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THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

JESSICA LYONS,

Plaintiff,

v.

THE BEACHBODY COMPANY, CARL
DAIKELER, JON CONGDON, KATHY
VRABECK, MICHAEL NEIMAND, MARC
SUIDAN, HELENE KLEIN, and
DOES 1-50, inclusive,

Defendants.

Case No. **23STCV11459**

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

(1) Failure to Pay Minimum Wage and Liquidated Damages (Labor Code §§ 1182.12, 1194, 1197, 1197.1, at 1198)
(2) Failure to Provide Meal Periods or Meal Premium Wages (Labor Code §§ 226.7, 512(a), 1198; IWC Wage Order 4-2001);
(3) Failure to Provide Rest Periods or Rest Break Premium Wages (Labor Code §§ 226.7, 558.1);
(4) Failure to Keep Requisite Payroll Records (Labor Code § 1174(d));
(5) Failure to Provide Timely and Accurate Wage Statements (Labor Code § 226(a), 226(e));
(6) Failure to Timely Pay Wages (Labor Code § 204)
(7) Failure to Pay Wages Upon Separation (Labor Code § 201-203);
(8) Failure to Reimburse Business Expenses (Labor Code §§ 450, 2802; IWC Wage Order 4-2001);
(9) Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.)

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1 Plaintiff JESSICA LYONS (“Plaintiff”) brings this action, individually, and on behalf of a
2 class of similarly situated individuals against THE BEACHBODY COMPANY, CARL
3 DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN,
4 HELENE KLEIN, and DOES 1-50, inclusive (collectively, “Defendants” or “Beachbody”).
5 Plaintiff’s allegations against Defendants are based upon investigation carried out by Plaintiff’s
6 counsel, except for allegations pertaining specifically to Plaintiff, which are based upon Plaintiff’s
7 personal knowledge.

8 **I. INTRODUCTION**

9 1. The Beachbody Company is a massively successful company that, for years, has
10 exploited its California salesforce by misclassifying them as independent contractors rather than
11 as employees. These sales personnel, part of the Team Beachbody Coach network, work under
12 Beachbody’s direction to market and sell a variety of consumer products, including workout
13 videos, nutritional supplements and beverages, and other diet and wellness related goods and
14 services (collectively, the “Products”). In exchange for their work promoting the brand on social
15 media, referring new customers, providing customer service, and driving traffic to Beachbody’s
16 website, Beachbody pays them at most a paltry commission. Since Beachbody began relying on
17 independent contractors to do its sales work, Beachbody grew from a small video streaming
18 service to a \$3 billion publicly traded health and fitness empire.

19 2. Beachbody’s success—and ability to avoid accountability for its employees thus
20 far—turns on the fact that it operates as multi-level marketing business (“MLM”). “Coaches” are
21 purportedly promised the opportunity to build a business; in reality, however, they supply free
22 marketing and sales support that would otherwise cost Beachbody millions.¹

23 3. Primarily, Beachbody Coaches sell product for Beachbody, under its pervasive
24 control and direction. Selling product—the main responsibility of Coaches—is work that is
25 precisely in line with Beachbody’s usual course of business. And, despite the being named
26

27 ¹ Beachbody has recently renamed its “Coaches” as “Partners.” Throughout this Complaint,
28 the title “Coach” shall include “Partner” and any other names Beachbody has used or is
using for the same class of workers.

1 “Coaches,” the members of Beachbody’s salesforce are not engaged in an independently
2 established trade, occupation, or business as salespeople.

3 4. While the MLM industry has long relied on “direct sales” exemptions to justify its
4 exploitation of sales personnel, the California exemption was written 40 years ago, and among
5 other things, is expressly limited only to those salespersons making “in person” sales, such as
6 door-to-door salespeople and home “Tupperware party” hosts. It does not reach Beachbody’s
7 modern, online business model, where Coaches drive social media engagement under its
8 guidance and direction, directing consumers to Beachbody-controlled websites, where
9 Beachbody accepts and processes the sales and fulfills the orders, while also collecting and
10 benefiting from the consumer data it acquires from these leads.

11 5. Beachbody also exerts significant control over Coaches in their limited, but
12 important role as social media marketers. To protect its intellectual property, brand image, and
13 legal interests, Beachbody requires Coaches to comply with a byzantine series of rules and
14 regulations, many of which are laid out in a 48-page policy and procedure document, which in
15 turn includes directives to understand and market products consistent with other documents,
16 notices, manuals, and guidance provided by Beachbody. Nowhere in those rules, however, does
17 Beachbody require or even suggest that sales be made “in person.” Rather, Beachbody places
18 restrictions on when and how Coaches may order products and limits the locations in which the
19 products may be sold, effectively preventing any meaningful sales that are “in person.” The result
20 is that virtually all sales occur on Beachbody’s website, where Beachbody provides the ad copy,
21 sets the prices, and fulfills the order. The lack of discretion given to its Coaches is evidenced by
22 the fact that few can or do actually earn money under its compensation system. For instance, in
23 2021, 25% of Coaches did not receive a single commission check, and many more saw their
24 meager commissions erased by the \$15.95 monthly “Business Services Fee” Beachbody requires
25 Coaches to pay to obtain access to the various online tools and platforms needed to perform their
26 work.

27 6. The willful, intentional nature of Beachbody’s decision to misclassify its California
28 Coaches is apparent from its decision to operate as an MLM, a business model that virtually

1 guarantees the company will secure thousands of hours of free or below-market labor to execute
2 a centralized marketing and growth strategy. Moreover, Beachbody's willful decision to
3 misclassify its salesforce is evident from its choice to remain organized in this way years after the
4 California Supreme Court's seminal decision in *Dynamex v. Superior Court*, 4 Cal.5th 903 (2018)
5 and the California legislature's codification of the "ABC Test" in AB 5, both of which made clear
6 that its salesforce were in fact employees, in the manner Beachbody deploys and relies on them.
7 In communications with shareholders, Beachbody executives have heralded the work of the
8 Coach network, while touting the low-cost compensation scheme. As both an MLM and a
9 California-based company, Beachbody knew the law. It is a sophisticated corporate actor and an
10 active member of a trade association that issues guidance and warnings to MLMs as to the
11 changing law on misclassification.

12 7. Plaintiff Jessica Lyons was one such victim of Beachbody's practices. Like all
13 Coaches, Plaintiff was trained by other Coaches and Beachbody materials, and was required to
14 market, distribute, and sell Products to the public in accordance with Beachbody's instructions
15 and parameters. And in return, Plaintiff was paid virtually nothing, while incurring
16 unreimbursed personal costs to perform the work on Beachbody's behalf.

17 8. For these reasons, Plaintiff brings this action to recover unpaid wages, overtime
18 compensation, penalties, interest, injunctive relief, damages, and reasonable attorneys' fees and
19 costs under the California Labor Code, Cal. Lab. Code §§ 201, 202, 203, 204, 226(a), 226.7, 226.8,
20 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802 and 2698 *et seq.* (the "CLC"), IWC Wage Order
21 4 (8 Cal. Code Regs. § 11040), and California Unfair Competition Law (Cal Bus. & Prof Code §§
22 17200 *et seq.*). In addition, Beachbody's conduct violates various municipal and county codes in
23 California, including but not limited to City of L.A. Cal. Code art. 7-7.5; County of Los Angeles
24 Code § 8.100.040, *et seq.*, San Francisco Cal. Code 12R.

25 9. Upon information and belief, Beachbody has not addressed and/or changed its
26 unlawful practices including failing to provide complaint meal and rest periods and has
27 continued to deprive employees of millions of dollars in straight and overtime compensation. By
28

bringing this action, Plaintiff intends to stop this ongoing and unlawful practice and recover back wages and overtime to which she is rightfully entitled.

II. JURISDICTION AND VENUE

10. The monetary damages, civil penalties, and restitution sought by Plaintiff, the class members, and other aggrieved employees exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

11. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10. The statutes under which this action is brought do not specify any other basis for jurisdiction.

12. This Court has jurisdiction over all Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by California courts consistent with traditional notions of fair play and substantial justice. Moreover, the acts and omissions detailed herein occurred in California.

13. Venue is proper in this Court because a majority of the acts, events, and violations occurred in this County. Upon information and belief, Defendants maintain offices—indeed, its principal office—and have agents, employ individuals, and/or transact business in the State of California, County of Los Angeles.

III. THE PARTIES

14. Plaintiff Jessica Lyons is an individual and resident of Lake Arrowhead, California.

15. The Beachbody Company is an entity incorporated under the laws of the State of Delaware, having its principal place of business in Santa Monica, California. It owns and controls numerous brands and product lines, including BODi, Beachbody on Demand, Team Beachbody, P90X, MYXfitness, Openfit, Shakeology, and Beachbar (collectively, the “Brands”).

16. Plaintiff is informed and believes and based thereon alleges that Respondent CARL DAIKELER is, and at all times relevant hereto was, an individual residing in California, as well as Chief Executive Officer for THE BEACHBODY COMPANY, and DOES 1 through 50, as

1 further defined below. Plaintiff is further informed and believes and based thereon alleges that
2 CARL DAIKELER, in his capacity as the Chief Executive Officer, exercised control over the
3 wages, hours and/or working conditions of Plaintiff and other aggrieved employees, including
4 by informing employees when to report to work and what work hours should actually be
5 recorded, violated, or caused to be violated, the above-referenced and below-referenced Labor
6 Code provisions in violation of Labor Code section 558.1.

7 17. Plaintiff is informed and believes and based thereon alleges that Respondent JON
8 CONGDON is, and at all times relevant hereto was, an individual residing in California, as well
9 as Co-Founder and/or Vice Chairman for THE BEACHBODY COMPANY, and DOES 1 through
10 50, as further defined below. Plaintiff is further informed and believes and based thereon alleges
11 that JON CONGDON, in his capacity as the Co-Founder and/or Vice Chairman exercised control
12 over the wages, hours and/or working conditions of Plaintiff and other aggrieved employees,
13 including by informing employees when to report to work and what work hours should actually
14 be recorded, violated, or caused to be violated, the above-referenced and below-referenced Labor
15 Code provisions in violation of Labor Code section 558.1.

16 18. Plaintiff is informed and believes and based thereon alleges that Respondent
17 KATHY VRABECK is, and at all times relevant hereto was, an individual residing in California,
18 as well as Chief Operating Officer for THE BEACHBODY COMPANY, and DOES 1 through 50,
19 as further defined below. Plaintiff is further informed and believes and based thereon alleges that
20 KATHY VRABECK, in her capacity as the Chief Operating Officer exercised control over the
21 wages, hours and/or working conditions of Plaintiff and other aggrieved employees, including
22 by informing employees when to report to work and what work hours should actually be
23 recorded, violated, or caused to be violated, the above-referenced and below-referenced Labor
24 Code provisions in violation of Labor Code section 558.1.

25 19. Plaintiff is informed and believes and based thereon alleges that Respondent
26 MICHAEL NEIMAND is, and at all times relevant hereto was, an individual residing in
27 California, as well as President for THE BEACHBODY COMPANY, and DOES 1 through 50, as
28 further defined below. Plaintiff is further informed and believes and based thereon alleges that

1 MICHAEL NEIMAND, in his capacity as the President exercised control over the wages, hours
2 and/or working conditions of Plaintiff and other aggrieved employees, including by informing
3 employees when to report to work and what work hours should actually be recorded, violated,
4 or caused to be violated, the above-referenced and below-referenced Labor Code provisions in
5 violation of Labor Code section 558.1.

6 20. Plaintiff is informed and believes and based thereon alleges that Respondent
7 MARC SUIDAN is, and at all times relevant hereto was, an individual residing in California, as
8 well as Chief Financial Officer for THE BEACHBODY COMPANY, and DOES 1 through 50, as
9 further defined below. Plaintiff is further informed and believes and based thereon alleges that
10 MARC SUIDAN, in his capacity as the Chief Financial Officer exercised control over the wages,
11 hours and/or working conditions of Plaintiff and other aggrieved employees, including by
12 informing employees when to report to work and what work hours should actually be recorded,
13 violated, or caused to be violated, the above-referenced and below-referenced Labor Code
14 provisions in violation of Labor Code section 558.1.

