,943.98
3800 Retained Earnings	656,705.09
Net Income	-35,085.84
<b>Total Equity</b>	<b>\$1,112,602.34</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$1,406,407.19</b>

# NAUTICAL BOAT CLUBS, LLC

## Profit and Loss January - March, 2024

	TOTAL
Income	
4110 Royalty Fees	273,847.78
4115 Franchise Fees	7,250.01
4120 Rebates	1,702.50
4200 Franchisee Brand Fund	48,869.87
4300 Franchisee Tech Fee Fund	25,200.00
4800 Income - Miscellaneous	2,652.32
<b>Total Income</b>	<b>\$359,522.48</b>
GROSS PROFIT	<b>\$359,522.48</b>
Expenses	
6015 NBC Marketing	
6016 NBC Strategy/Planning	2,500.00
6016.2 NBC Understand/Design	453.84
<b>Total 6016 NBC Strategy/Planning</b>	<b>2,953.84</b>
6019 NBC Advertising	1,800.00
6019.2 NBC Google Ads	1,821.59
<b>Total 6019 NBC Advertising</b>	<b>3,621.59</b>
<b>Total 6015 NBC Marketing</b>	<b>6,575.43</b>
6021 NBC Tech Fee	
6021.2 NBC TF Website	109.01
<b>Total 6021 NBC Tech Fee</b>	<b>109.01</b>
6025 Brand Fund Marketing	23,000.00
6030 BF Advertising	
6030.5 BF Video	4,875.00
<b>Total 6030 BF Advertising</b>	<b>4,875.00</b>
<b>Total 6025 Brand Fund Marketing</b>	<b>27,875.00</b>
6050 Tech Fee	
6051 TF Website (General)	9,172.50
6058 TF Other	10,327.34
<b>Total 6050 Tech Fee</b>	<b>19,499.84</b>
6110 Vehicle Expense	
6111 Fuel	335.64
<b>Total 6110 Vehicle Expense</b>	<b>335.64</b>
6140 Charitable Contributions	300.00
6200 Guaranteed Payments TG	45,000.00
6201 Guaranteed Payments KG	45,000.00
6210 Guaranteed Payments - BW	60,000.00
6230 Marketing	4,975.00
6250 Dues and Subscriptions	6,882.00
6330 Insurance Expense	18,156.88

	TOTAL
6500 Office Expenses (H)	
6130 Bank Fees_Svc Charge	412.45
6490 Office Supplies	2,794.62
6650 Postage	27.18
<b>Total 6500 Office Expenses (H)</b>	<b>3,234.25</b>
6600 Payroll Expenses	
6601 Wages	70,552.18
6604 Payroll Expense - IRA	2,630.38
6605 Payroll Taxes	5,996.84
6608 Health Insurance - Employee	0.00
6610 Payroll Proc Fees	257.75
6640 Contract Labor	10,500.00
6645 Emp Costs - CE_Train_Var	4,264.82
<b>Total 6600 Payroll Expenses</b>	<b>94,201.97</b>
6665 Professional Development	16,050.00
6670 Professional Fees	
6671 Accounting	2,691.00
6672 Legal Fees	15,044.70
6673 Consultant Fees	11,250.00
6675 Technology	6,313.51
6677 IT Maintenance	1,776.00
<b>Total 6670 Professional Fees</b>	<b>37,075.21</b>
6690 Taxes	234.10
6700 Travel (H)	
6710 Meals - Local	21.08
6711 Meals - Travel	3,029.38
6730 Travel - Lodging_Transport_Misc	13,775.47
6750 Conference Expenses	340.79
<b>Total 6700 Travel (H)</b>	<b>17,166.72</b>
<b>Total Expenses</b>	<b>\$402,671.05</b>
NET OPERATING INCOME	<b>\$ -43,148.57</b>
Other Income	
7020 Interest Income	13,312.73
<b>Total Other Income</b>	<b>\$13,312.73</b>
Other Expenses	
8800 Amortization	5,250.00
<b>Total Other Expenses</b>	<b>\$5,250.00</b>
NET OTHER INCOME	<b>\$8,062.73</b>
NET INCOME	<b>\$ -35,085.84</b>

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ERICKSON DEMEL  
— & —  
ASSOCIATES, PLLC  
CERTIFIED PUBLIC ACCOUNTANTS

7800 N. MOPAC, SUITE 105  
AUSTIN, TX 78759



**NAUTICAL BOAT CLUBS, LLC**  
**AUDITED FINANCIAL STATEMENTS**  
**YEARS ENDED DECEMBER 31, 2023, 2022 AND 2021**

**NAUTICAL BOAT CLUBS, LLC**  
**AUDITED FINANCIAL STATEMENTS**  
**YEARS ENDED DECEMBER 31, 2023, 2022 AND 2021**

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**ERICKSON DEMEL  
&  
ASSOCIATES, PLLC**  
CERTIFIED PUBLIC ACCOUNTANTS

7800 N. Mopac, Suite 105  
Austin, TX 78759  
(512) 482-8682 P  
(512) 482-8612 F

To the Members of  
Nautical Boat Clubs, LLC  
Austin, Texas

## **INDEPENDENT AUDITOR'S REPORT**

We have audited the accompanying financial statements of Nautical Boat Clubs, LLC (a Texas Corporation), which comprise the balance sheets as of December 31, 2023 and 2022, and the related statements of income, change in members' equity, and cash flows for the years ended December 31, 2023, 2022, and 2021, 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 Nautical Boat Clubs, LLC as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the years ended December 31, 2023, 2022, and 2021, in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audit 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 Nautical Boat Clubs, LLC 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 Nautical Boat Clubs, LLC'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 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 Nautical Boat Clubs, LLC'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 Nautical Boat Clubs, LLC '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.

*Erickson Dend + Associates, PLLC*

# NAUTICAL BOAT CLUBS, LLC

## BALANCE SHEETS

	December 31,	
	2023	2022
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and Cash Equivalents	\$ 1,316,878	\$ 1,685,412
Accounts Receivable – Trade	239,379	246,665
Accrued Interest Receivable	4,735	–
Total Current Assets	1,560,992	1,932,077
<b>PROPERTY AND EQUIPMENT,</b>		
Less Accumulated Depreciation of \$774 and \$688	50	137
<b>OTHER ASSETS</b>		
Intangible Assets, Net	52,527	64,827
	<u>\$ 1,613,569</u>	<u>\$ 1,997,041</u>

## LIABILITIES AND MEMBERS' EQUITY

<b>CURRENT LIABILITIES</b>		
Accounts Payable and Accrued Liabilities	\$ 63,660	\$ 31,204
Deferred Revenue – Short Term	31,118	26,865
Total Current Liabilities	94,778	58,069
<b>DEFERRED REVENUE, LONG TERM</b>	209,118	192,374
<b>MEMBERS' EQUITY</b>		
Members' Equity	1,309,673	1,746,598
	<u>\$ 1,613,569</u>	<u>\$ 1,997,041</u>

