

## SEPARATION AND RELEASE AGREEMENT

This **SEPARATION AND RELEASE AGREEMENT** (this “**Agreement**”) is being executed among:

**ML CO, LLC**, a [State] limited liability company (“**Master Licensee**”);

**Franchisor, Inc.**, a corporation of the State of [state] formerly known as Franchisor, Inc. (“**FRANCHISOR**”);

**Client, LLC (CLIENT)**, a [State] limited liability company;

**Client, Inc. (CLIENT)**, a [State] corporation;

**Client, LLC (CLIENT)**, a [State] limited liability company;

**Client Client (“Client”)**.

### Background Recitals:

A. (1) The Master Licensee, **FRANCHISOR** and **Client, Inc.**, entered into a Licensed Coach Franchise Agreement dated September 30, 2005.

(2) **Client** is the sole Member of **Client, LLC**, the sole shareholder of **Client, Inc.**, and the sole Member of **Client, LLC**

(3) The agreements described in (1) above are hereinafter referred to as the “**Licensed Coach Agreement.**”

(4) **Client, Inc.** and **Client, LLC** are sometimes hereinafter referred to individually as a “**Licensed Coach**” or collectively as the “**Licensed Coaches.**”

B. The Licensed Coach Agreement granted the Licensed Coaches the right, and Licensed Coaches undertook the obligation, to offer business-coaching services in [State] (**the “Territory**”); and the Licensed Coaches were thereby authorized to use the *Franchisor* and/or

Franchisor trade name, trademark, and other marks (**the “Marks”**) to operate the business licensed under the Licensed Coach Agreements (**the “Business”**).

C. The Master Licensee, FRANCHISOR, the Licensed Coaches and Client wish to terminate the Licensed Coach Agreements on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the respective obligations set out below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Termination of the Licensed Coach Agreements.**

(a) The Licensed Coach Agreements and all other agreements that Licensed Coaches may now have with Master Licensee and/or FRANCHISOR are hereby terminated, effective 11:59 p.m. January 1, 2001 (**the “Termination Date”**).

(b) None of the provisions, terms, implications or restrictions of the Licensed Coach Agreements shall survive.

**2. Post-Termination Obligation**

(a) On or before the Termination Date, the Licensed Coaches will cease all use of the Marks and will cease to operate the Business.

(b) The provisions in the Licensed Coach Agreements pertaining to post-termination Restrictions on Competition are hereby terminated.

**3. Reciprocal Releases**

(a) Release by Licensed Coaches and Client.

The Licensed Coaches, CLIENT, and Client, for themselves and their respective officers, directors, members, parent, subsidiaries, affiliates, agents, employees, representatives, successors, assigns, heirs, personal representatives, and all other persons acting on their behalf or

claiming under them (**collectively the “Releasors”**) hereby release and forever discharge Master Licensee, FRANCHISOR, and their respective past, present, and future officers, directors, shareholders, members, affiliates, agents, employees, representatives, successors, and assigns and each of them (**collectively, the “Releasees”**) from any claims, debts, liabilities, demands, obligations, actions, costs, expenses, suits and causes of action, of whatever nature, known or unknown, suspected or unsuspected, vested or contingent (**collectively, “Claims”**), that the Releasors may now have, may have ever had, or may in the future have against the Releasees arising out of or relating to any act, omission or event occurring on or before the Termination Date.

(b) Release by Master Licensee and FRANCHISOR.

Master Licensee and FRANCHISOR, on behalf of themselves and their affiliates (**collectively, the “Releasors”**) hereby release and forever discharge the Licensed Coaches, CLIENT, and Client, and their respective members, agents, employees, personal representatives, heirs and administrators, successors, and assigns and affiliates and each of them (**collectively, the “Releasees”**) from any Claims that the Releasors may now have, may have ever had, or may in the future have against the Releasees arising out of or relating to any act, omission or event occurring on or before the Termination Date.

(c) Risk of Changed Facts.

The parties acknowledge that the facts with respect to which the releases are given may turn out to be different from the facts now known or believed by them to be true. Each of them accepts and assumes the risk of the facts turning out to be different, and agrees that the releases will nevertheless be effective in all respects and not subject to termination or rescission by virtue of any such difference in facts.

(d) No Prior Assignment.

Each Licensed Coach, CLIENT, and Client represents and warrants that it or he has not assigned to any person or entity any Claim released under paragraph 4 (a); and Master Licensee and FRANCHISOR each represents and warrants that it has not assigned to any person or entity any Claim released under paragraph 4 (b).

(e) Complete Defense.

The parties (i) acknowledge that this Release will be a complete defense to any released Claim; and (ii) consent to the entry of a temporary or permanent injunction to prevent or end the assertion of any such Claim.

(f) Covenant Not to Sue. As to any and all released Claims, all parties hereto promise not to initiate, prosecute or (except as required by law) participate in any civil, criminal, administrative or other proceeding in any court, agency or other forum, either affirmatively or by way of cross-claim, defense or counterclaim, nor to attempt to initiate any investigation by any government agency, against any of the other parties hereto.

**4. Confidentiality.**

(a) All parties hereto agree not to disclose “Confidential Information” (as defined below) to any person or entity who is not a party to this Agreement, and agree not to use Confidential Information other than as contemplated by this Agreement.

(b) As used in this paragraph, “**Confidential Information**” means: (i) the terms of this Agreement; and (ii) any information regarding the other’s business which Master Licensee and Licensed Coach have obtained or been apprised of by virtue of their relationship under the Licensed Coach Agreement.

(c) The parties may disclose Confidential Information to their respective employees and attorneys solely on a need-to-know basis for the purpose of carrying out and/or enforcing this Agreement, provided that each person to whom Confidential Information is disclosed is

informed and agrees that the disclosure is subject to the commitment of confidentiality in this paragraph.