15 21. Plaintiff is informed and believes and based thereon alleges that Respondent
16 HELENE KLEIN is, and at all times relevant hereto was, an individual residing in California, as
17 well as Executive-Vice President, People for THE BEACHBODY COMPANY, and DOES 1
18 through 50, as further defined below. Plaintiff is further informed and believes and based thereon
19 alleges that HELENE KLEIN, in her capacity as the Executive-Vice President, People exercised
20 control over the wages, hours and/or working conditions of Plaintiff and other aggrieved
21 employees, including by informing employees when to report to work and what work hours
22 should actually be recorded, violated, or caused to be violated, the above-referenced and below-
23 referenced Labor Code provisions in violation of Labor Code section 558.1.

24 22. Plaintiff alleges that Defendants THE BEACHBODY COMPANY, CARL
25 DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN,
26 HELENE KLEIN, and DOES 1-50, inclusive, are "persons" who violated or caused to be violated
27 California Labor Code §§ 558, and 1197.1 and the Industrial Welfare Commission ("IWC") Wage
28 Orders.

23. The true names and capacities of Defendants sued as Does 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names pursuant to section 474 of the California Code of Civil Procedure. Plaintiff will seek leave to amend this Demand when said true names and capacities have been ascertained.

IV. FACTS COMMON TO ALL CLASS MEMBERS AND AGGRIEVED EMPLOYEES

A. Beachbody Is a Successful Multilevel Marketing Company That Is Dependent on its Coaches to Engage in Social Media Marketing on Its Behalf.

24. Beachbody is a \$3 billion publicly traded health and fitness empire with humble beginnings.² It was founded in 1998, when it sold home exercise videos directly to consumers via infomercials and other advertising. In 2007, the company decided to expand in two ways. First, it began developing new Products, including Shakeology, a line of nutrition shakes. It also developed the Team Beachbody Coach program, tapping into its dedicated base of customers to offer them the “opportunity” to sell the Products for Beachbody. Beachbody, through its Coaches, could combine the videos and diet plans with shakes and supplements, offering more holistic health and fitness plans to consumers.

25. In 2023, Beachbody began a rebranding process, and has begun using the name brand name “BODi” on some offerings. This is likely due to the fact that, in recent years, Beachbody’s flagship product has become the Beachbody On Demand (“BODi”) platform. Consumers can purchase subscriptions to access fitness videos via streaming on the web, or more recently, through the Beachbody mobile app. Beachbody has also begun transitioning away from the term “Coaches” to “Partners.”³

26. To ensure ongoing engagement with Beachbody’s subscriptions and to sell more Beachbody Products, such as nutritional supplements and shakes, Beachbody has Coaches organize and promote goal-oriented groups for Beachbody customers. Best known as “Challenge

² See The Beachbody Company, Inc., Annual Report (Form 10-K) (Mar. 1, 2022) available at <https://www.sec.gov/Archives/edgar/data/1826889/000095017022002537/body-20211231.htm>.

³ For consistency, Plaintiff will use the pre-rebrand terms, such as “Coach” and “Beachbody,” throughout the Complaint, even though some more recent materials and programs may use the rebranded terms, such as “Partner” and “BODi.”

Groups,” Beachbody has more recently been using as the term “BODGroups,” and at times has also referred to them as “Accountability Groups.” Coaches now organize these Challenge Groups of Beachbody customers using the Beachbody platform. Prior to the unveiling of the BODgroup platform, Coaches were required to organize Challenge Groups on third party social media platforms. In particular, a Coach starting a Challenge Group assembles a group of customers and/or potential customers for marketing purposes under the guise of creating a support network to help people stick to a Beachbody diet and fitness programs. Coaches assign workouts, lead discussions, and make suggestions for how to combine Shakeology or Beachbody nutritional supplements to get the most out of a workout. These groups are a central component of the Coaches’ work; as Beachbody’s website states:

Accountability Groups are an essential part of a successful Coaching business, and provide a simple structure for you to support your customers through their program. And, we know that when your customers combine nutrition, fitness, and support, they can dramatically improve their results.⁴

27. The Coaches also drive social media engagement, posting on Instagram and other outlets. For example, in advance of the launch of a new Product, Beachbody urges its Coaches to purchase and promote the product on social media using Beachbody’s talking points and graphics. Coaches do so, and also pass this information on through their downlines, who in turn promote the product to consumers on social media as well. The result is a coordinated marketing campaign that increases exposure and awareness of the release, and is a critical part of Beachbody’s marketing strategy. As Beachbody’s Chief Executive Officer Carl Daikeler explained:

And coach network, which is the variable side of it really delivers significant value, taking advantage of these new launches. And in fact, the coaches will create within 72 hours of launching a new program or announcing a new program, it will become a trending term on social media and a searchable term and come up in the top 10 searches for a particular word. So -- but that expense doesn’t cost us anything until sales actually happen.⁵

⁴ *Team Beachbody Group Guides*, Team Beachbody <https://www.tbbgroupguides.com> (last visited Feb. 7, 2023).

⁵ *The Beachbody Company, Inc. (BODY) CEO Carl Daikeler on Q1 2022 Earnings Call Transcript*, Seeking Alpha <https://seekingalpha.com/article/4509407-beachbody-company-inc-body-ceo-carl-daikeler-on-q1-2022-earnings-call-transcript> (last visited Feb. 7, 2023).

1 28. In between product launches, Beachbody urges Coaches to host Challenge
2 Groups, as well as maintain a consistent presence on social media. Beachbody sees Coaches as a
3 “product-of-a-product,” in that the Coach’s own personal results are the “product” of using
4 Beachbody’s products, and it directs them to market Beachbody products accordingly. For
5 example, Beachbody urges Coaches to regularly post updates about their daily progress, workout
6 results, and details about things like pounds lost or muscle gained.

7 29. Because Beachbody has tens of thousands of active Coaches at any given time,
8 their marketing efforts ensure that social media is saturated with posts about Beachbody, its
9 Products, and testimonials as to its successful and effective programs. The Team Beachbody
10 Coach Program undoubtedly propelled Beachbody’s metamorphosis from late-night
11 informercials into the multi-billion-dollar health and wellness company that it is today.

12 30. But despite their important role, Beachbody has never properly classified its
13 salesforce—Coaches—as employees. Rather, Beachbody transitioned into an MLM, in which it
14 would offer people the purported “opportunity” to develop their own business earning
15 commission by selling Beachbody Products and recruiting others to do the same, designating
16 them as “independent contractors.”

17 31. However, these Coaches are not independent contractors under applicable law.
18 Rather, Beachbody created the Team Beachbody Coach program to secure an expansive
19 marketing and sales network for minimal to no cost. It has reaped enormous profits by
20 deliberately avoiding paying wages and benefits to those performing the sales work that forms
21 the backbone of Beachbody’s business. Beachbody charges its Coaches for access to the
22 instrumentalities needed to sell products, further increasing its profits and decreasing Coaches’
23 pay, in violation of California law. The intended result is for Coaches to receive, at most, de
24 minimis profit from their work, while providing free labor and shouldering the costs of doing
25 business that Beachbody should be bearing.

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1 **B. Beachbody Coaches Are Employees**

2 **1. Controlling Law**

3 32. Companies like Beachbody were never supposed to be allowed to run an entire
4 business on the backs of independent contractors. People who work in a company's core line of
5 business are its "employees." *United States v. Silk*, 331 U.S. 704, 718 (1947).

6 33. Beachbody claims an unprecedented portion of its workforce as "independent
7 contractors," and only classifies less than .3% of its workforce as "employees."⁶ These workers
8 are in a variety of roles, such as accounting and finance, supply chain management, and
9 technology. These roles include marketing professionals, such as marketing communications
10 specialists, who develop and create the overall "social medial plan to drive Coach/Partner
11 acquisition, engagement, and sales of BODi products."⁷ These workers receive special treatment
12 from Beachbody, including benefits such as health insurance, tuition reimbursement, and paid
13 time off.⁸

14 34. But the Coaches, who make up the bulk of Beachbody's workforce, are denied
15 even the most basic protections of federal and state labor laws. Beachbody does not pay them
16 minimum wage; it does not pay overtime; and it does not reimburse business expenses, such as
17 internet connections, laptops, smart phones, or post-promotion over Facebook, YouTube, and
18 Instagram. Its classification of its Coaches also deprives them of basic protections against
19 discrimination and sexual harassment.

20 35. By design, "independent contractors" are exempted from "nearly every" labor
21 law, but this classification was not meant to be a loophole for companies like Beachbody, whose
22
23

24 ⁶ *Compare* The Beachbody Company, Inc., Annual Report (Form 10-K) (Mar. 1, 2022),
25 <https://www.sec.gov/Archives/edgar/data/1826889/000095017022002537/body-20211231.htm>
26 (1,021 full time employees in 2021) *with* Lauren Dehter, Inside Beachbody's Billion-Dollar
Fat Burning Empire, FORBES, Apr. 10, 2018,
<https://www.forbes.com/sites/laurengensler/2018/04/10/beachbody-carl-daikeler-shakeology/?sh=21986d5e7960> (340,000 Coaches in 2018).

27 ⁷ https://beachbody.wd1.myworkdayjobs.com/en-US/Careers/details/Marketing-Communications-Specialist_R-2304 (last accessed Feb. 10, 2023).

28 ⁸ <https://www.teambeachbody.com/shop/us/corporate/careers> (last accessed Feb. 10, 2023).

Coaches are effectively modern day telemarketers.⁹ “Historically, firms reserved the independent contractor designation for entrepreneurial individuals whose skills demanded higher pay in the open market.”¹⁰ With this in mind, “[l]egislatures rationalized excluding [independent contractors] from most employment laws because these individuals did not require the same legal protections as potentially more vulnerable, less-skilled ‘employees.’”¹¹

36. Today, Beachbody preys upon many of the most vulnerable members of our society. Despite being a \$40 billion industry, “the vast majority of people involved in them don’t make money off of MLMs, and many people lose money.”¹² Beachbody Coaches are no exception: according to Beachbody’s own income disclosure, 25.8 percent of Coaches received no commission payment in 2021.¹³ And MLMs like Beachbody have grown during the COVID-19 pandemic, recruiting salespeople by promising remote work for the unemployed.¹⁴ These are the precise individuals that legislatures meant to shield with minimum wage and other workplace protections.

37. In recent years, state legislatures have taken action to send a clear message that most workers should be “employees.”

38. California has adopted the “ABC test” to determine whether a company, like Beachbody, has misclassified its workers as “independent contractors.” Because employee status was meant to be the default, the ABC test “presumptively considers all workers to be employees

⁹ Keith Cunningham-Parmeter, *From Amazon to Uber: Defining Employment in the Modern Economy*, 96 B.U. L. Rev. 1673, 1683–84 (2016).

¹⁰ *Id.*

¹¹ *Id.*

¹² Emily Stewart, *\$5 Jewelry and an MLM Conference Gone Wrong: Multilevel marketing companies were the “perfect” pandemic business*, VOX, Sept. 23, 2021, <https://www.vox.com/the-goods/22688317/mlm-covid-19-pandemic-recruiting-sales-paparazzi> (citing study finding that 99 percent of MLM participants lose money).

¹³ Beachbody, Statement of Independent Coach Earnings, https://images.beachbody.com/coach-office/downloads/statement_of_independent_coach_earnings.pdf (last visited Feb. 7, 2023).

¹⁴ Abby Vesoulis & Eliana Dockterman, *Pandemic Schemes: How Multilevel Marketing Distributors Are Using the Internet—and the Coronavirus—to Grow Their Businesses*, TIME, Jul. 9, 2020, <https://time.com/5864712/multilevel-marketing-schemes-coronavirus/> (last visited Feb. 7, 2023).

and permits workers to be classified as independent contractors only if the hiring business demonstrates that the worker in question satisfies *each* of three conditions:

- a. that the worker is free from the control and direction of the hirer in connection with the performance of the work... *and*
- b. that the worker performs work that is outside the usual course of the hiring entity's business; *and*
- c. that the worker is customarily engaged in an independently established ... business of the same nature as that involved in the work performed."

Dynamex Operations West, Inc. v. Superior Court, 4 Cal.5th 903, 956-57 (2018) (emphasis in original).