See notes to financial statements

# NAUTICAL BOAT CLUBS, LLC

## STATEMENTS OF INCOME AND CHANGES IN MEMBERS' EQUITY

	Year Ended December 31,		
	2023	2022	2021 (Restated)
<b>REVENUES</b>			
Royalty Fee Income	\$ 1,339,423	\$ 1,243,722	\$ 932,621
Franchise Fee Income	42,128	26,865	18,875
Rebate Income	157,266	196,315	172,980
Miscellaneous Income	15,858	—	—
	<b>1,554,675</b>	<b>1,466,902</b>	<b>1,124,476</b>
<b>OPERATING EXPENSES</b>			
Advertising	158,023	213,886	42,501
Amortization and Depreciation	12,387	12,386	12,386
Bank Fees and Service Charges	1,604	2,176	1,171
Bad Debt Expense	—	21,208	—
Charitable Contributions	2,350	900	1,100
Conference Expenses	—	5,520	22,429
Guaranteed Payments	360,000	300,000	236,000
Insurance Expense	31,694	30,599	1,663
Marketing	67,852	8,340	7,363
Miscellaneous	—	8,579	—
Office Supplies	19,570	8,515	6,166
Office Expense	88,001	16,320	12,008
Payroll	476,835	330,549	182,110
Postage and Delivery	136	582	107
Professional Fees	148,137	120,841	167,120
Recruiting/Referrals	25,767	195	2,336
Telephone	—	383	—
Travel and Entertainment	63,479	95,248	40,442
Vehicle Expense	2,260	2,132	4,232
Total Operating Expenses	<b>1,458,095</b>	<b>1,178,359</b>	<b>739,134</b>
Operating Income	<b>96,580</b>	<b>288,543</b>	<b>385,342</b>
Other Income	<b>50,836</b>	<b>17,195</b>	<b>1,127</b>
Net Income Before Taxes	<b>147,416</b>	<b>305,738</b>	<b>386,469</b>
State Franchise Taxes Benefit (Expense)	<b>280</b>	<b>(5,082)</b>	<b>—</b>
Net Income After Taxes	<b>147,696</b>	<b>300,656</b>	<b>386,469</b>

See notes to financial statements

**NAUTICAL BOAT CLUBS, LLC**

**STATEMENTS OF INCOME AND CHANGES IN MEMBERS' EQUITY –  
CONTINUED**

	Year Ended December 31,		
	2023	2022	2021 (Restated)
<b>BEGINNING MEMBERS' EQUITY</b>	<b>1,746,598</b>	1,089,207	715,195
Member Capital Contributions	<b>18,395</b>	800,000	–
Member Capital Distributions	<b>(603,016)</b>	(443,265)	(12,457)
<b>ENDING MEMBERS' EQUITY</b>	<b><u>\$ 1,309,673</u></b>	<b><u>\$ 1,746,598</u></b>	<b><u>\$ 1,089,207</u></b>

See notes to financial statements

# NAUTICAL BOAT CLUBS, LLC

## STATEMENTS OF CASH FLOWS

	Year Ended December 31,		
	2023	2022	2021 (Restated)
<b>OPERATING ACTIVITIES</b>			
Net Income	\$ 147,696	\$ 300,656	\$ 386,469
Adjustments to Reconcile Net Income to Net Cash Provided by Operating Activities:			
Depreciation and Amortization	12,387	12,386	12,386
Changes in Assets and Liabilities Used in Operating Activities:			
Accounts Receivable – Trade	7,286	(5,014)	(168,086)
Accounts Receivable – Related-Party	–	–	18,356
Accrued Interest Receivable	(4,735)	–	–
Accounts Payable and Accrued Liabilities	32,456	(1,466)	21,150
Deferred Revenue	20,997	64,385	31,125
Net Cash Provided by Operating Activities	<u>216,087</u>	<u>370,947</u>	<u>301,400</u>
<b>FINANCING ACTIVITIES</b>			
Capital Distributions to Members	(603,016)	(443,265)	(12,457)
Capital Contributions by Members	18,395	800,000	–
Net Cash Provided by (Used in) Financing Activities	<u>(584,621)</u>	<u>356,735</u>	<u>(12,457)</u>
Net Change in Cash and Cash Equivalents	(368,534)	727,682	288,943
Cash and Cash Equivalents at Beginning of Year	1,685,412	957,730	668,787
Cash and Cash Equivalents at End of Year	<u>\$ 1,316,878</u>	<u>\$ 1,685,412</u>	<u>\$ 957,730</u>

See notes to financial statements



# NAUTICAL BOAT CLUBS, LLC

## NOTES TO FINANCIAL STATEMENTS

### YEARS ENDED DECEMBER 31, 2023, 2022, AND 2021

#### A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### **Nature of Business**

Nautical Boat Clubs, LLC, a Texas limited liability company (the Company) was organized in June 2012. The Company is engaged in the business of selling boat club franchises. As of December 31, 2023 and 2022, the Company had franchise or license agreements with 22 and 19 locations, respectively, in Austin, Texas; Dallas, Texas; Houston, Texas; Nashville, Tennessee; Knoxville, Tennessee; Columbia, South Carolina; Charleston, South Carolina; Atlanta, Georgia; Prescott, Wisconsin; Naples, Florida; and Key West Florida. All franchises in operation during the years ended December 31, 2023, 2022 and 2021 were franchised outlets. Four new franchise agreements were signed during the year ended December 31, 2023. One franchise was closed during the year ended December 31, 2023. Two new franchise agreements were signed during the year ended December 31, 2022. No franchises were closed during the year ending December 31, 2022. One franchise agreement was signed and no new franchises were opened or closed during the year ended December 31, 2021.

##### **Recently Adopted Accounting Guidance**

###### *Revenue Recognition*

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standard Update (ASU) No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*. The new standard and all subsequently issued clarifying ASUs supersede most existing revenue recognition requirements in U.S. GAAP and requires entities to recognize revenue at an amount that reflects the consideration to which an entity expects to be entitled in exchange for transferring goods and services to a customer. It also requires enhanced disclosure regarding information of an entity's nature, amount and timing, and uncertainty of revenue and cash flows arising from contracts with customers. The Company adopted the standard on January 1, 2021 using the modified retrospective approach. As part of the adoption of the ASU, the Company elected the following transition practical expedients: (i) to reflect the aggregate of all contract modifications that occurred prior to the date of initial application when identifying satisfied and unsatisfied performance obligations, determining the transaction price, and allocating the transaction price; and (ii) to apply the standard only to contracts that are not completed at the initial date of application. Because contract modifications are minimal, there is not a significant impact as a result of electing these practical expedients.

# NAUTICAL BOAT CLUBS, LLC

## NOTES TO FINANCIAL STATEMENTS

### YEARS ENDED DECEMBER 31, 2023, 2022, AND 2021

#### A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – Continued

##### Recently Adopted Accounting Guidance – Continued

###### *Measurement of Credit Losses on Financial Instruments*

In June 2016, the FASB issued ASU 2016-13 Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (ASC 326). This standard replaced the incurred loss methodology with an expected loss methodology that is referred to as the current expected credit loss (“CECL”) methodology. CECL requires an estimate of credit losses for the remaining estimated life of the financial asset using historical experience, current conditions, and reasonable and supportable forecasts and generally applies to financial assets measured at amortized cost, including loan receivables and held-to-maturity debt securities, and some off-balance sheet credit exposures such as unfunded commitments to extend credit. Financial assets measured at amortized cost will be presented at the net amount expected to be collected by using an allowance for credit losses. On January 1, 2023, the Company adopted this new accounting standard and determined there was no cumulative effect to the opening balances of members equity and no significant impact to the operating results for the current period due to the standard update.

##### Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statement.

##### Revenue Recognition

###### Franchise and Related Revenue

The Company grants franchises to boat club operators in exchange for initial franchise license fees and continuing royalty payments. The license granted for each club is considered a performance obligation. All other obligations (such as providing assistance during the opening of a club) are combined with the license and were determined to be a single performance obligation.