(d) Notwithstanding the foregoing, if a Licensed Coach, CLIENT, or Client receives a discovery demand or other similar request seeking disclosure of this Agreement or its terms, conditions, negotiation, or implementation or the relationship(s) of the Licensed Coach with Master Licensee; or if a Licensed Coach receives a motion to compel such disclosure, or a subpoena, order or other process purporting to compel such disclosure, then the Licensed Coach will, within five (5) business days, or within such shorter time period as may be necessary to afford the Master Licensee the opportunity to protect the confidentiality of this Agreement and/or any other interest of the Master Licensee, notify the Master Licensee by telephone or facsimile with a confirmation copy by overnight courier and deliver a copy of such request, motion, demand, subpoena or order to the Master Licensee by facsimile or such other delivery method as Master Licensee may reasonably request

**5. Non-Disparagement**

The Master Licensee and FRANCHISOR will not disparage the Licensed Coaches, CLIENT, and Client; and the Licensed Coaches, CLIENT and Client will not disparage the Master Licensee, FRANCHISOR, the *Franchisor* or Franchisor brand, or any other *Franchisor* or Franchisor, master licensee or licensed coach. Nothing in this paragraph prohibits any party from making truthful statements to third parties in connection with a bona fide effort to enforce this Agreement or enforce any intellectual property rights or defend any other proceeding against a party or a related person or entity without his, her or its consent.

**6. No Acknowledgment of Wrongdoing.**

The signing of this Agreement is not an acknowledgment or admission by any party of any breach, omission or other wrongdoing in connection with the negotiation, execution or performance of the Licensed Coach Agreements or the operation of the Business.

**7. No representations**

The parties acknowledge that: (a) no party or its agents, employees, representatives, or attorneys has made any representation or promise concerning this Agreement that is not contained in this Agreement; and (b) this Agreement has not been entered into on the basis of any such promise or representation.

**8. Representation by Counsel.** Each party acknowledges that it or he has been represented or has had the opportunity to be represented by counsel of its or his choice in this matter. Accordingly, this Agreement will not be presumptively construed in favor of or against any party.

**9. Facsimile Signature and Counterparts.** This Agreement may be executed by facsimile and/or in counterpart copies, each of which will serve as an original, but all copies of which together constitute a single agreement.

**10. Authorization**

Each person who executes this Agreement on behalf of any party represents and warrants that the party has authorized that person to enter into this Agreement on behalf of the party. Each party represents and warrants that it or he has the authority to enter into this Agreement not only on its or his own behalf, but also on behalf of the other persons and entities to be bound by its or his signature.

**11. Entire Agreement**

This Agreement constitutes the entire agreement of the parties concerning their subject matter and supersedes all prior negotiations, understandings and agreements between the parties concerning their subject matter.

**12. Modification.**

This Agreement may be modified only by a written document executed by all parties hereto.

**13. Binding Effect**

This Agreement will inure to the benefit of and bind the successors, assigns, heirs and personal representatives of each party to this Agreement.

**14. Costs.**

In any proceeding to challenge or to enforce the provisions of this Agreement, the prevailing party is entitled to recover all costs that it or he incurred in connection with the proceeding, including, but not limited to, reasonable attorneys' fees.

**15. Governing Law.**

This Agreement will be governed by, interpreted and construed under the laws of the State of [State], without regard to [State] conflict-of-law rules.

**17. Non-Binding Mediation before Litigation**

17.1 Agreement to Mediate

(a) Except in the case of a party's right to enforcement of a right to an injunction with respect to or violation of confidentiality undertakings, all claims or disputes arising out of or in any way relating to this Agreement or any of the parties' respective rights and obligations arising out of this Agreement, the parties agree that before proceeding to litigation they will first submit the claim or dispute to non-binding mediation by a single mediator in [State], under the auspices of (1) the American Arbitration Association (**the "AAA"**), in

accordance with the AAA's "Commercial Mediation Rules" then in effect, (2) under the auspices of Judicial Arbitration and Mediation Services (“JAMS”) or another mediation service, providing the parties so agree.

(b) A party to this Agreement having a claim or dispute subject to paragraph 17.1 may not institute any legal action against any other party to this Agreement unless the mediation proceedings have been terminated as a result of a written declaration of the mediator that further mediation efforts are not worthwhile

17.2 Expenses of Mediation

The fees of the AAA, JAMS or other mediation service and the mediator shall be borne equally by the parties.

17.3 Enforceability

A party's right to mediation may be specifically enforced by said party.

17.4 Certain Limitations

All statements, promises, offers, views and opinions made or communicated by any party in the mediation proceeding shall be subject to the [State] Uniform Mediation Act.

**18. Jurisdiction and Venue.**

The parties agree that venue for any proceeding seeking to enforce any provision of this Agreement must be in any state or federal court having subject matter jurisdiction in the State of [State]. The parties irrevocably submit to the jurisdiction of such courts and specifically waive any objection that the parties might have to the jurisdiction or venue of such courts.

**19. Agreement not to be Construed Against Drafter**

Any presumption of law which provides that an agreement shall be construed against the

drafter is hereby waived by the parties, each party having been represented by counsel and the parties having negotiated the contents of this Agreement.

ML, LLC

FRANCHISOR, INC.

By \_\_\_\_\_  
ML, Member  
March 31, 2008

By \_\_\_\_\_  
Franchisor  
March 31, 2008

CLIENT, INC., CLIENT, LLC, CLIENT, LLC

By \_\_\_\_\_  
Client Client  
President  
Month 31, 200\_

By \_\_\_\_\_  
Client Client  
Member  
Month 31, 200\_

By \_\_\_\_\_  
Client Client  
Member  
Month 31, 200\_