2. Coaches Are Not Free from Beachbody's Control

39. To engage in online marketing work for Beachbody, the company does not require Coaches to hold any special experience, skills, license, or education level. Rather, Beachbody requires only that a prospective Coach complete a short application that asks for basic information necessary for communication and tax purposes and agree to pay Beachbody \$15.95 a month as a "Business Service Fee."

40. Upon acceptance of their application, all Coaches are required to adhere to a series of terms and conditions that Beachbody collectively refers to as the "Agreement." The Agreement consists of: Team Beachbody U.S. Coach Policies and Procedures ("Policies"), Beachbody Terms and Conditions of Use ("Terms"), the Privacy Policy, and the Team Beachbody Compensation Plan ("Compensation Plan"). A true and correct copy of the "Policies" portion of the 2021 version of the Agreement is attached hereto as **Exhibit A** and provides that Coaches are to be considered independent contractors. While Beachbody periodically updates the Agreements to make minor, routine updates, all versions contain language providing that Coaches are to be considered independent contractors, including the version in use at the time of Plaintiff's enrollment in 2016.

41. The Policies alone are 48 pages long and set out most of the requirements of the Coaches, including compliance with the "Beachbody Coach Code of Ethics," requiring Coaches to promise to market Beachbody and engage in customer service in accordance with Beachbody directives. Ex. A, § 1.7.

1 42. Because Beachbody treats the Coaches as independent contractors, it does not pay
2 them any salary, wages, or benefits. Rather, as is typical in the MLM industry, the Beachbody
3 Compensation Plan provides for two types of compensation: (1) for sales the Coach made to
4 consumers, the Coach receives a small percentage as a commission, typically 25%; and (2) if the
5 Coach builds a “downline,” i.e., recruits other new Coaches to market and sell Beachbody
6 Products and recruit more Coaches, then the “upline” Coach receives commissions for sales made
7 by those Coaches in their downline.¹⁵

8 43. Under the Compensation Plan, Coaches are responsible for all expenses. The
9 Business Service Fee is non-waivable, and Coaches must be current with it to receive commission
10 payments. That fee does not cover all expenses, however. Coaches must purchase the Products
11 needed to run Challenge Groups and make promotional posts and testimonials on social media.
12 Beachbody does not reimburse Coaches for the purchases. Coaches also cover the cost of a cell
13 phone, internet, and other routine business expenses.

14 44. In the Agreement, Beachbody gives itself broad rights to control Coaches and
15 mandate conformance with its directives. It states that Beachbody created the Agreement “to
16 explicitly set a standard for acceptable business conduct,” and “Coaches are required to read and
17 comply with all the terms and conditions set forth in the Agreement.” Ex. A, § 1.2. And it further
18 states that “Beachbody never gives up its right to insist on compliance with the Agreement and
19 with the applicable laws governing the conduct of your business.” Ex. A, § 1.6. Throughout the
20 Agreement, Beachbody makes clear it has the exclusive right to terminate the Coach for failure to
21 comply with the terms. *See, e.g.*, §§ 3.2.9 (termination for failure to comply with social media
22 directives); 3.4 (termination for improper purchases); 3.7.3 (termination for failure to comply with
23 recruiting directives); 3.10.1 (termination for recruiting other Coaches to participate in other

25 ¹⁵ The “upline” and downline” concepts are the hallmark of the MLM structure. To
26 illustrate, when an established Coach, whom we will call “Amy,” recruits a friend, whom we
27 will call “Bill,” to be a Coach, Bill is in Amy’s downline; and Amy is in Bill’s upline. If Bill in
28 turn recruits a new Coach, whom we will call “Chris,” then Bill has an upline (to Amy) and
a downline (to Chris); the established Coach Amy now has two levels to her downline, to
Bill (first level), and Chris (second level). Should Chris then recruit someone, the
established Coach Amy would have three levels to her downline.

1 MLMs and competing work); 3.10.3(termination for marketing Beachbody products alongside
2 non-Beachbody products); 3.10.4 (termination for policy violations by members of Coach’s
3 household); 8.1 (termination for illegal, deceptive, or unfair business conduct, the determination
4 of which Beachbody retains the “sole discretion” to make).

5 45. Moreover, Beachbody exerts substantial control and direction over how the
6 Coaches perform their work, both under the terms of the agreements with Coaches and in
7 practice. While Beachbody permits Coaches to create their own work hours and work as little or
8 as many as they desire, the Coach’s discretion ends there. Because of the control and direction
9 exerted by Beachbody, the Coach has virtually no discretion over how they are to actually do the
10 job.

11 **a. Beachbody Closely Directs and Controls Coaches’ Online**
12 **Marketing.**

13 46. While some MLMs rely on home parties, door-to-door sales calls, and other forms
14 of in person selling, Beachbody’s model is designed so that Coaches can work online to solicit
15 leads and recruit new Coaches. Beachbody acknowledges that Coaches “solicit orders for
16 Beachbody products and submit them to the Company for fulfillment, Ex. A § 2.3, and that
17 Coaches “rely heavily on social media,” Ex. A, § 3.2.9. Beachbody closely directs and controls
18 Coaches’ online marketing.

19 47. Beachbody has been able to recruit Coaches in part because its Products offerings
20 and business model lend itself so well to online marketing. For example, because Beachbody’s
21 flagship product is its workout videos, which are available for streaming to those consumers who
22 purchase a monthly subscription, Coaches are more likely to sell online using social media, where
23 video clips can easily be displayed, as well as on forums such as SMS messaging services, other
24 forms of online communications, and Beachbody’s platforms.

25 48. While Beachbody does not expressly prohibit all forms of in-person sales, as
26 described in Paragraphs 63–79, Beachbody has created many incentives for Coaches to sell on its
27 online platforms, made it difficult, if not impossible, for Coaches to engage in most forms of in-
28 person sales, and the Agreement does not require that any sales be performed in person.

1 49. To perform the online marketing work, Beachbody grants all Coaches access to the
2 Coach Office, a password protected section of Beachbody’s website that serves as a Coach’s portal
3 for all things related to their Beachbody work. Beachbody stores key documents, training tools,
4 product guides, marketing instructions, and other important reference materials that the Coach
5 is required to familiarize themselves with.¹⁶

6 50. Beachbody also maintains galleries of Beachbody-approved graphics and images
7 of its Products and video clips from workout videos that Coaches can use in their social media
8 posts. These images are often the same graphics that Beachbody uses in the company-run
9 advertisements. For example, this is an image that Beachbody has authorized Coaches to use in
10 their social media use to promote the Products:



16 See, e.g., *2B Pregnant Product Training Video*, BODi Vimeo, <https://vimeo.com/657731661> (last accessed May 5, 2023).

1 The Coach Office also includes a tool to permit Coaches to send emails to customers and downline
2 Coaches, stores customer contact information, tracks sales, and tracks Coaches' performance in
3 various incentive programs.

4 51. The training tools and product guides available in the Coach Office include
5 instructions on how to advertise given products, product information, pricing directives, and
6 required information that Coaches are to give to prospective customers. They also contain
7 suggestions on who to target and what the Coach's sales pitch should be, scripted examples for
8 answering common questions, and instructions on overcoming objections.

9 52. For example, its 2020 guide for Beachbody On Demand is a four page long
10 document setting out all the details and instructions that a Coach needs to know.¹⁷ These
11 documents are not flyers to be handed out to people, but rather, include notes to the Coach. The
12 details and length of these product guides indicates that Coaches are not likely to memorize this
13 information and answer questions directed to them in person, but rather, are intended to allow
14 the Coach to prepare social media posts or reference easily when running a Challenge Group.

15 53. Beachbody also provides each Coach with a "personal" website to serve as their
16 online storefront. These "Coach Sites" essentially serve as a portal to Beachbody's Product catalog
17 and are designed to allow Beachbody to track and credit sales to the Coach through whose portal
18 the consumers purchased the Products. Beachbody provides each Coach with template to create
19 a Site, and a specialized URL by which customers can access that Coach's "business." All Coach
20 URLs follow a standard template that Beachbody created:

21 http://mysite.coach.teambeachbody.com/YOURCOACHIDHERE?lang=en_US

22 Customers who visit a Coach Site can peruse the same Beachbody's catalogue of Products that
23 can be found on Beachbody's main websites. The only difference is that by purchasing the
24 Products via the Coach's personalized URL, the Coach can earn a commission from the sale.
25 While Coaches can personalize these Sites with information about themselves, the options are
26 limited. Beachbody has designed the templates in such a way so as to automatically generate a

27
28 ¹⁷ See *Beachbody On Demand*, Product Training Guide https://images.beachbody.com/coach-office/downloads/toolkit/club/Ripple_Club_PTG_EN-June.pdf (last visited Jan. 9, 2023).

version of each Coach's Site in French and Spanish, in addition to English, so Coaches cannot deviate from the standard template.

54. Beachbody also provides directives to Coaches on how to use Beachbody's online programs. With respect to the Challenge Groups, Beachbody supplies both instructions and guides to run them. For example, Coaches can access the Challenge Groups via a Coach portal on the Beachbody app to monitor their customers' and leads' progress, answer questions, and help them purchase the Products they need to complete the challenge or reach the goals for the Challenge Group.

55. Coaches are not on their own in running the Challenge Groups; rather, Beachbody then instructs them to use Beachbody content, stating: "Using the Group Guides, post content and engage with your group participants daily."¹⁸ The Beachbody-produced Group Guides are a collection of published scripts and prompts for the Coach to use when running the groups, and contain extensive detail.

56. For example, in a Group Guide called "10 Rounds," Beachbody published scripts and instructions for a 40-day group program, which contains details on Product recommendations and workouts. On Day 1, the Coach is prompted to tell the group:

I can't tell you how long I've been waiting for a killer boxing program like 10 Rounds. Honestly, boxing is hands-down one of the best TOTAL-body workouts you can do—slender arms, strong core, stamina-building, all of it. But for me, stepping into a ring at a scary boxing gym was NOT gonna happen.

That's why I love that I can learn all the fundamentals of boxing at home with Super Trainer Joel Freeman. I'm talking the jabs, uppercuts, hooks—all those punches that are gonna keep your arms moving and heart pounding.

It's a for sure intense 5 days a week, but it's also tons of fun. The entire program is shot on the road with Joel and the cast—you'll get to try new workouts as they go from city to city visiting iconic locations. I'll get into what those workouts look like a little later; for now, let's focus on being 100% prepared for the weeks to come.

During this Prep Week, I'll be giving you some pointers so you can start strong from the very first workout. One thing I do every day is drink Shakeology to help maximize my results—you'll see how super-important it is for your own 10 Rounds results. I can tell my body feels and functions at its best when I'm getting all my nutrients. First, I start my day with Shakeology (even on non-workout days!). It's delicious superfood nutrition made with a blend of proteins, prebiotics, probiotics, digestive enzymes, adaptogens, vitamins, and minerals—the stuff your

¹⁸ *Team Beachbody Group Guides*, *supra* note 1.

body begs for to help maintain a high level of performance during your entire 6-week commitment.

On workout days you'll also take Beachbody Performance Energize and Recover to help you tackle every workout with laser-sharp focus and recover optimally between them.¹⁹

Other days contain similar instructions.

57. The guides contemplate that Coaches will be filming themselves reading the script and posting the videos on the Challenge Group pages and the app, or on Instagram or other social media pages. On some, Beachbody includes images and an option for Coaches to download those images to use in their posts that are connected to the challenge.²⁰

58. In some instances, Beachbody assigns customers to Coaches, and directs that the Coaches engage and market to those specific customers. Because customers unaffiliated with any Coach can purchase Beachbody products, Beachbody can assign its own customers to Coaches, who the Coach is expected to include in Challenge Groups, provide customer service, and periodically reach out to for marketing efforts. These interactions with these Beachbody-assigned Coaches are always virtual.

59. Beachbody, through the Coach Office and the communications it disseminates by word of mouth through Coaches passing instructions down to their downlines, provides many other useful tools for Coaches. Under a "News & Events" section, it provides "BODi Business News," which provides weekly news updates and announcements to Coaches, such as changes to the Coach Office, new product launches, and information on upcoming Beachbody events. It also produces a "Coach Monthly" newsletter and calendar which informs Coaches of current and upcoming promotions, key dates, and marketing or product updates.²¹

¹⁹ *10 Rounds Group Guide*, Team Beachbody <https://www.tbbgroupguides.com/category/10-rounds/> (last visited Feb. 7, 2023).