## NAUTICAL BOAT CLUBS, LLC

### NOTES TO FINANCIAL STATEMENTS – CONTINUED

#### A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

##### Revenue Recognition – Continued

Under Legacy Revenue GAAP, continuing fees were recognized as the related sales occurred. The timing and amount of revenue recognized related to continuing fees was not impacted by the adoption of Topic 606 based on the application of the sales-based royalty exception within Topic 606. Continuing fees, which are based upon a percentage of franchisee revenues and are not subject to any constraints, are recognized on the accrual basis as those sales occur. The payments for these continuing fees are generally made monthly.

##### Rebate Revenue

As part of the Company's preferred vendor agreements, franchisees purchase products and supplies from designated vendors. The Company may receive various fees and rebates from the vendors and distributors on product purchases by franchisees. The Company does not possess control of the products prior to their transfer to the franchisee and products are delivered to franchisees directly from the vendor or their distributors. The Company recognizes the rebates in the period franchisees purchase products and supplies from vendors.

##### Cash and Cash Equivalents

The Company considers all highly liquid debt instruments purchased with a maturity date of three months or less to be cash equivalents.

##### Accounts Receivable and Allowance for Credit Losses

The Company's trade receivables include royalty amounts to be collected from franchisees and rebate amounts to be collected from preferred vendors. Management periodically evaluates the collectability of accounts receivable and the adequacy of the allowance for credit losses based on historical experience. During the year ended December 31, 2023, all trade receivables were current with no balances over thirty days delinquent. Management believes that no allowance for credit losses is considered necessary.

The Company treats uncollectible account receivables as credit Losses. Methods, inputs and assumptions used to evaluate when receivables are considered uncollectible include consideration of past experience and susceptibility to factors outside the Company's control. While such credit losses have historically been within the Company expectation and the provisions established, there is no assurance the Company will continue to experience the same credit loss rates as in the past. In addition, specific allowances are established for specific customer accounts identified as known collection problems due to insolvency, disputes, or other collection issues.

## **NAUTICAL BOAT CLUBS, LLC**

### **NOTES TO FINANCIAL STATEMENTS – CONTINUED**

#### **A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued**

##### **Property and Equipment**

Property and equipment are stated at cost. At December 31, 2023 and 2022, property and equipment consisted of software and furniture and fixtures. Depreciation is computed using straight-line method over the estimated useful life of the asset. Depreciation expense for the years ended December 31, 2023 and 2022 was \$87 and \$86, respectively.

##### **Intangible Assets**

The Company accounts for the acquisition of boat clubs from franchisees that occur from time to time in accordance with GAAP. Intangible assets are amortized using the straight-line method over their estimated useful lives. The recoverability of intangible assets is periodically reviewed to determine whether adjustments are needed to carrying values. There were no adjustments to the carrying value for the years ended December 31, 2023 and 2022.

##### **Income Taxes**

The Company, a limited liability company organized under the laws of the State of Texas, is taxed as a partnership under the Internal Revenue Code. Federal income taxes are the responsibility of the individual members. The Company is subject to state income taxes.

The Company's U.S. Federal Income tax returns prior to 2020 and State Income tax returns prior to 2019 are closed. Management continually evaluates expiring statutes of limitations, audits, proposed settlements, changes in tax law, and new authoritative rulings.

##### **Deferred Revenue**

Deferred revenue consists of contract liabilities resulting from initial and renewal franchise license fees paid by franchisees, which are generally recognized on a straight-line basis over the term of the underlying franchise agreement.

## **NAUTICAL BOAT CLUBS, LLC**

### **NOTES TO FINANCIAL STATEMENTS – CONTINUED**

#### **A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued**

##### **Concentrations of Credit Risk**

Financial instruments, which potentially subject the Company to credit risk, consist primarily of cash and trade accounts receivable. The Company places its cash with federally insured institutions. Cash held does not exceed FDIC insurance limits. As of December 31, 2023 there were no deposits in excess of coverage. As of December 31, 2022, deposits in excess of coverage were \$1,435,412. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk to cash. Total franchise related receivables were comprised 100% from 22 and 17 franchisees at December 31, 2023 and 2022, respectively. The Company's franchise fee revenues were comprised 100% from 22 franchisees for the year ended December 31, 2023. The Company's franchise fee revenues were comprised 100% from 20 franchisees for the year ended December 31, 2022. The Company's franchise fee revenues were comprised 100% from 17 franchisees for the year ended December 31, 2021.

##### **Fair Value Measurements**

Certain financial instruments are carried at cost on the balance sheets, which approximate fair value due to their short-term, highly liquid nature. These instruments include cash and cash equivalents, accounts receivable, and accounts payable.

##### **Advertising Costs**

Advertising costs are expensed as incurred. Total advertising expenses were approximately \$158,023, \$213,886, and \$42,501 for the years ended December 31, 2023, 2022, 2021, respectively.

#### **B. DEFINED CONTRIBUTION PLAN**

The Company has a defined contribution plan (the Plan) covering all employees receiving more than \$5,000 in compensation. The Company contributes a 3% match of all participants' contributions to the Plan. Total expenses for the years ended December 31, 2023, 2022 and 2021 was \$7,881, \$3,563 and \$2,850, respectively.

# NAUTICAL BOAT CLUBS, LLC

## NOTES TO FINANCIAL STATEMENTS – CONTINUED

### C. INTANGIBLE ASSETS

Intangible assets at December 31, 2023 consisted of the following:

	Gross Amount	Accumulated Amortization	Net Carrying Amount
Intangibles Subject to Amortization:			
Website, Domain Name and Materials	\$ 10,000	\$ 10,000	\$ —
Trademarks	50,000	50,000	—
Software	50,000	50,000	—
Franchise Agreements	190,000	142,473	47,527
	300,000	252,473	47,527
Unamortized Intangibles:			
Copyrights	5,000	—	5,000
	<u>\$ 305,000</u>	<u>\$ 252,473</u>	<u>\$ 52,527</u>

Intangible assets at December 31, 2022 consisted of the following:

	Gross Amount	Accumulated Amortization	Net Carrying Amount
Intangibles Subject to Amortization:			
Website, Domain Name and Materials	\$ 10,000	\$ 10,000	\$ —
Trademarks	50,000	50,000	—
Software	50,000	50,000	—
Franchise Agreements	190,000	130,173	59,827
	300,000	240,173	59,827
Unamortized Intangibles:			
Copyrights	5,000	—	5,000
	<u>\$ 305,000</u>	<u>\$ 240,173</u>	<u>\$ 64,827</u>

Amortization expense for the years ended December 31, 2023, 2022 and 2021 was \$12,300.

Estimated amortization expense for the next four years is as follows:

Year	Amount
2024	\$ 12,300
2025	12,300
2026	12,300
2027	10,627
	<u>\$ 47,527</u>

No intangible assets have been renewed or extended in the years ended December 31, 2023 and 2022.

# NAUTICAL BOAT CLUBS, LLC

## NOTES TO FINANCIAL STATEMENTS – CONTINUED

### D. RELATED PARTY TRANSACTIONS

During the year ended December 31, 2021, members of the Company owned five of the franchises. On December 31, 2021, these five locations were sold to non-members, therefore, are no longer considered related parties. As of December 31, 2021, the Company was owed \$20,777 in royalty fees from these franchises. For the year ended December 31, 2021, royalty fee income from the franchises owned by the members totaled \$279,400.

### E. REVENUE RECOGNITION

#### Contract Balances

Contract balances include accounts receivable and contract liabilities. Accounts receivable represent royalty payments and vendor rebate payments. Contract liabilities are comprised of unamortized upfront fees received from franchisees.