²⁰ *See, e.g., 3 Week Yoga Retreat Challenge Group Guide*, Team Beachbody, <https://tbbcoach411.com/3-week-yoga-retreat-challenge-group-guide/> (last visited Jan. 9, 2023).

²¹ *See, e.g., Coach Monthly November 2021*, Team Beachbody, https://images.beachbody.com/cm/2021/november/en.html?locale=en_US (last visited May 16, 2023).

60. As another example, for years, Beachbody has published a “daily business activity tracker” worksheet for its coaches to use. *See* Ex. B.²² These worksheets give a list of tasks for the Coach to perform each day, including things like:

Be Proof the Products Work. Work out and drink Shakeology

Do a social media post that showcases the benefits of your healthy lifestyle or has a call-to-action

Update your IG Story throughout the day” to show “workout clips,” “meal prep,” or “Invitation/promote group/poll or call-to-action

Contribute to your Challenge Group

61. Beachbody also produces a weekly podcast. Coaches are encouraged to join to learn sales and marketing tips, hear from other Beachbody veterans, learn about new Products, and stay motivated.

62. Beachbody Coaches are incentivized to follow Beachbody’s directives and prompts in marketing the Products. Because they are only paid if they make sales, they are incentivized to follow the suggestions of Beachbody, and their upline Coaches, on what kinds of marketing efforts are likely to result in successful sales.

b. Beachbody’s Reliance on an E-Commerce Platform Limits Coaches’ Discretion and Promotes Online Sales over In-Person Interactions.

63. Beachbody has developed numerous online tools, including the Coach Sites, Challenge Groups, and a special “Share-a-Cart” system, which reflects a decision to exert control over the Coaches and ensure they conform to the directives contemplated under the Agreement.

64. *First*, the Coach Sites are designed in a way that ensures that Coaches operate in compliance the Beachbody’s marketing directives that are laid out in its Agreement. *See, e.g.,* Agreement, §§ 1.7 (requiring conformance with Beachbody’s rules for ethical marketing); 3.1 (prohibiting deceptive marketing); 3.24 (setting out rules for use of intellectual property), 3.7.2 (requiring Coaches wishing to make certain kinds of health claims about the Products to do so only by reprinting the company’s claims “in exactly the same format” and “in totality”). Because

²² *Success Club System Daily Business Activity Tracker*, Team Beachbody, https://images.beachbody.com/tbb/beachbodycoach/Coach%20Training/TBB_BusinessActivityTracker_EN_092618.pdf (last visited May 16, 2023).

1 the Coach Site is not a standalone website, but a portal by which the public can view the Products
2 on Beachbody's own websites in a way that gives credit to the Coach for the sale, the Product
3 pages and descriptions are generated entirely and solely by Beachbody, with no option for the
4 Coach to revise or supplement either the language or photos of the Products. Thus, the Coach is
5 in effect selling the Product using only Beachbody-approved marketing language and intellectual
6 property, as required by the Agreement.

7 65. **Second**, the Sites ensure Coaches adhere to Beachbody's rules on pricing and
8 promotions. *See, e.g.*, Agreement, §§ 5.2 (prohibiting sales of Products below Beachbody's list
9 price and the offering of incentives not otherwise offered by Beachbody); 5.6 (prohibiting Coaches
10 from using charitable causes to promote sales). On the Sites, Beachbody sets the prices and does
11 not permit adjustments, nor is there a way for a Coach to allow a customer to get a discount,
12 receive a free gift, make a donation, or use any other offer that is not available on Beachbody's
13 main platforms and to all Beachbody customers. This significantly limits Coaches' marketing
14 discretion.

15 66. Relatedly, even when consumers purchase through the Coach Site, Beachbody
16 controls whether and how orders can be cancelled or refunded. Thus, the Coach may not deviate
17 from Beachbody's rules, further limiting Coaches' exercise of business discretion. Agreement, §§
18 1.7 (requiring adherence to refund policy); 6.2.1 (requiring Coach to forgo commission if refund
19 is given); 7.1 (setting forth money back guarantee).

20 67. **Third**, the Sites and Challenge Groups create incentives for Coaches to steer people
21 to Beachbody-controlled platforms, and promote compliance with Beachbody's many limitations
22 on where and how Coaches may sell the Products. *See, e.g.*, Agreement, §§ 3.8 (prohibiting sales
23 of Products at kiosks or other general public retail outlets); 3.2.13 (prohibiting Coaches who work
24 at gyms from promoting Beachbody during classes); 3.9 (prohibiting sales of Products at "swap
25 meets, garage sales, online auctions, or flea markets"). Because Beachbody handles payments and
26 shipment for orders placed on its pages, by relying on these tools, Coaches save time and reduce
27 expenses, given that in-person sales would require them to handle payment, plan for advance
28 purchase of extra inventory to have in stock and/or place orders and handle delivery.

1 68. Similarly, Beachbody also restricts Coaches from using social media to make
2 online sales; in other words, they cannot sell the Products directly to consumers on Facebook
3 marketplace or similar sites. By making the Coach Sites available and performing the back-end
4 work, Coaches are less likely to seek out other e-commerce platforms to sell the Products.

5 69. *Fourth*, the Challenge Groups and Sites are designed to force Coaches to adhere to
6 the other restrictions on how Coaches are to generate income through Beachbody. For example,
7 Beachbody requires that Coaches allow participants in Challenge Groups to participate free of
8 charge (i.e., a Coach cannot charge for coaching, instruction time, or advice), *see* Agreement, §
9 3.2.12, and the Challenge Groups do not provide a way for the Coach to charge or receive
10 payment. Beachbody also prohibits Coaches from using its platforms to promote other
11 businesses, Agreement, § 3.2.9, and these platforms are not set up to permit for Coaches to sell
12 outside goods.

13 70. In particular, the Sites allow Beachbody to enforce its prohibition on “bonus-
14 buying” and “inventory loading,” Agreement, §§ 3.18. These terms refer to situations in which a
15 Coach purchases products for purposes other than personal use or to sell to a consumer, typically
16 where a Coach wants to meet a sales quota or get a bonus (or help their downlines do the same).
17 Through the use of its forums, Beachbody can monitor a Coach’s compliance with these rules,
18 because it can determine if the Coach is interacting with enough retail consumers and review
19 purchaser information, or decline sales if it suspects they are for a prohibited purpose. Thus, a
20 Coach who wants to increase income through strategic purchases of inventory is not permitted
21 to exercise that discretion.

22 71. *Fifth*, to steer Coaches into only selling and recommending Beachbody Products,
23 Beachbody developed a “Share-a-Cart” service. Coaches can add Beachbody products and
24 programs into specific customers’ online checkout carts, and virtually share the cart with
25 customers for them to purchase. The service does not allow Coaches to include outside products
26 in the carts. Beachbody provides guidelines to Coaches on how to make product
27 recommendations based on the customers’ needs and goals, and any Challenge Groups they
28 intend to join.

72. *Sixth*, Beachbody prohibits Coaches from engaging in many kinds of online advertising buys. *See* Agreement, § 3.2.11. Beachbody has designed the Coach Sites and Challenge Groups in such a way as to prevent the Coach from gaining access to the sorts of data that are often necessary to successful online advertising campaigns, thereby promoting compliance.

73. While Beachbody purports to provide Coaches a right to create their own websites that are not on the Beachbody platform to sell the Products, the right is illusory, and Beachbody via the Agreement has removed all incentives to Coaches to create their own platforms. Ex. A, § 3.2.3. It does not waive or reduce the Business Service Fee if Coaches do not use these Beachbody services, creating a financial incentive to use the Coach Sites.

74. If a Coach wanted to create their own website, Beachbody controls its publication. Coaches must first get written permission from Beachbody, which is only given if the Coach first creates a test website for its review and approval. Coaches must also seek approval from Beachbody for “material updates.” Beachbody also reserves the right to revoke authorization at any time and for any reason, at which point, Coaches must remove the website immediately and may not hold Beachbody responsible for costs. *Id.*

75. Moreover, a personal website must conform to other directives. For example, to get approval, Beachbody requires the advertising to conform with its directives and include its required notices. And Beachbody controls pricing, prohibiting Coaches from using a personal website to advertise Products at a lower price than what it might cost on the Beachbody website. Coaches may not engage in any recruiting on a separate website.

c. Beachbody Exerts Control Over Coaches in Recruiting and in Relationships with Other Coaches.

76. While Coaches are encouraged to engage in recruiting, Beachbody restricts their discretion here, too.

77. For example, the only way to become a Coach is to complete the application on Beachbody’s website. While Coaches are paid commission by Beachbody if the people they recruit sell products, the Agreement prohibits Coaches from entering into contracts directly with the people they recruit.

78. Beachbody does not allow Coaches to seek out talented, experienced Coaches and add them to their downlines. Rather, it prohibits Coaches from recruiting Coaches from “competing” downlines. Ex. A, § 3.11. Because Beachbody, not the Coach, pays the commission and receives the sales made by those under a Coach, Beachbody can enforce this rule by simply paying the commission to the original Coach who did the recruiting. Coaches who are dissatisfied with the support or training offered by their upline Coach must request permission from Beachbody, which it “rarely” permits. *Id.* at § 3.6.2

79. Coaches are further restricted in how they drum up business for themselves and those in their downline. Beachbody prohibits the use of lead generating tools, instructing that: “Coaches may not sell or in any manner profit from (directly or indirectly) or promote any marketing systems or lead generation systems or sell or promote lead lists to other Coaches.” Ex. A, § 3.1. Beachbody also prohibits Coaches from coming up with creative solutions on how to increase their downlines’ profitability, prohibiting even the exchange of “traded or free services . . . for tools, consulting for Coaches, software or other sales aids.” *Id.*

80. Beachbody also restricts Coaches in outside earning opportunities, prohibiting Coaches from recruiting other Coaches to join other MLMs or even to market other MLM products to other Beachbody Coaches and limiting Coaches’ abilities to do so. *Id.* at § 3.10.1.

81. Finally, Coaches must get Beachbody’s approval to sell the “business,” i.e., future commissions associated with the Coach’s customer leads and downline Coaches. But they may not sell to another Coach. *Id.* at § 3.23.

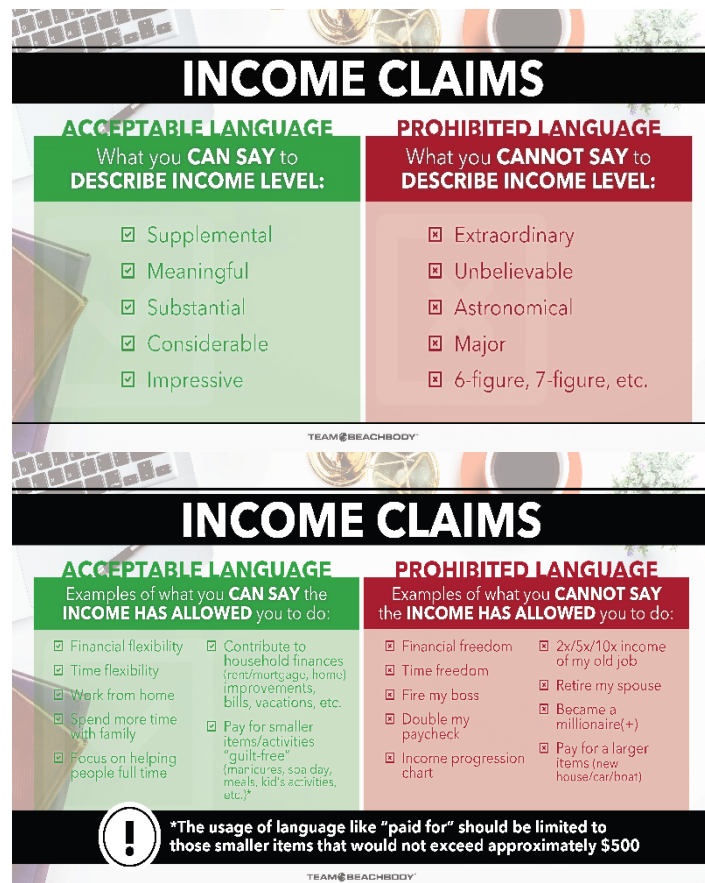
d. Beachbody Exerts Control to Ensure Coaches Are Engaging in Approved Online Marketing Activities.

82. The Agreement lays out other restrictions that are designed to promote online marketing over in person sales or other forms of selling. For example:

- Coaches must get approval to create branded promotional items, *id.* at § 3.2.1;
- Coaches must get approval for television or radio advertising, *id.* at § 3.2.2;
- Coaches must get approval before initiating a press release, *id.* at § 3.2.6;
- Coaches must refer all media inquiries to Beachbody, *id.*

83. In addition, Beachbody directs how the Coaches hold themselves out on social media. Coaches are required to disclose their full names and conspicuously identify themselves as an Independent Beachbody Coach. *Id.* at § 3.2.9. They are prohibited from using anonymous posts, aliases, or blind advertisements. *Id.* Their identification must appear in the original post, and not in any comments thereto, and any opinions by the Coach must be acknowledged as such. *Id.* Beachbody prepares and generates promotional content, such as excerpts from workout videos, for Coaches to use. While Coaches can create some of their own content, Beachbody can remove any content and discipline, suspend, or terminate the Coach if it determines it violates its copyrights without notifying the Coach. *Id.*

84. Beachbody prohibits Coaches from discussing the Beachbody Compensation Plan on any social media site. *Id.* at § 3.2.9. It heavily restricts how Coaches can discuss their own income, mandating that they use disclaimers and approved language on every post. *Id.* at § 3.7.3. For example, Beachbody training materials included the following guidance:



85. Beachbody further prohibits Coaches from “attempt[ing] to converse with someone who posts a negative post against You, other Independent Beachbody Coaches, or Beachbody.” *Id.* at § 3.2.9. Coaches are told to report negative posts or concerns to Beachbody.

3. Coaches’ Work is not Outside Beachbody’s “Usual Course of Business”

86. Beachbody views the work of the Coaches to market the Products online as central to its business model. The primary benefit to Beachbody from the Coaches’ work is the way in which they drive engagement with the brand and people to Beachbody’s website. Beachbody gets increased visibility on social media, enabling it to compete in a saturated health and fitness market more cheaply. For much the same reason that brands turn to influencers, Beachbody understands that social media posts from friends may be more persuasive in driving interest and generating paying customers than a paid advertisement.

87. In a recent call with shareholders, executives at Beachbody spoke of the important role the Coaches play in Beachbody’s business. For example, the Chief Executive Officer, Carl Daikeler described the Coaches as a critical component of the company’s overall growth and profitability, as well as its marketing strategy, stating:

Now, turning to marketing. During the second quarter, our coach network continued to serve as a powerful and profitable driver of acquisitions and nutrition subscriptions with high levels of motivation and excitement around this year's launch calendar. While we're pleased with our coaches' enthusiasm for reaching more people this quarter, we continue to pilot new incentives and training programs to enhance their role as brand ambassadors.

...

Our coach network is profitable and productive, providing a foundation for future success that no one else can replicate. Given the income earning opportunity for coaches, this proprietary sales channel also provides some countercyclical momentum to the business during these times of economic uncertainty.²³

Likewise, Chief Financial Officer Marc Suidan identified the Coaches as one of Beachbody’s competitive strengths, stating, “And we have the right ingredients to see that opportunity,

²³ *The Beachbody Company, Inc. (BODY) CEO Carl Daikeler on Q2 2022 Results—Earnings Call Transcript*, Seeking Alpha <https://seekingalpha.com/article/4531781-beachbody-company-inc-body-ceo-carl-daikeler-on-q2-2022-results-earnings-call-transcript> (last visited Nov. 1, 2022).

1 including the best fitness content and programs, a powerful coach network and the advantage of
2 being the only company providing a total fitness and nutrition solution.” *Id.*

3 88. Similarly, Beachbody has acknowledged the centrality of the role its Coaches
4 played in its Form 10-Ks. For example, for the year ending December 31, 2022, Beachbody stated:

5 **Our Economic Model**

6 Our primary model is selling directly to consumers. We attract new customer sign
7 ups through three go-to-market models: 1) a proprietary network of Coaches that
8 earns commissions on their sales, 2) contact with current and past customers by
9 emails or through our social media followers and 3) direct response marketing
10 media.

11 Our Coach network drives the majority of our revenues. Coaches earn a share of
12 the revenue generated by promoting our products and helping our customers
13 succeed. They also earn additional bonuses for expanding our customer base by
14 building teams of Coaches. The Coaches, which we plan to rename as “Partners”,
15 are Beachbody’s equivalent of a gig workforce. They typically receive a 25%
16 commission on orders they generate through their efforts. We also have a
17 “Preferred Customer” program, which entitles them to up to a 25% discount on
18 certain purchases in return for paying a monthly subscription fee.²⁴

19 **4. Beachbody Cannot Meet its Burden to Show that Coaches are**
20 **“Customarily Engaged” in a Separate Business**

21 89. Beachbody cannot meet its burden to show that Coaches are “customarily
22 engaged” in an independently established sales and marketing business. Instead, most
23 Beachbody Coaches are recruited regardless of their skill or experience, only perform sales and
24 marketing for Beachbody (using Beachbody’s approved platforms), and maintain no separate
25 sales or marketing business.

26 90. Beachbody Coaches are not required to have any background in sales, marketing,
27 fitness, or nutrition prior to becoming a Coach. Coaches are not required to have any particular
28 licensure or meet any educational requirements, either. For example, they do not need to be
licensed personal trainers, nor have any schooling, training, or prior employment in fields
relating to health and fitness, or nutrition. Nor does Beachbody require they have schooling,
training, or prior employment in marketing, sales, or general business. Instead, Beachbody only
requires that a prospective Coach complete a short application asking for basic personal

²⁴ The Beachbody Company, Inc., Annual Report (Form 10-K) (Mar. 15, 2023) available at
<https://www.sec.gov/ix?doc=/Archives/edgar/data/1826889/000095017023008487/body-20221231.htm>.

1 information and agree to pay the monthly fee. In fact, most Coaches have little to no prior relevant
2 experience or training.

3 91. Most Beachbody Coaches have never owned or operated their own separate sales
4 business outside of Beachbody. And most Coaches do not maintain any registered or
5 incorporated sales or marketing business, for their work with Beachbody or otherwise. Coaches
6 generally do not hold themselves out to others as sales or marketing professionals or maintain
7 any office or business address.

8 92. Rather than rely on Coaches' own business acumen or sales experience to market
9 products, Beachbody provides the instrumentalities of Coaches' sales and marketing work. These
10 include the Coach Office (which includes a tool for Coaches to send emails to customers and their
11 downline Coaches, as well as a gallery of approved images and video clips), the Coach Site (the
12 content of which is provided by Beachbody and does not allow deviation from the standard
13 template), the BODgroup platform and app, and Beachbody scripts and graphics for use in
14 marketing.

15 93. Ultimately, Beachbody intends for Coaches to see Beachbody as a "side hustle"
16 and not as "client." In other words, regardless of whether a Coach maintains any kind of
17 independent business, Beachbody's policies and mandated instrumentalities of work make it so
18 the Coach responsibilities are not those that are of the sort that would be performed by an
19 independent and trained professional. For example, Beachbody provides Coaches with a Team
20 Beachbody Coach email address to communicate with their downlines and with customers. The
21 expectation is that the Coaches are using Beachbody's brand to sell, not their own business's
22 identity. Likewise, Beachbody's policies promoting sales through the Sites, restrictions on using
23 other websites as a point of sale, and limitations on where the Products can physically be sold
24 effectively prevent Coaches from integrating the sale of Beachbody products into any pre-existing
25 business. And Beachbody prohibits Coaches from using its platforms to promote other
26 businesses.

27 94. Similarly, those experienced in social media marketing are not allowed to use the
28 kinds of tools relied upon by professionals in the field; as discussed above, Beachbody prevents

1 them from most kinds of online advertising buys, and does not provide access to data collected
2 from consumers and website visitors, nor the ability to track them and target ads to them. Instead,
3 Beachbody designs the overall social media advertising campaign, and supplies the Coaches with
4 hashtags, scripts, promotional photos and video clips, and other strategic advertising directives
5 for the Coaches to use to the Products on social media.

6 95. Further, Beachbody actively limits Coaches' ability to engage in sales or marketing
7 opportunities outside Beachbody. For example, Beachbody prohibits Coaches from recruiting
8 other Coaches to join other MLMs or even to market other MLM products to Beachbody Coaches.
9 Agreement § 3.10.1.

10 **5. Beachbody Coaches Are Not "Direct Sellers."**

11 96. Despite classifying the Coaches as Independent Contractors, they are employees
12 under California law. As set forth below, while some MLM workers might meet the narrow
13 statutory exemption for those employed in "direct sales," the Coaches do not.

14 **a. Background on MLMs and the Direct Sales Exemption.**

15 97. For many years, the MLM industry has enjoyed notoriety for its ability to carve
16 out loopholes from federal and state employment laws, permitting MLMs to treat its sales
17 personnel as independent contractors. These regulations were enacted in the 1970s and 1980s,
18 and in California, the exemption describes a different job than what Beachbody Coaches perform.

19 98. When AB 5 was passed in 2019, it codified the opinion in *Dynamex Operations West,*
20 *Inc. v. Superior Court of Los Angeles County*, 4 Cal. 5th 903 (2018), in which it set forth a new test for
21 misclassification (the "Dynamex Test"). When the bill was being debated, many in the MLM
22 industry recognized that the Dynamex Test would require them to classify their workers as
23 employees. The Direct Selling Association ("DSA"), the industry lobbying group, pushed for an
24 exemption. As a result of those efforts, AB 5 exempts from the Dynamex Test any salesperson
25 "described in Section 650 of the Unemployment Insurance Code, so long as the conditions for
26 exclusion from employment under that section are met." ("Direct Sales Exemption") Instead, AB5
27 provided the old common law test would govern the question of misclassification for any worker
28 falling under the Direct Sales Exemption.

1 99. For an entity to be covered under the Direct Sales Exemption, the hiring entity
2 must show that the work satisfies all three criteria set forth in the statute, namely that (a) the
3 worker performs one of two specific types of work; (b) the worker’s compensation is directly tied
4 to sales or output, and not hours worked; and (c) the worker and business have an agreement
5 that the worker will be treated as a contractor for tax purposes. If all three criteria are not met,
6 then the exemption does not apply, and if the worker otherwise meets the Dynamex Test, they
7 are misclassified. While the third of these criteria—services performed pursuant to a contract
8 identifying the person as an independent contractor—is met, that factor is not dispositive. As
9 discussed below, the Coach job does not satisfy the other criteria.

10 **b. Beachbody Coaches Do Not Perform the Jobs Identified in the**
11 **Direct Sales Exemption.**

12 100. First, for the Direct Sales Exemption to apply, the salesperson must be performing
13 one of two narrowly defined jobs. Specifically, the Exemption requires that one be “engaged in
14 the trade or business of primarily inperson [sic] demonstration and sales presentation of
15 consumer products, including services or other intangibles, in the home or sales to any buyer on
16 a buy-sell basis, a deposit-commission basis, or any similar basis, for resale by the buyer or any
17 other person in the home or otherwise than from a retail or wholesale establishment.” In other
18 words, section (a) of the Direct Sales Exemption is best understood as identifying two specific
19 categories of direct sales jobs, *Primarily In Person Consumer Sales Work*, and *Wholesale/Resale*
20 *Work*, that could trigger the applicability of the Direct Sales Exemptions. The Beachbody Coach
21 falls under neither of these categories.

22 101. *Beachbody Coaches Are Not Engaged Primarily in In-Person Consumer Sales*
23 *Work*. This job category covers those who are “engaged in the trade or business of primarily
24 inperson [sic] demonstration and sales presentation of consumer products, including services or
25 other intangibles, in the home.” Thus, the exemption is limited to those who are *primarily* selling
26 consumer products *in person* and *in the home*. These terms are significant, as they do not appear in
27 the analogous job category of “direct sellers” under a later federal statute. *See* 26 U.S.C. §
28 3508(b)(2)(ii). Thus, the California exemption applies narrowly to jobs like door-to-door

1 salespersons, or the direct sellers who work almost exclusively through the home party circuit,
2 i.e., people who sell consumer products by meeting with other consumers in their homes.