Accounts receivables and contract liabilities were as follows for the year ended December 31:

	2023	2022
Accounts Receivable – Royalty Fees	\$ 89,540	\$ 79,017
Accounts Receivable – Rebates	149,839	167,648
Total Accounts Receivable	\$ 239,379	\$ 246,665
Contract Liabilities	\$ 240,236	\$ 219,239

#### Disaggregation of Revenue from Contracts with Customers

The following table disaggregates the Company's revenue based on the timing of satisfaction of performance obligations for the years ended December 31:

	2023	2022	2021 (Restated)
Satisfied Over Time	\$ 42,128	\$ 26,865	\$ 18,875
Satisfied at Point in Time	1,512,547	1,440,037	1,105,601
Total Revenue	\$ 1,554,675	\$ 1,466,902	\$ 1,124,476

# NAUTICAL BOAT CLUBS, LLC

## NOTES TO FINANCIAL STATEMENTS – CONTINUED

### F. RESTATEMENT

The Company has restated its previously issued financial statements to adjust the amount of royalty and rebate income received. The effect of the corrections resulted in an increase in rebate income and accounts receivable during the year ended December 31, 2021.

The financial statements for the year ended December 31, 2021 have been adjusted as follows:

	As Originally Reported	Restatement Adjustment	As Adjusted
<i>Balance Sheet</i>			
Accounts Receivable – Trade	71,065	170,586	241,651
Total Current Assets	1,028,795	170,586	1,199,381
Total Assets	1,106,145	170,586	1,276,731
Members' Equity	1,106,145	170,586	1,276,731
<i>Statement of Income and Changes in Members' Equity</i>			
Rebate Income	2,394	170,586	172,980
Total Revenues	953,890	170,586	1,124,476
Operating Income	214,756	170,586	385,342
Net Income	215,883	170,586	386,469
Ending Members' Equity	918,621	170,586	1,089,207
<i>Statement of Cash Flows</i>			
Net Income	215,883	170,586	386,469
Changes in Assets and Liabilities Used in Operating Activities:			
Accounts Receivable – Trade	2,500	170,586	(168,068)

### G. SUBSEQUENT EVENTS

On January 25, 2024 a new franchise agreement was entered into for a location in Green Bay, Wisconsin. The expected opening date is mid-2024. The signed agreement contains an initial franchise fee of \$55,000 and a royalty fee of 6%.

On February 7, 2024, Boating Country Club Holdings, LLC was formed to become the Parent Company of Nautical Boat Clubs, LLC.



## **NAUTICAL BOAT CLUBS, LLC**

### **NOTES TO FINANCIAL STATEMENTS – CONTINUED**

#### **G. SUBSEQUENT EVENTS – Continued**

On March 27, 2024, a new franchise agreement was entered into for a location in Kemah, Texas. The expected opening date is mid-to-late 2024. The signed agreement contains an initial franchise fee of \$55,000 and a royalty fee of 6%.

The Company has evaluated subsequent events through April 24, 2024, which is the date which the financial statements were available to be issued.

## **EXHIBIT G**

### **FORM OF GENERAL RELEASE**

## GENERAL RELEASE

This General Release (“General Release”) is entered into effective as of \_\_\_\_\_, 20\_\_\_\_, (“Effective Date”) between Nautical Boat Clubs, LLC, a Texas limited liability company with its principal place of business at 2215 Westlake Drive, Suite 102, Austin, TX 78746 (“Franchisor”) and [Insert Name of Franchisee] (“Franchisee”), with its principal place of business at \_\_\_\_\_ and [Insert Name (or Names) of Owner] (“Franchisee’s Owner”). Defined terms not otherwise defined herein will have the meaning in the Development Agreement and/or Franchise Agreements in effect between Franchisor and Franchisee and their respective affiliates at any time up to and including the date of this General Release (collectively, the “Agreements”).

1. Recitals: Franchisee and Owner wish to [exercise a right granted to it by Nautical Boat Clubs, LLC (“Nautical Boat Clubs”) in its current franchise agreement to renew its franchise for an additional term] OR [exercise a right granted to it by Nautical Boat Clubs, LLC (“Nautical Boat Clubs”) in its current franchise agreement to transfer its franchise to a third party]; and a pre-condition to the exercise of such right is the execution of this General Release.

2. Release of Franchisor and Related Parties. Franchisee and Franchisee’s Owners, for themselves and on behalf of their current and former officers, directors, shareholders, partners, members, managers, affiliates, agents, attorneys, representatives, predecessors, successors and assigns (collectively, the “Franchisee Releasing Parties”), absolutely and unconditionally waive, release and forever discharge Franchisor, and Franchisor’s current and former officers, directors, shareholders, partners, members, managers, affiliates, parent company, agents, attorneys, representatives, predecessors, successors and assigns (collectively, the “Franchisor Released Parties”), from all claims, demands, obligations, liabilities, actions, and causes of actions whatsoever, in law or equity, that any Franchisee Releasing Party has, ever had or may in the future have arising under or related to the Franchise, the Agreements, the Nautical Boat Clubs or any other related or unrelated agreements, matters, dealings or relationships between the Franchisor Released Parties and the Franchisee Releasing Parties, whether known or unknown, that occurred on or before the Effective Date. Franchisee and Franchisee’s Owner agree and stipulate that it is their intent for this General Release to be construed by any court or arbitrator as broad as the law will allow.

3. Covenant Not to Sue. The Franchisee Releasing Parties agree not to commence any proceeding of any nature against the Franchisor Released Parties based on any claim, demand, agreement, obligation, liability or cause of action whatsoever, in law or equity, that has been released pursuant to Section 2 above. The Franchisee Releasing Parties represent and warrant that they have not assigned to anyone any claim related to the claims described in Section 2 that may now or subsequently be asserted against the Franchisor Released Parties.

4. Independent Counsel/Voluntary Action. Franchisee and Franchisee’s Owners represent and warrant to Franchisor that each of them has consulted with independent legal counsel and other professional advisors of their choice with respect to this Release and has concluded on its or his own behalf that the provision of this General Release serves its or his own best interests. Franchisee and Franchisee’s Owners confirm that it or he or she voluntarily entered into this Release of its or his or her own free will and without undue pressure from any source or reliance on any representation or statement of any kind that is not set forth or expressly referred to in this Release.

5. Counterparts. This General Release may be executed in multiple counterparts, all of which will together be deemed to constitute one final agreement, and each such counterpart will be deemed to be an original, binding the party who subscribed it. A signature transmitted by fax will be deemed an original signature that is effective and binding for all purposes.

6. Severability. The provisions of this General Release are severable, and, If any of them is held void an unenforceable as a matter of law, the remainder will continue in full force and effect.

7. Governing Law; Jurisdiction and Venue. This General Release will be governed by and interpreted and enforced in accordance with the laws of the State of Texas, disregarding its conflicts of laws principles. The parties mutually agree that jurisdiction and venue to adjudicate any dispute that arises under or with respect to this Release will lie exclusively with and in the state and federal courts sitting in Travis County, Texas; provided that to the extent the underlying dispute includes matters relating to the Agreements, the dispute will be subject to arbitration in accordance with the terms and conditions of the Agreements and the exclusive venue for any such arbitration will be in Travis County, Texas to the exclusion of all other locations.

8. Maryland and Washington. Notwithstanding anything to the contrary herein, this General Release does not apply with respect to claims arising under the Maryland Franchise Registration and Disclosure Law or the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

EXECUTED AND DELIVERED as of the Effective Date.