3 102. Beachbody Coaches do not “primarily” sell “in person.” As discussed in
4 Paragraphs 63-79, the Agreement does not state that Coaches are required to engage in in-person
5 sales, and even restricts certain kinds of in person sales activities. Beachbody prohibits Coaches
6 from selling “out of stores, kiosks, . . . or any other general public retail or commercial outlet.” §
7 3.8. Thus, while Coaches may perform marketing work from their own homes, a Coach cannot
8 use their own home as a storefront to sell Beachbody products to the public. Coaches do not visit
9 other people’s homes to sell as a matter of practice, or if they do, it is incidental to the primary
10 task of engaging in online marketing work. Moreover, Beachbody has incentivized online
11 marketing and sales, and made direct, in person sales difficult, if not impossible. *See* ¶ 63.

12 103. To the extent any Coach in the Beachbody network was primarily conducting “in
13 person” sales, the COVID pandemic would have pushed more sales online.

14 104. ***Beachbody Coaches are not engaged in Wholesale/Resale Work.*** This job category,
15 which also has a federal parallel, 26 U.S.C. § 3508(b)(2)(i), covers those are engaged in:

- 16 [a] “sales to any buyer”
- 17 [b] “on a buy-sell basis, a deposit-commission basis, or any similar basis,”
- 18 [c] “for resale by the buyer or any other person”, and
- 19 [d] “in the home or otherwise than from a retail or wholesale establishment.”

20 While California law does not define the terms buy-sell or deposit-commission in [b], federal law
21 does. The term “buy-sell basis” is one in which one buys the product to sell the product, and gets
22 paid for selling the product with the spread between the purchase price and the resale price, and
23 term “deposit-commission basis” applies where the buyer keeps as commission for a sale of a
24 product the deposit received from the buyer. *See* 26 U.S.C. 6041A(b)(2)(A) & (B).

25 105. The “Wholesale/Resale Work” is even more narrow than “In Person Home Sales
26 Work,” and does not apply to Beachbody. Rather, Beachbody’s Agreement requires that Coaches
27 sell only to themselves or to retail customers. Nowhere in the Agreement or in Beachbody’s public
28 materials does it state that compensation is on a buy-sell or deposit-commission basis.

1 106. To illustrate what is meant by “Wholesale/Resale Work,” a hypothetical upline
2 Coach Sue would be performing this work if [a] Sue was selling Products to her downline Coach
3 Bob [c] for Bob to resell, not to keep for his own use; and [b] Sue was compensating Bob for his
4 resale services by permitting Bob to keep the difference between the price he paid to Sue and the
5 product’s selling price or by permitting Bob to keep the deposit he acquired. Beachbody Coaches
6 do not work in this way, selling products to Coaches for Coaches to re-sell. If Bob directs a lead
7 to his Coach Site, and the lead purchases a product from Beachbody, both he and his upline coach
8 (e.g., Sue) would receive a commission for sales from Beachbody. But as to Sue, [a] is not met
9 because Sue did not sell the Products to Bob. Because Bob acquired the Products from Beachbody
10 to sell at retail, not to someone to re-sell, [a] and [c] are not met. As to both, [b] is not met, because
11 neither sold the product on those terms. Rather, Beachbody takes the full payment at the point of
12 sale and sends the product directly to the consumer, and then separately pays the Coach.

13 107. *The job descriptions in the Direct Sales Exemption predate significant changes to*
14 *how MLMs now operate.* By way of background, these two categories of jobs outlined in the
15 Direct Sales Exemption were how MLMs organized at the time the Direct Sales Exemption was
16 enacted. In the 1970s and 1980s, downline sellers hosted parties, traveled door to door, booths at
17 local fairs, or visited friends and family in their homes to hand out samples, catalogs, and sales
18 sheets. They took orders and payment directly from the customer. Once the seller had enough
19 orders, the seller placed the order with the company, received the shipment from the company,
20 and then met with the customer again in person to deliver the product and if necessary, collect
21 any further payment that might be due. The direct seller engaged with consumers both directly
22 and personally; the consumers had little to no interaction with the company.

23 108. In some instances, instead of placing the order with the company, the seller
24 performing “In Person Home Sales” would place the order with the person in their “upline,” who
25 was engaged in “Wholesale/Resale Work.” The upline seller acquired products from the
26 company, and sold them to the downline “In Person Home Sales” worker on a buy-sell or
27 commission deposit basis for them to sell to end consumers (or to their downlines). The seller was
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1 able to do “Wholesale/Resale Work” because at the time, MLMs permitted direct sellers to fulfill
2 their sales quotas by either selling the product to retail consumers or selling it to downline sellers.

3 109. Since the Direct Sales Exemption was enacted, various changes in the MLM
4 industry occurred to move away from this model. Most notably is the fact that over the last few
5 decades, MLMs have been forced to make a number of changes to their operations in response to
6 regulatory actions and civil lawsuits by private litigants to enforce anti-pyramid scheme laws. In
7 particular, courts and regulators have made clear that to avoid violating criminal and civil
8 pyramid scheme laws, MLMs needed to conduct operations so as to ensure that real, meaningful
9 sales were happening directly to consumers—instead of primarily to sellers’ own downlines. *See,*
10 *e.g., Webster v. Omnitrition Int’l*, 79 F.3d 776, 782 (9th Cir. 1996). It was not enough to simply have
11 a policy that sales should be at retail; the law has evolved so as to require MLMs to enforce that
12 policy and to demonstrate its effectiveness at ensuring participants were not merely stockpiling
13 inventory and seeking to recoup losses by recruiting new sellers to buy the product from them.

14 110. These legal developments have prompted two big changes. First, because MLMs
15 must ensure retail sales are occurring, few if any MLMs permit sellers to perform
16 “Wholesale/Resale Work.” Certainly, Beachbody does not. *See infra*, ¶¶ 106, 108. Second, the
17 work undertaken by MLMs to enforce policies as to sales at retail results in them exercising far
18 more control than they might have decades ago. Indeed, the Beachbody Agreement contains a
19 number of restrictions to ensure Coaches are not buying more inventory than can be sold at retail
20 or selling inventory to other Coaches. *E.g.*, § 3.2.3 (prohibition on Coaches selling products on
21 non-Beachbody websites); § 3.4 (prohibiting “bonus buying”); § 3.18 (prohibiting inventory
22 loading); § 5.1 (prohibiting Coach from buying products for their customers); § 5.4 (requiring
23 coaches to keep records on retail sales for two years).

24 111. Furthermore, by implementing platforms such as the Coach Site, Beachbody can
25 better oversee Coaches in their work to ensure they are not engaging in activities that could run
26 afoul of anti-pyramid scheme laws. Beachbody can oversee all retail sales, given the vast majority
27 occur on its website and on public social media pages. While this control may protect Coaches
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1 from being a victim of one kind of legal violation, they also remove much of the discretion that
2 other independent MLM contractors had.

3 **c. The Direct Sales Exemption requires specific compensation**
4 **practices, and Beachbody’s complicated Compensation Plan**
5 **does not conform with the requirement.**

6 112. For a position to qualify for the Direct Sales Exemption, “[s]ubstantially all of the
7 remuneration (whether or not paid in cash) for the services performed by that individual is
8 directly related to sales or other output (including the performance of services) rather than to the
9 number of hours worked by that individual.” While Beachbody claims that Coaches are paid
10 commissions based on their sales, remuneration is not “directly related” to the sales and
11 marketing services Coaches perform for Beachbody, both because of the outsized role that chance
12 plays and because of how Beachbody’s practices influence pay. Ultimately, Beachbody has
13 designed the Coach program such that Coaches are required to perform extensive unpaid labor
14 promoting the brand, from which Beachbody, but not the individual Coach, benefits.

15 113. *First*, Beachbody ultimately closes the sale, which can result in a Coach having
16 income that is not “directly related” to their output, but intertwined and dependent on
17 Beachbody’s discretion and efforts. Beachbody sets and controls prices, writes up the product
18 descriptions, controls the point of sale platform and the decision on whether or not to accept
19 payment and fulfill the order, and packages and ships the Products to the end consumer.
20 Beachbody can decline a customer’s payment method, cancel the order due to a shortage or a
21 suspicion of fraud, err in its fulfillment and must refund the consumer, have a website outage
22 that prevents the order from going through, or otherwise decline or reject the sale for any reason.
23 In those instances, the Coach will not receive a commission even though the Coach referred the
24 customer. Where direct sellers are not dependent on a company controlled e-commerce platform,
25 their commission for sales is more likely to reflect sales made. They do not run the risk of
26 company interference if they elect to permit a customer to defer payment and can choose to invest
27 in good inventory management practices.

28 114. *Second*, because Coaches sell video streaming services and other Products on a
subscription basis, Coaches’ remuneration after the initial sale depends in substantial part on

1 Beachbody's efforts. Customers may choose to cancel video streaming subscriptions because of
2 any number of things in the exclusive control of Beachbody, such as their dissatisfaction or
3 boredom with the content, technological problems with the mobile app or browser interface,
4 billing errors, price increases, or changes to the terms of service. Customers who elect to buy
5 reoccurring shipments of Products such as shakes may elect to cancel for many of those same
6 reasons. While a Coach may be able to assist in the troubleshooting of some kinds of concerns
7 raised by their subscription customers, ultimately Beachbody's outside role in delivering the
8 goods, particularly after the first month of the subscription, means that renumeration will never
9 "directly relate" to the Coach's output.

10 115. *Third*, the realities of online advertising throws to chance whether a Coach can be
11 compensated in a way that "directly relates" to their output and sales. While Beachbody claims
12 Coaches receive commission for the sales they generate, because Beachbody intends for its
13 Coaches to generate online sales through collective, coordinated social media marketing
14 campaigns, Beachbody cannot always connect an individual Coach's marketing efforts to the
15 sales leads the Coaches' collectively directed to Beachbody, leaving the Coach uncompensated
16 for those sales. As Beachbody's CEO explained, *see, infra* ¶ 27, Beachbody's marketing strategy is
17 to use Coaches in a holistic way to drive sales for the company, but this approach destroys the
18 direct line between Coaches' output and their renumeration.

19 116. To illustrate, Beachbody will often communicate to Coaches an urgent need to
20 market a Product, such as when there is a new launch or when it wants to offer a special
21 promotional price, such as on Black Friday. But these reflect a decision by Beachbody to push a
22 given product in a way that will cause it to trend and gain traction on social media in a way that
23 is beneficial to Beachbody, but not necessarily to the Coach. Where a Coach conforms with
24 Beachbody's directives, they will not receive any compensation for contributing to the trend that
25 will drive overall sales. They only receive commission if social media algorithms display to a
26 potential or existing customer their social media post, and a consumer elects to visit their Coach
27 Site (perhaps randomly selecting it from the many other Coach Sites being simultaneously
28 promoted to them in connection with the viral campaign), and then elects to make their purchase

1 through that Coach’s site. Coaches are also prevented by Beachbody policies from using
2 additional effort, expense, and skill to generate sales in this way, as Beachbody does not allow
3 Coaches to use the kinds of tools that professional brand influencers and social media marketers
4 use, such as online advertising buys, and data collected from website visits, to assist in targeting
5 consumers and ensuring more post views.

6 117. Similarly, a customer may choose to purchase Beachbody products specifically
7 because of a Coach’s marketing efforts, but if they do not purchase through the Coach’s site, the
8 Coach will not receive any commission for the purchase.

9 118. The combination of Beachbody’s policies and social media algorithms also work
10 to limit a Coach’s ability to set themselves apart during these campaigns. Because Beachbody sets
11 the prices on the Sites and prohibits Coaches from advertising products at a price lower than
12 Beachbody’s price, a Coach cannot try to offer a unique deal to attract customers. Any Coach that
13 offers a product that is not part of a Beachbody-driven viral marketing campaign runs the risk
14 that routine social media algorithms will hide the post from potential customers, in favor of
15 trending topics and posts.

16 119. *Fourth*, during these campaigns and as illustrated above, Coaches are required to
17 perform extensive marketing labor that may not be compensated at all. This further destroys any
18 “direct” relationship between the services rendered by the Coach for Beachbody and the
19 compensation they receive.