**FRANCHISEE**

[Insert Name of Franchisee],  
a \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISEE'S PRINCIPAL OWNERS**

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

**ACKNOWLEDGED AND ACCEPTED BY FRANCHISOR:**

Nautical Boat Clubs, LLC,  
a Texas limited liability company

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

## **EXHIBIT H**

### **STATE ADDENDA TO THE FRANCHISE DISCLOSURE DOCUMENT**

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**Required NASAA Statement.** The following only applies in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin

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.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF 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.**

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.

1. Item 3 is amended to reflect that:

Neither we nor any person or broker identified in Item 2 of the Franchise Disclosure Document is subject to any current effective order of any national securities association or national securities exchange as defined in the Securities Exchange Act of 1934, U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

2. Item 6 is amended to reflect that the maximum interest rate allowed in California is 10%.

3. Item 17 is amended by the addition of the following statements:

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer or nonrenewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

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.).

The California Corporations Code, Section 31125, requires that we give you a disclosure document, approved by the Department of Corporations, before we solicit a proposed material modification of an existing franchise.

The Franchise Agreement contains a liquidated damages clause, under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

The Franchise Agreement requires the application of the laws and forum of Delaware. This provision may be unenforceable under California Law.

The Franchise Agreement requires you to sign a general release of claims if you renew or transfer your franchise. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive compliance with any provision of that law or any rule or order is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). California 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).

4. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT AT LEAST 14 DAYS PRIOR TO EXECUTION OF AGREEMENT.

5. OUR WEB SITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEB SITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [www.dpfi.ca.gov](http://www.dpfi.ca.gov).
6. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a Franchise Agreement restricting venue to a forum outside the State of California.
7. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.



**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
DISCLOSURE DOCUMENT  
FOR THE STATE OF ILLINOIS**

The State Cover Page and Item 17 of this disclosure document are amended by adding the following:

1. Any provision in the Franchise Agreement that designates jurisdiction or venue in a forum outside Illinois is void with respect to any action which is otherwise enforceable in Illinois, except that the Franchise Agreement may provide for arbitration outside Illinois. In addition, Illinois law will govern the Franchise Agreement.
2. Illinois Franchise Disclosure Act paragraphs 705/19 and 705/20 provide rights to you concerning non-renewal and termination of the Franchise Agreement. If the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
3. Any release of claims or acknowledgments of fact contained in the Franchise Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act will be void and are deleted with respect to claims under the Act.
4. Section 41 of the Illinois Franchise 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 is void.” To the extent that any provision in the Franchise Agreement is inconsistent with Illinois law, Illinois law will control.
5. 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.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
DISCLOSURE DOCUMENT  
FOR THE STATE OF MARYLAND**

1. Items 5 of this disclosure document is amended by adding the following:

Pursuant to COMAR 02.02.08.16L, the general release required as a condition of sale shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Item 17, under the Summary column of parts (c) and (m), is amended to include the following paragraph:

A general release required as a condition of renewal, sale and/or assignment/transfer will not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

3. Item 17, under the Summary column of part (h), is amended to include the following sentence:

A provision in the Franchise Agreement that provides for termination on your bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

4. Item 17, under the Summary column of part (v), is modified to include the words “A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.”

5. Item 17 is amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

6. 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.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE 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:**

**(A) A PROHIBITION ON THE RIGHT OF A FRANCHISEE TO JOIN AN ASSOCIATION OF FRANCHISEES.**

**(B) A REQUIREMENT THAT A FRANCHISEE ASSENT TO A RELEASE, ASSIGNMENT, NOVATION, WAIVER, OR ESTOPPEL WHICH DEPRIVES 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 TERM EXCEPT FOR GOOD CAUSE. GOOD CAUSE SHALL INCLUDE THE FAILURE OF THE FRANCHISEE TO COMPLY WITH ANY LAWFUL PROVISION OF THE FRANCHISE AGREEMENT AND TO CURE SUCH FAILURE AFTER BEING GIVEN WRITTEN NOTICE THEREOF AND A REASONABLE OPPORTUNITY, WHICH IN NO EVENT NEED BE MORE THAN 30 DAYS, TO CURE SUCH FAILURE.**

**(D) A PROVISION THAT PERMITS A FRANCHISOR TO REFUSE TO RENEW A FRANCHISE WITHOUT FAIRLY COMPENSATING THE FRANCHISEE BY REPURCHASE OR OTHER MEANS FOR THE FAIR MARKET VALUE AT THE TIME OF EXPIRATION, OF THE FRANCHISEE'S INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES, AND FURNISHINGS. PERSONALIZED MATERIALS WHICH HAVE NO VALUE TO THE FRANCHISOR AND INVENTORY, SUPPLIES, EQUIPMENT, FIXTURES, AND FURNISHINGS NOT REASONABLY REQUIRED IN THE CONDUCT OF THE FRANCHISE BUSINESS ARE NOT SUBJECT TO COMPENSATION. THIS SUBSECTION APPLIES ONLY IF: (i) THE TERM OF THE FRANCHISE IS LESS THAN 5 YEARS; AND (ii) THE FRANCHISEE IS PROHIBITED BY THE FRANCHISE OR OTHER AGREEMENT FROM CONTINUING TO CONDUCT SUBSTANTIALLY THE SAME BUSINESS UNDER ANOTHER TRADEMARK, SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING, OR OTHER COMMERCIAL SYMBOL IN THE SAME AREA SUBSEQUENT TO THE EXPIRATION OF THE FRANCHISE OR THE FRANCHISEE DOES NOT RECEIVE AT LEAST 6 MONTHS ADVANCE NOTICE OF FRANCHISOR'S INTENT NOT TO RENEW THE FRANCHISE.**

**(E) A PROVISION THAT PERMITS THE FRANCHISOR TO REFUSE TO RENEW A FRANCHISE ON TERMS GENERALLY AVAILABLE TO OTHER FRANCHISEES OF THE SAME CLASS OR TYPE UNDER SIMILAR CIRCUMSTANCES. THIS SECTION DOES NOT REQUIRE A RENEWAL PROVISION.**

**(F) A PROVISION REQUIRING THAT ARBITRATION OR LITIGATION BE CONDUCTED OUTSIDE THIS STATE. THIS SHALL NOT PRECLUDE THE FRANCHISEE FROM ENTERING INTO AN AGREEMENT, AT THE TIME OF ARBITRATION, TO CONDUCT ARBITRATION AT A LOCATION OUTSIDE THIS STATE.**

**(G) A PROVISION WHICH PERMITS A FRANCHISOR TO REFUSE TO PERMIT A TRANSFER 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 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.**

As to any state law described in this Addendum that declares void or unenforceable any provision contained in the Franchise Agreement, Franchisor reserves the right to challenge the enforceability of the state law by, among other things, bringing an appropriate legal action or by raising the claim in a legal action or arbitration that you have initiated.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF MINNESOTA**

1. Items 5 and 7 of this disclosure document are amended by adding the following:

All initial fees and payments due to us before you open your first Nautical Boat Club for business are deferred until we complete our pre-opening obligations to you and you open your first Nautical Boat Club for business.

2. The following is added to Item 17 of the disclosure document:

Under Minnesota law and except in certain specified cases, we must give you 90 days' notice of termination with 60 days to cure. We also must give you at least 180 days' notice of its intention not to renew a franchise, and sufficient opportunity to recover the fair market value of the franchise as a going concern. To the extent that the Agreement is inconsistent with the Minnesota law, the Minnesota law will control.

To the extent that any condition, stipulation or provision contained in the Agreement (including any choice of law provision) purports to bind any person who, at the time of acquiring a franchise is a resident of Minnesota, or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance with the Minnesota Franchises law, such condition, stipulation or provision may be void and unenforceable under the nonwaiver provision of the Minnesota Franchises Law.

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the disclosure document or 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 the jurisdiction. Specifically, we cannot require you to consent to us obtaining injunctive relief, however, we may seek such relief through the court system.

Minn. Rule 2860.4400J prohibits us from requiring you to assent to a general release. To the extent that the Agreement requires you to sign a general release as a condition of renewal or transfer, the Agreement will be considered amended to the extent necessary to comply with Minnesota law.

3. 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.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
DISCLOSURE DOCUMENT  
FOR THE STATE OF NEW YORK**

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR RESOURCES OR INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS THAT ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is to be added at the end of Item 3:

Except as provided above, the following applies to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal, or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions other than routine litigation incidental to the business that is 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 ten years 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.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten years immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation, or trade practice law resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled “Requirements for a franchisee to renew or 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; this proviso intends that the nonwaiver 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 a 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 earliest of the first personal meeting, ten (10) business days before the execution of the franchise or other agreement, or the payment of any consideration that relates to the franchise relationship.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
DISCLOSURE DOCUMENT  
FOR THE STATE OF NORTH DAKOTA**

1. Item 5 of this disclosure document is amended by adding the following:

All initial fees and payments due to us before you open your first Nautical Boat Club for business are deferred until we complete our pre-opening obligations to you and you open your first Nautical Boat Club for business.

2. Items 6 and 17(i) of this disclosure document are amended to reflect that all liquidated damages provisions in the Development Agreement and Franchise Agreement are deleted in their entirety.

3. Item 17(v) of this disclosure document is amended to reflect that the jury trial waiver provisions in the Development Agreement and Franchise Agreement are deleted in their entirety.



**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF RHODE ISLAND**

The following language will apply to disclosure documents issued in Rhode Island and be attached by addendum to Agreements issued in the state of Rhode Island:

If any of the provisions of this disclosure document (Risk Factor 1., Cover Page, and Item 17w) are inconsistent with §19-28.1-14 of the Rhode Island Franchise Investment Act, which states that a provision in an Agreement restricting jurisdiction or venue to a forum outside Rhode Island or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act, then said Rhode Island law will apply.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF SOUTH DAKOTA**

1. Item 5 of this disclosure document is amended by adding the following:

All initial fees and payments due to us before you open your first Nautical Boat Club for business are deferred until we complete our pre-opening obligations to you and you open your first Nautical Boat Club for business.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF VIRGINIA**

1. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, Item 17 of the Franchise disclosure document for use in the Commonwealth of Virginia is amended as follows:

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 ground 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.

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 involves the use of undue influence by the franchisor to induce a franchisee to surrender any rights given to him under the franchise, that provision may not be enforceable.

Any securities offered or sold by the franchisee as part of the Nautical Boat Club, LLC franchise must either be registered or exempt from registration under Section 13.1-514 of the Virginia Securities Act.

**ADDENDUM TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF WASHINGTON**

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
2. 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.
3. 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.
4. A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.
5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
6. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
7. 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.
8. In lieu of an impound of franchise fees, under the Franchise Agreement, the Franchisor will not require or accept the payment of any initial franchise fees or other pre-opening amounts until the franchisee has (a) received all pre-opening and initial training obligations that it is entitled to under the franchise agreement or offering circular, and (b) is open for business.
9. The following risk factor is added to the Franchise Disclosure Document:

**Use of Franchise Brokers.** The franchisor may use the services of franchise brokers to assist it in selling franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to

the franchisor and/or selling the franchise. Do not rely only on the information provided by a franchise broker about a franchise. Do your own investigation by contacting the franchisor's current and former franchisees to ask them about their experience with the franchisor.

10. 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.

**EXHIBIT I**

**STATE ADDENDA TO THE FRANCHISE AGREEMENT**

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF CALIFORNIA**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**CALIFORNIA LAW MODIFICATIONS**

1. The California Department of Financial Protection and Oversight requires that certain provisions contained in franchise documents be amended to be consistent with California law, including the California Franchise Investment Law, CAL. CORPORATIONS CODE Section 31000 et seq., and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 et seq. To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. California Business and Professions Code Sections 20000 through 20043 provide rights to You concerning nonrenewal and termination of the Franchise Agreement. The Federal Bankruptcy Code also provides rights to You concerning termination of the Franchise Agreement upon certain bankruptcy-related events. To the extent the Franchise Agreement contains a provision that is inconsistent with these laws, these laws shall control.
- b. If Franchisee is required in the Franchise Agreement to execute a release of claims, such release shall exclude claims arising under the California Franchise Investment Law and the California Franchise Relations Act.
- c. If the Franchise Agreement requires payment of liquidated damages that is inconsistent with California Civil Code Section 1671, the liquidated damage clause may be unenforceable.
- d. If the Franchise Agreement contains a covenant not to compete which extends beyond the expiration or termination of the Franchise Agreement, the covenant may be unenforceable under California law.
- e. If the Franchise Agreement requires litigation, arbitration or mediation to be conducted in a forum other than the State of California, the requirement may be unenforceable under California law.
- f. If the Franchise Agreement requires that it be governed by a state’s law, other than the State of California, such requirement may be unenforceable.
- g. Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.

2. As to any state law described in this Amendment that declares void or unenforceable any provision contained in the Franchise Agreement, Franchisor reserves the right to challenge the enforceability of the state law by, among other things, bringing an appropriate legal action or by raising the claim in a legal action or arbitration that you have initiated.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**FRANCHISEE**

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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



**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF ILLINOIS**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) will be amended by the addition of the following language, which will be considered an integral part of the Franchise Agreement (the “Amendment”):

**ILLINOIS LAW MODIFICATIONS**

1. The Illinois Attorney General’s Office requires that certain provisions contained in franchise documents be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, Ill. Rev. Stat. ch. 815 para. 705/1 - 705/44 (1994) (the “Act”). To the extent that this Agreement contains provisions that are inconsistent with the following, those provisions are amended as follows:

- a. Sections 705/19 and 705/20 of the Act provide rights to franchisees concerning nonrenewal and termination of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. Any release of claims or acknowledgments of fact contained in the Franchise Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, are unenforceable with respect to claims under the Act.
- c. Any provision that designates jurisdiction or venue or requires Franchisee to agree to jurisdiction or venue in a forum outside of Illinois is void with respect to any cause of action which is otherwise enforceable in Illinois, except arbitration may take place outside the state of Illinois.
- d. If this Agreement requires that it be governed by a state’s law, other than the State of Illinois, to the extent that such law conflicts with Illinois law, Illinois law will control.
- e. To the extent that the Act prohibits the disclaimer of representations contained in Franchisor’s Franchise Disclosure Document, the Franchise Agreement is amended to include representations made in Franchisor’s Franchise Disclosure Document to the extent required by law.
- f. Section 41 of the 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 is void.” To the extent that any provision in this Agreement is inconsistent with Illinois law, Illinois law will control.
- g. Illinois Franchise Disclosure Act paragraph 705/27 provide rights to you concerning periods of limitation for bring claims under this Agreement. If this Agreement contains a provision that is inconsistent with the Act, but the Act shall control.

2. Each provision of this Amendment will be effective only to the extent that the jurisdictional requirements of Illinois law applicable to the provisions are met independent of this Amendment. This Amendment will have no force or effect if such jurisdictional requirements are not met.