20 120. *Fifth*, the remuneration is not “directly related” to sales or other output, as
21 Coaches generate revenue for Beachbody separate from product sales, but Beachbody does not
22 compensate Coaches for this output. As with any modern e-commerce company, Beachbody’s
23 Privacy Policy gives it the right to acquire and retain all information provided by visitors to its
24 website (including the Coach Sites). Its Privacy Policy permits Beachbody to utilize tracking
25 pixels, cookies, and other internet tracking tools to monitor the browsing habits of the visitors to
26 its website, and engage in direct advertising to them—broad rights not given to the Coaches who
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28

1 found and referred these customers.²⁵ Thus, Beachbody benefits from the leads and marketing
2 done by its Coaches, even when consumer sales are not immediately made (and thus, no
3 compensation is to be paid to the Coach). The data the leads provide allow Beachbody to not only
4 expand its advertising reach but acquire information that can be used to develop new campaigns
5 and products or inform strategy. Beachbody could also sell data it acquires as a result of Coaches'
6 referrals and lead generation but would have no obligation to pay a commission in those
7 instances.

8 121. Moreover, because of Beachbody's ability to acquire data from Coach leads,
9 Beachbody can continue to track and advertise to customers who were originally brought to
10 Beachbody by the Coach. Beachbody has the power to convert a Coach lead to its own sale. Unlike
11 the Coach, Beachbody will know which Products the lead viewed, and can engage in ongoing
12 display advertising to that person. Notably, Beachbody does not agree at any time that it will not
13 compete with Coaches or poach their customers.

14 122. *Sixth*, Beachbody adjusts and holds back remuneration for reasons unrelated to
15 sales and output but turn on compliance with its rules. Not only is remuneration impacted by the
16 monthly Business Service Fee, but Beachbody requires Coaches to be current on these fees to
17 receive commission for sales made. Those who have not paid the fee within three weeks of its
18 due date will not receive commission for their work. Ex. A, § 10.2. And Beachbody also can deduct
19 \$1 per commission payment made. *Id.* at § 6.2.2.

20 123. Remuneration is also contingent on the Coach maintaining active status and
21 regularly hitting sales quotas. Coaches are to maintain a "Personal Volume" of 50 points during
22 any given qualification monthly qualification period, and those that fail to meet it can be
23 terminated, and any commissions owed forfeited. *Id.* at § 10.2. (A Product's point value is
24 typically the pre-commission price, thus a product that sells for \$40 at retail on which the Coach
25 receives a \$30 commission has a point value of 30.) Thus, remuneration is not on a per sale basis,
26 but can be withheld entirely if sales quotas are not met.

27
28 ²⁵ See *Privacy Policy*, Team Beachbody <https://www.teambeachbody.com/shop/us/privacy>
(last visited Oct. 23, 2022).

1 124. *Seventh*, it is widely understood that the best way to earn money as a Coach is to
2 build a downline of Coaches, as upline Coaches receive commission on their downline Coaches'
3 sales. But this aspect of the compensation plan means that “substantially all” remuneration is not
4 based on the Coach’s sales; rather, Beachbody intends for a portion of remuneration to be based
5 on the sales of others. Even then, Beachbody does not truly compensate the Coach in a way that
6 is “directly related” to downline sales or output. Rather, to be eligible to receive such
7 commissions, a Coach must have recruited at least two active Coaches, not just one, and both of
8 those downline Coaches must be current on fees and hit specified sales targets for the upline
9 Coach to receive a commission. Thus, if an upline Coach recruits two Coaches, and one is unable
10 to meet sales targets for whatever reason, but the other sells \$500 of Products, the upline Coach
11 will not receive commission for the downline’s sales.

12 **d. Beachbody’s Modern E-Commerce Business Is Unlike Past and**
13 **Present Direct Sales Companies.**

14 125. The Direct Sales Exemption and its inclusion in AB 5 was based on the MLM
15 industry’s claim that it is needed to ensure the industry can continue to offer people the
16 opportunity to create and run their own businesses. Some MLM businesses do run operations
17 that are predominately based on around in-person sales, promoting home parties and sales at
18 community events, like Parent Teacher Association meetings or similar. Some do not allow
19 consumers to buy products via a company website or they utilize pricing and purchasing policies
20 that give the seller more control. In the primarily face-to-face, in-person sales context, the direct
21 line between a person’s effort and a closed sale may still be one that can be drawn, and may allow
22 for the kind of independent business operations contemplated by the statute.

23 126. Beachbody’s operations, however, are a stark departure. It is one of the few MLM
24 businesses offering a video streaming service as a flagship product. And the way in which it
25 operates its platforms, including the Coach Sites, eliminates for the Coach nearly all the work
26 associated with operating a business, as compared to MLMs of the past, and of some in the
27 present. At the same time, by removing many of the functions performed by sellers in the past,
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Coaches with expertise, skills, or a willingness to invest in certain areas are unlikely to realize a material change in their earnings prospects.

127. For example, the use of the Sites means that skills or investment in inventory management or distribution processes are not necessary, nor will they have a material impact on a Coach's outcome. When customers place orders on the Sites, Beachbody fulfills them. Unlike some MLMs, both current and historic, as well as in the traditional wholesale context, Coaches do not need to plan to have Product on hand or collect bulk orders.

128. Similarly, expertise or support in accounting, finance, economics or pricing will not impact a Coach's outcome, because Coaches are not able to alter prices at which the Products are sold on the Site and must sell them at the rate that Beachbody has determined will cover Beachbody's expenses, regardless of whether the Coach's compensation is enough to cover the Coach's expenses. Beachbody calculates, collects, and remits sales taxes, and Coaches do not need nor would benefit from experience in that area. Unlike some MLMs, both current and historic, as well as in the traditional wholesale context, Beachbody does not give a larger discount or increase the percentage basis for a commission if a Coach orders a larger amount of Product for their customers.

129. Beachbody also pays the Coach's upline and downline and determines any compensation owed to them, and thus, a Coach does not negotiate or set anyone else's rates of pay. Beachbody handles the payment interface, and thus Coaches do not need expertise in electronic payments, data security and privacy, credit card processing regulations, or similar.

C. Beachbody's Misclassification of Plaintiff and Coaches Was Willful.

130. Beachbody's decision to misclassify the Coaches as independent contractors was willful and intentional.

131. *First*, Beachbody is based in Santa Monica, California, and employs personnel in a variety of roles there, and thus, it is implementing California's labor and employment laws as a matter of regular practice. It is highly sophisticated, large company, whose legal team includes California lawyers, both those at the prestigious law firms that provide it representation in other matters, as well as those comprising its team of in-house counsel. Both its management and its

1 legal team would be exposed to news about changes in California law with respect to
2 misclassification.

3 132. *Second*, as detailed above, Beachbody's Agreement, as well as the materials in the
4 Coach Office, set forth detailed codes of conduct. Beachbody knew and intended for Coaches to
5 conform to these codes of conduct and ensured adherence through its own platforms and other
6 instrumentalities, including the use of the Challenge Groups, and the Sites.

7 133. *Third*, Beachbody knows and depends on the Coaches and even the highest levels
8 of the company understand that the Coaches play an essential role in Beachbody's growth and
9 business model. *See, e.g.*, ¶ 81. The management team, including the CEO and CFO, not only
10 understand the essential role the Coaches play, but know they are classified as independent
11 contractors, as evidenced both by their decision to operate the company as an MLM and their
12 remarks to shareholders. Thus, the decision was not a singular decision by a low-level employee,
13 but a conscious and knowing choice endorsed by the highest levels of the Company.

14 134. *Fourth*, Beachbody further knows and understands as an MLM, few workers will
15 make money under a commission structure, and touts to shareholders in earnings calls that its
16 Coaches only get paid if they make a sale. *See, e.g.*, ¶ 27. Indeed, the commission structure here
17 represents a significant cost savings over the payment of wages. It publishes an annual statement
18 of Coach earnings, which shows that the average Coach with no downline, who worked for
19 Beachbody between January 1, 2021, and December 31, 2021, received \$491 in commission. *See*
20 Ex. C. While higher level Coaches who had a downline fared a little better, most have been with
21 Beachbody for many years. As for the average Coach without a downline, the \$491 in commission
22 is the amount before expenses, which include at a minimum, \$191.40 from the monthly Business
23 Service Expenses. It does not factor in the cost of acquiring the Products to sell and recommend
24 them, or other expenses incurred, such as the internet services. And this number represents only
25 those Coaches who were with Beachbody for the full twelve-month calendar year, and thus, the
26 most successful Coaches. In fine print, Beachbody discloses that only 74.2% of Coaches received
27 a commission check in 2022. Thus, it is aware that it is receiving inexpensive, commission-based
28 work from the Coaches and intentionally structured the program in that way.

1 135. **Fifth**, Beachbody knew that its Coaches were not engaged in either type of work
2 protected under the Direct Sales Exemption. It does not use terms like “buy-sell” or “deposit-
3 commission” in its compensation documents or Agreement. It also knows that its Coaches engage
4 primarily in social media marketing on its behalf, and are rarely, if ever, engaging in person sales
5 or hosting parties in others’ homes, particularly during and since the COVID pandemic. And it
6 designs platforms, such as the BODgroup platforms and Coach Sites to facilitate online sales and
7 marketing.

8 136. **Sixth**, Beachbody knew the Direct Sales Exemption was enacted years ago, and
9 there was no guarantee that all MLMs could enjoy its protection. Rather, Beachbody has been an
10 MLM since 2007 and thus, would know that the classification of MLM workers has for years been
11 one of the most critical legal and policy issues for the industry.

12 137. Specifically, Beachbody is a member of the Direct Selling Association (“DSA”), an
13 MLM lobbying association, which disseminates updates about its activities to its members,
14 including its lobbying efforts for exemptions to wage and hour laws for its members. For years,
15 it has issued warnings and information to its members, advising them to review their agreements
16 to ensure conformity.

17 138. For example, in 2018, the DSA filed an amicus brief in a misclassification case
18 pending before the Oregon Supreme Court. There, the court determined that the MLM had
19 misclassified its sales personnel as independent contractors. *See ACN Opportunity, LLC v.*
20 *Employment Department*, 362 Or. 824 (2018). The decision was based in part on the fact that the
21 statute exempted sales “in the home,” and the legislative history indicated that this exemption
22 was narrowly tailored to apply to things like Tupperware parties. Notably, the concurrence made
23 clear that the direct sales laws on the books reflect direct selling practices no longer in use and
24 may not operate to reach many modern MLMs.

25 139. It is hard to imagine that Beachbody would not have learned of a decision by a
26 neighboring state supreme court, particularly given the decision’s significance to its industry, the
27 role played by the DSA, and the timing in the wake of the *Dynamex* decision locally. And shortly
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1 after its passage, the DSA announced the creation of an “Independent Contractor Initiative” to
2 combat the consequences of that decision and ensure stronger state laws.²⁶

3 **D. Plaintiff’s Experiences as a Beachbody Coach.**

4 140. Plaintiff has acted as a Beachbody Coach since November 2016 up until May 18,
5 2023.

6 141. In 2016, Plaintiff visited the Beachbody website and signed up to be a Beachbody
7 Coach. At that time, Plaintiff had no experience in sales, business, nor in the fitness or nutritional
8 supplement industry. The application did not ask for a resume, or any details about Plaintiff’s
9 work experience, qualifications, licensure, or skills. When she signed up, she checked the boxes
10 indicating that she accepted the Terms and Conditions.

11 142. Before the application could be completed, Beachbody required Plaintiff to pay an
12 enrollment fee and purchase a starter kit. Plaintiff completed the application and paid the charges.

13 143. Since then, Plaintiff has paid subscription fees to access to Beachbody on-demand
14 streaming services, which she uses in her marketing and sales efforts. For most of the time, she
15 paid about a \$100 a year for access to Beachbody’s library of pre-recorded workout videos. In or
16 around 2021, Beachbody began offering a second streaming offering to gain access to live classes;
17 for that Plaintiff paid approximately \$20 a month.

18 144. She has also paid the required monthly \$15.95 Business Services fee each month
19 since signing up.