**IN WITNESS WHEREOF**, the parties have signed this Agreement. On execution and delivery of this Agreement by both parties, the effective date will be the date first above written.

**FRANCHISOR**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

**FRANCHISEE**

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

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF MARYLAND**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**MARYLAND LAW MODIFICATIONS**

1. A franchisee to bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

2. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

3. 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.

4. 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.

5. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**FRANCHISEE**

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF MINNESOTA**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**MINNESOTA LAW MODIFICATIONS**

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in franchise documents be amended to be consistent with Minnesota Franchise Act, Minn. Stat. Section 80.01 et seq., and of the Rules and Regulations promulgated under the Act (collectively the “Franchise Act”). To the extent that the Franchise Agreement and Franchise Disclosure Document contain provisions that are inconsistent with the following, such provisions are hereby amended:

a. The Minnesota Department of Commerce requires that Franchisor indemnify Minnesota Franchisees against liability to third parties resulting from claims by third parties that Franchisee’s use of the Proprietary Marks infringes trademark rights of the third party. Franchisor does not indemnify against the consequences of Franchisee’s use of the Proprietary Marks except in accordance with the requirements of the Franchise Agreement, and, as a condition to indemnification, Franchisee must provide notice to Franchisor of any such claim within 10 days after the earlier of (i) actual notice of the claim or (ii) receipt of written notice of the claim, and must therein tender the defense of the claim to Franchisor. If Franchisor accepts the tender of defense, Franchisor has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim. If the Franchise Agreement and/or the Franchise Disclosure Document contains a provision that is inconsistent with the Franchise Act, the provisions of the Franchise Agreement shall be superseded by the Act’s requirements and shall have no force or effect.

b. Franchise Act, Sec. 80C.14, Subd. 4., requires, except in certain specified cases, that Franchisee be given written notice of a Franchisor’s intention not to renew 180 days prior to expiration of the franchise and that Franchisee be given sufficient opportunity to operate the franchise in order to enable Franchisee the opportunity to recover the fair market value of the franchise as a going concern. If the Franchise Agreement and/or the Franchise Disclosure Document contains a provision that is inconsistent with the Franchise Act, the provisions of the Franchise Agreement shall be superseded by the Act’s requirements and shall have no force or effect.

c. Franchise Act, Sec. 80C.14, Subd. 3., requires, except in certain specified cases, that Franchisee be given 90 days’ notice of termination (with 60 days to cure). If the Franchise Agreement and/or the Franchise Disclosure Document contains a provision that is inconsistent with the Franchise Act, the provisions of the Franchise Agreement shall be superseded by the Act’s requirements and shall have no force or effect.

d. If the Franchise Agreement and/or the Franchise Disclosure Document requires Franchisee to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Franchise Act, such release shall exclude claims arising under the Franchise Act, and such acknowledgments shall be void with respect to claims under the Act.

e. If the Franchise Agreement and/or the Franchise Disclosure Document requires that it be governed by a state’s law, other than the State of Minnesota, those provisions shall not in any way

abrogate or reduce any rights of Franchisee as provided for in the Franchise Act, including the right to submit matters to the jurisdiction of the courts of Minnesota.

f. If the Franchise Agreement and/or the Franchise Disclosure Document requires Franchisee to sue Franchisor outside the State of Minnesota, those provisions shall not in any way abrogate or reduce any rights of Franchisee as provided for in the Franchise Act, including the right to submit matters to the jurisdiction of the courts of Minnesota.

g. Minn. Rule 2860.4400J. prohibits Franchisor from requiring You to consent to liquidated damages and prohibits waiver of a jury trial. If the Franchise Agreement and/or the Franchise Disclosure Document contains a provision that is inconsistent with the Minn. Rule, the provisions of the Franchise Agreement and/or the Franchise Disclosure Document shall be superseded by the Minn. Rule's requirements and shall have no force or effect.

2. The Summary Pages and Section VIII.A. of the Agreement are revised to state that the Minnesota Department of Commerce requires Franchisor to defer payment of the initial franchise fee and other initial payments owed by Franchisee to Franchisor until Franchisor completes its pre-opening obligations to Franchisee under the Agreement.

3. Each provision of this Agreement and/or the Franchise Disclosure Document shall be effective only to the extent that the jurisdictional requirements of the Minnesota law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

4. As to any state law described in this Amendment that declares void or unenforceable any provision contained in the Franchise Agreement, Franchisor reserves the right to challenge the enforceability of the state law by, among other things, bringing an appropriate legal action or by raising the claim in a legal action or arbitration that you have initiated.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**FRANCHISEE**

**Nautical Boat Clubs, LLC,**  
**a Texas limited liability company**

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF NEW YORK**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**NEW YORK LAW MODIFICATIONS**

1. The New York Department of Law requires that certain provisions contained in franchise documents be amended to be consistent with New York law, including the General Business Law, Article 33, Sections 680 through 695 (1989). To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If Franchisee is required in the Franchise Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the General Business Law, regulation, rule or order under the Law, such release shall exclude claims arising under the New York General Business Law, Article 33, Section 680 through 695 and the regulations promulgated thereunder, and such acknowledgments shall be void. It is the intent of this provision that non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.
- b. If the Franchise Agreement requires that it be governed by a state's law, other than the State of New York, the choice of law provision shall not be considered to waive any rights conferred upon Franchisee under the New York General Business Law, Article 33, Sections 680 through 695.
- c. Notwithstanding any rights you may have in the Franchise Agreement permitting You to terminate the Franchise Agreement, You may also have additional rights to terminate the Franchise Agreement on any grounds available by law.
- d. With respect to any transfer or assignment by Franchisor, no assignment will be made except to an assignee who, in good faith and judgment of Franchisor, is willing and financially able to assume Franchisor’s obligations under the Franchise Agreement.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the New York General Business Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

**FRANCHISEE**

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

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF NORTH DAKOTA**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**NORTH DAKOTA LAW MODIFICATIONS**

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 through 51-19-17 (1993). To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If Franchisee is required in the Franchise Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate North Dakota Law, or a rule or order under North Dakota Law, such release shall exclude claims arising under North Dakota Law, and such acknowledgments shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term of and upon termination or expiration of the Franchise Agreement are enforceable only under certain conditions according to North Dakota Law. If the Franchise Agreement contains a covenant not to compete which is inconsistent with North Dakota Law, the covenant may be unenforceable.
- c. If the Franchise Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void with respect to claims under North Dakota Law.
- d. If the Franchise Agreement requires that it be governed by a state's law, other than the State of North Dakota, to the extent that such law conflicts with North Dakota Law, North Dakota Law shall control.
- e. If the Franchise Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under North Dakota Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon prior to the arbitration or if the parties cannot agree on a location, the location shall be determined by the arbitrator.
- f. Section XIII.F. of the Franchise Agreement entitled “Damages Waiver” is deleted in its entirety.
- g. Section XIII.H. of the Franchise Agreement entitled “Jury Trial Waiver” is deleted in its entirety.



2. The Summary Pages and Section VIII.A. of the Agreement are revised to state that the North Dakota Securities Department requires Franchisor to defer payment of the initial franchise fee and other initial payments owed by Franchisee to Franchisor until Franchisor completes its pre-opening obligations to Franchisee under the Agreement.

3. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of North Dakota Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

4. As to any state law described in this Amendment that declares void or unenforceable any provision contained in the Franchise Agreement, Franchisor reserves the right to challenge the enforceability of the state law by, among other things, bringing an appropriate legal action or by raising the claim in a legal action or arbitration that you have initiated.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**FRANCHISEE**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF RHODE ISLAND**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**RHODE ISLAND LAW MODIFICATIONS**

1. The Rhode Island Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R.I. Gen. Law. ch. 395 Sec. 19-28.1-1 -19-28.1-34. To the extent that this Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If this Agreement requires litigation to be conducted in a forum other than the State of Rhode Island, the requirement is void under Rhode Island Franchise Investment Act Sec. 19-28.1-14.
- b. If this Agreement requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that such law conflicts with Rhode Island Franchise Investment Act it is void under Sec. 19-28.1-14.
- c. If Franchisee is required in this Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, such release shall exclude claims arising under the Rhode Island Franchise Investment Act, and such acknowledgments shall be void with respect to claims under the Act.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

3. As to any state law described in this Amendment that declares void or unenforceable any provision contained in the Franchise Agreement, Franchisor reserves the right to challenge the enforceability of the state law by, among other things, bringing an appropriate legal action or by raising the claim in a legal action or arbitration that you have initiated.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

**FRANCHISEE**

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

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF SOUTH DAKOTA**

The Nautical Boat Clubs, LLC, Inc. Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “Amendment”):

**SOUTH DAKOTA LAW MODIFICATIONS**

1. The South Dakota Division of Insurance Securities Regulation has required that certain provisions contained in franchise documents be amended to be consistent with South Dakota law. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Summary Pages and Section VIII.A. of the Agreement are revised to state that the South Dakota Division of Securities requires Franchisor to defer payment of the initial franchise fee and other initial payments owed by Franchisee to Franchisor until Franchisor completes its pre-opening obligations to Franchisee under the Agreement.

IN WITNESS WHEREOF, Franchisee acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, \_\_\_\_\_.

**FRANCHISOR**

**Nautical Boat Clubs, LLC,  
a Texas limited liability company**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**FRANCHISEE**

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**AMENDMENT TO NAUTICAL BOAT CLUBS, LLC  
FRANCHISE AGREEMENT  
FOR THE STATE OF WASHINGTON**

The Nautical Boat Clubs, LLC Franchise Agreement between \_\_\_\_\_ (“Franchisee” or “You”) and Nautical Boat Clubs, LLC (“Franchisor”) dated \_\_\_\_\_ (the “Franchise Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Franchise Agreement (the “Amendment”):

**WASHINGTON LAW MODIFICATIONS**

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

2. 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.

3. 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.

4. A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

5. Transfer fees are collectable to the extent that they reflect the franchisor’s reasonable estimated or actual costs in effecting a transfer.

6. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee’s earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor’s earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

7. 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.

8. In lieu of an impound of franchise fees, the Franchisor will not require or accept the payment of any initial franchise fees or other pre-opening amounts until the franchisee has (a) received all pre-opening and initial training obligations that it is entitled to under the franchise agreement or offering circular, and

(b) is open for business.

9. Notwithstanding anything to the contrary in the Franchise Agreement, Franchisor will limit the securities offering fee to the Franchisor's reasonable costs and expenses in reviewing the Franchisee's security offering.

10. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Washington law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement. Upon execution and delivery of this Agreement by both parties the effective date shall be the date first above written.

**FRANCHISOR**

**FRANCHISEE**

**Nautical Boat Clubs, LLC,**  
**a Texas limited liability company**

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

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

### **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	Not Applicable
Hawaii	Not Applicable
Illinois	Pending
Indiana	Not Applicable
Maryland	Pending
Michigan	Not Applicable
Minnesota	Not Applicable
New York	Pending
North Dakota	Not Applicable
Rhode Island	Not Applicable
South Dakota	Not Applicable
Virginia	Pending
Washington	Not Applicable
Wisconsin	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.

## **ITEM 23**

### **RECEIPT (Your copy to keep)**

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 Nautical Boat Clubs, LLC offers you a franchise, Nautical Boat Clubs, LLC must provide this Disclosure Document to you at least 14 calendar days before you sign a binding agreement or make any payment to us or an affiliate in connection with the proposed franchise sale. Under Michigan and Wisconsin law, Nautical Boat Clubs, LLC must provide this Disclosure Document to you 10 business days before you sign any contract or make any payment relating to the franchise relationship. Under New York, Oklahoma and Rhode Island law, Nautical Boat Clubs, LLC must provide this Disclosure Document to you at the earliest of the first personal meeting or 10 business days before you sign any contract or make any payment relating to the franchise relationship.

If Nautical Boat Clubs, 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the applicable state agency listed in Exhibit A.

The franchise seller(s) name(s), address(es) and telephone number(s) is(are) Tom Gardiner at 2215 Westlake Drive, Suite 102, Austin, TX 78746 and 833-622-2628, Bryan Wallace at 2215 Westlake Drive, Suite 102, Austin, TX 78746 and 833-622-262, Nick Marsello at 12 Sapphire Dr., Malvern, PA 19355 and 484-437-2681, Rob Gilmore at 3416 Alamosa River Dr., Celina, TX 75078 and (214) 205-6523 and Kinley Gardiner at 86 W Cedar Bend Rd., Santa Rosa Beach, FL 32459 and (512) 417-5861 and the following persons (if applicable):\_\_\_\_\_.

Date of Issuance: April 30, 2024

The name and address of our registered agent authorized to receive service of process is shown in Exhibit A.

I have received a Franchise Disclosure Document dated April 30, 2024. This Disclosure Document includes the following Exhibits:

- A. State Administrators/Agents for Service of Process
- B. Franchise Agreement (including State Specific Amendments, as applicable)
- C. List of Existing Franchisees
- D. List of Former Franchisees
- E. Table of Contents of Brand Standards Manual
- F. Financial Statements
- G. Form of General Release
- H. State Addenda to the Franchise Disclosure Document
- I. State Addenda to the Franchise Agreement

**PROSPECTIVE FRANCHISEE:**

**PROSPECTIVE FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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



## **ITEM 23**

### **RECEIPT**

**(Sign receipt and return to us)**

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 Nautical Boat Clubs, LLC offers you a franchise, Nautical Boat Clubs, LLC must provide this Disclosure Document to you at least 14 calendar days before you sign a binding agreement or make any payment to us or an affiliate in connection with the proposed franchise sale. Under Michigan and Wisconsin law, Nautical Boat Clubs, LLC must provide this Disclosure Document to you 10 business days before you sign any contract or make any payment relating to the franchise relationship. Under Maryland, New York, Oklahoma and Rhode Island law, Nautical Boat Clubs, LLC must provide this Disclosure Document to you at the earliest of the first personal meeting or 10 business days before you sign any contract or make any payment relating to the franchise relationship.

If Nautical Boat Clubs, 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and to the applicable state agency listed in Exhibit A.

The franchise seller(s) name(s), address(es) and telephone number(s) is(are) Tom Gardiner at 2215 Westlake Drive, Suite 102, Austin, TX 78746 and 833-622-2628, Bryan Wallace at 2215 Westlake Drive, Suite 102, Austin, TX 78746 and 833-622-262, Nick Marsello at 12 Sapphire Dr., Malvern, PA 19355 and 484-437-2681, Rob Gilmore at 3416 Alamosa River Dr., Celina, TX 75078 and (214) 205-6523 and Kinley Gardiner at 86 W Cedar Bend Rd., Santa Rosa Beach, FL 32459 and (512) 417-5861 and the following persons (if applicable):\_\_\_\_\_.

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**PROSPECTIVE FRANCHISEE:**

**PROSPECTIVE FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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