20 **1. Plaintiff Was Required to Adhere to Beachbody’s Policies and**
21 **Procedures**

22 145. Upon completion of the application, Beachbody required Plaintiff to be
23 responsible for adhering to the Agreement.

24
25
26
27 ²⁶ See Jeff Babener, *Op-Ed by Jeff Babener in the World of Direct Selling: DSA Launches*
28 *Independent Contractor Initiative*, Direct Selling Association (Sept. 10, 2018)
<https://www.dsa.org/events/news/individual-press-release/op-ed-by-jeff-babener-in-the-world-of-direct-selling-dsa-launches-independent-contractor-initiative>.

1 146. Around the time she signed up, Plaintiff created the Coach website and filled out
2 her profile. This included providing her social media information to Beachbody, which they could
3 access to monitor her compliance with the Agreement.

4 147. When she signed up, Plaintiff was given access to the “Coach Office,” a password
5 protected section of Beachbody’s website that served as a Coach’s portal for all things related to
6 their Beachbody work. Beachbody stored key documents, such as the Agreement, training tools,
7 marketing instructions, and other important reference materials. Plaintiff regularly accessed the
8 Coach Office throughout her time at Beachbody.

9 148. Beachbody also provided Plaintiff with a personalized Team Beachbody Coach
10 website and instructed her to provide it to prospective customers.

11 149. When she began preparing to be a Beachbody coach in 2016, Plaintiff reviewed the
12 training materials on the Coach Office. This included several hours of watching training videos
13 and reviewing the materials listed on the website. Plaintiff had no familiarity with Beachbody’s
14 product line and studied the products by watching training videos and reading guides on the
15 Coach Office to learn more.

16 150. Beachbody training videos recommended that Plaintiff track her work as a
17 Beachbody coach using the Beachbody “Business Activity Tracker,” which outlined weekly
18 activities that Coaches needed to undertake. This tracker was available on the Coach’s Office
19 website. On some occasions, Plaintiff used the Tracker but was not required to submit the Tracker
20 to anyone.

21 151. During her approximately seven years of employment with Beachbody,
22 Beachbody frequently released new products, rebranded existing products, and shifted
23 advertising strategies. Throughout that time, including and throughout the last four years
24 Plaintiff had to and did keep up with the trainings and information in the Coach Office to keep
25 selling for Beachbody. During her time of employment, including the last four years, Beachbody
26 frequently released “Launch Reference Guides” for new products, which provided product
27 information, logos, images for social media, inspirational quotes, Instagram story materials, email
28 banners, blog articles, and FAQs, for Coaches to review and stay up to date on products and

1 campaigns. *See* Ex. D (example from April 2023). While the amount of time she studied these
2 materials varied, on average, Plaintiff spent a few hours every few months simply studying
3 Beachbody's new products.

4 152. Plaintiff worked as a Coach from 2016 to 2023, in accordance with the directives of
5 Beachbody described in Paragraphs 63-79 above. Plaintiff often would spend between several
6 hours on Sundays or Monday evenings planning posts, workouts, and sales strategies for the
7 upcoming week, and on some occasions, spending as many as four hours without a break. And
8 she would spend time throughout the week attending to various duties, as described below.

9 **2. Plaintiff Spent Many Hours Performing Advertising, Sales, and**
10 **Customer Service Work in Accordance with Beachbody's Policies.**

11 153. During her tenure, including over the last four years, Plaintiff used her Instagram
12 and Facebook to promote Beachbody regularly, including for most of that time, on a daily basis.
13 This work was involved and time consuming, and involved multiple phases.

14 154. *First*, to start, Plaintiff needed to spend time developing and planning for the
15 content that would ultimately be the subject matter of any given post. In accordance with
16 Beachbody's policies, Plaintiff needed to spend time selecting and studying the many available
17 Beachbody products to promote. Because Beachbody's flagship product was the workouts
18 themselves, Plaintiff had to purchase, complete, and post about the workouts themselves to be
19 successful. She regularly completed Beachbody workouts—from trying out single classes to
20 finishing full multi-week Beachbody scheduled workout regimens. She would then post about
21 the workouts themselves. And to promote more Products, Plaintiff also purchased and used
22 Shakeology, preparing the shakes and posting about them and the benefits of it. And Beachbody
23 encouraged Coaches to track their fitness and health, log progress, and share with existing and
24 potential customers, which Plaintiff regularly spent time doing. Plaintiff performed all these tasks
25 regularly throughout her tenure, typically spending about four to six hours a week, through at
26 least the summer of 2022, and on several occasions after that.

27 155. *Second*, when preparing the posts themselves, Plaintiff spent time crafting them to
28 share with her network. She would brainstorm content, draft and edit the text, and taking

1 photographs and video recordings for each post. For content, she would regularly consult
2 Beachbody materials for inspiration and content, using Beachbody-scripted posts for around 50%
3 of her posts. The rest of the time, she customized her sales pitch, which required her to consult
4 Beachbody's guidelines, as well as edit and fine tune the message. She often used Beachbody-
5 approved hashtags and graphics. When she used her own media, and took her own photographs
6 and recordings, she would put time into making sure the shots were good and lighting and
7 background suitable. In making these posts, because Beachbody encouraged Coaches to use their
8 personal experiences with the Products as a way to promote the brand, Plaintiff talked about her
9 Beachbody workouts, diet, fitness and personal goals, and personal challenges to relate to her
10 team and network. Indeed, when she posted on social media about results from her workouts
11 and use of Beachbody Products like Shakeology as Beachbody advised, she received more
12 engagement on her posts, which led to more sales. She would make at least one post a day,
13 sometimes two. At times, Beachbody would encourage people to post multiple times a day,
14 including in the last couple years. While some of Plaintiff's work drafting posts was performed
15 during her larger time block on Sundays or Mondays, she sometimes crafted posts throughout
16 the week in addition to, or instead of, drafting during the larger time block. While some posts
17 were quick to put together, it was not unusual for Plaintiff to spend an hour or more on a post,
18 trying to craft the perfect message, while adhering to guidelines and any strategies in place.

19 156. *Third*, Plaintiff's social media-based advertising work was not limited to making
20 and publishing posts, but included ongoing oversight of her social media accounts and the
21 Beachbody app to reply to public comments as well as engage with customers and leads who
22 would send her direct online texts and messages. During her tenure, including regularly over the
23 last four years, she constantly monitored responses to posts to engage further with customers,
24 and replied to any direct messages from interested customers. Plaintiff spent time preparing these
25 responses. In particular, Beachbody provided her with "Health & Fitness Conversation Starters"
26 which instructed her to assess the health and fitness goals of potential customers before talking
27 about Beachbody fitness programs and Shakeology. *See* Ex. E. This guide included questions,
28 clues like "Signs of poor health" that Coaches could suggest Beachbody products for, and

1 objections to anticipate. *Id.* Plaintiff spent time crafting responses to adhere to these approaches,
2 often spending a few hours a week making engaged in text and email messaging with customers
3 and leads.

4 157. *Fourth*, Plaintiff spent time monitoring accounts to reply promptly. Beachbody
5 encouraged Coaches to take “pockets of time” throughout the day to respond to messages from
6 current and potential customers, which was generally understood to mean that Coaches should
7 not expect that work could be done in one discrete block of time each day, but that Coaches would
8 need to monitor their social media accounts and messages and engage with customers and leads
9 at multiple points throughout the day to ensure customers and leads got prompt responses. This
10 was true in Plaintiff’s experience; if she waited hours or more to respond, she risked losing the
11 sale. As a result, Plaintiff regularly monitored her social media accounts and messages, so she
12 could respond immediately to interested customers—at any time of day or night—in order to be
13 successful. Where Plaintiff could not respond to a customer or sales lead immediately, Plaintiff
14 would respond as soon as she was able, even if it meant answering the request in an inconvenient
15 location, such as in her car in a parking lot. While the time each day she spent varied, she would
16 check her phone when alerts came in, continuously keeping track of when a customer might need
17 her.

18 158. Plaintiff rarely, if ever, sold to customers in-person, and her advertising and
19 messaging was done online.

20 **3. Plaintiff Spent Many Hours Using Beachbody’s Platforms and Tools to**
21 **Sell Products to Beachbody Customers in Accordance with Its**
Directives.

22 159. In addition to her social media advertising, Plaintiff hosted Challenge Groups
23 during her tenure, including during the last four years. In accordance with Beachbody’s policies,
24 Plaintiff coached these online private groups primarily through Facebook and the BODGroups
25 app.

26 160. To organize Challenge Groups, Plaintiff spent time researching the challenges that
27 Beachbody and planning out schedules for running them. She also had to recruit participants on
28 social media and via direct messages.

1 161. When hosting Challenge Groups, she led customers through pre-planned
2 Beachbody workout schedules and provided individualized encouragement and accountability
3 for the Challenge Group members. When hosting a Challenge Group, she spent around four
4 hours a week planning, advertising, and running the group, sometimes doing a portion of this
5 work during a time block on the Sunday or Monday, but typically doing it throughout the week.

6 162. Coaches like Plaintiff played a critical role in running Challenge Groups. As
7 described on the BODI Group Guides website, “[Coaches] are the secret ingredient in helping
8 [their] customers achieve their goals by guiding them through their chosen program, while
9 providing support, motivation, and accountability.”²⁷ Beachbody pushed Coaches to host
10 Challenge Groups as a “fun, engaging way to bring new customers and Coaches into a higher
11 level of accountability” and because “it’s easier to introduce their family, friends, and contacts to
12 a small group and engage them in a challenge than other aspects of this business.”²⁸

13 163. Plaintiff used the Beachbody-provided Challenge Group Guides to run her
14 Challenge Groups. For one Challenge Group that Plaintiff led frequently, “LIIFT4” Group, the
15 Challenge Group Guide includes social media posts that Coaches could use for each day of the
16 Challenge Group. It also included “Coach Tips” for motivating participants and upselling other
17 Beachbody products. For example, on Week 5, Day 4, the Coach Tip encouraged Coaches to
18 “Reiterate why Shakeology is crucial to their success with LIIFT4.”²⁹ Plaintiff studied and relied
19 on these Guides when hosting her Challenge Groups.

20 164. Because Challenge Groups were not free to join, but required the purchase of
21 products to participate, Plaintiff spent time recruiting customers to join the groups and purchase
22 the products. Until recently, individuals who joined Challenge Groups were required to purchase
23 the associated “Challenge Pack,” a bundle of products priced at over \$180, that included access
24

25 ²⁷ See *BODI Group Guides*, Team Beachbody Group Guides, (last accessed May 10, 2023),
26 <https://www.tbbgroupguides.com/#library-guides>.

27 ²⁸ See *FAQ:2452: What are the Benefits of holding Challenge Groups?*, BODi, (last accessed
28 May 10, 2023), https://faq.beachbody.com/app/answers/detail/a_id/2452/catid/0/TLP/0.

²⁹ See *LIIFT4 Challenge Group Guide*, Team Beachbody Group Guides, (last accessed May
10, 2023), <https://www.tbbgroupguides.com/category/liift4/>.

1 to the Challenge Group workout videos, a year-long subscription to Beachbody on-demand,
2 samples of Beachbody workout shakes, and any program-specific merchandise. Now, interested
3 users must purchase the BeachBody “Total Solutions Pack” and the optional “Accessories
4 Bundle” associated with the Challenge Group. Plaintiff, along with other Coaches, was
5 encouraged by Beachbody to upsell customers interested in a Challenge Group into purchasing
6 the optional Accessories Bundle, which Plaintiff did. And Plaintiff herself purchased the
7 Challenge Packs, Total Solutions Packs, and Accessories as they were necessary to run her
8 Challenge Groups.

9 165. During her tenure, including regularly throughout the last four years, Plaintiff also
10 put together customized product and workout bundles for her customers using Beachbody’s
11 “Share-a-Cart” feature. Based on her training on Beachbody’s products on the Coach’s Office,
12 Plaintiff evaluated each customer’s needs, lifestyle, and goals to come up with an individualized
13 plan and the Beachbody products they needed to support that plan. She would then go to the
14 Beachbody Share-a-Cart website and add Beachbody products and programs for the customer
15 into a checkout cart, and share the cart with her customer, who in turn purchased those products.
16 These Carts took an average of thirty minutes to an hour to create.

17 **4. Plaintiff Spent Many Additional Hours on Other Responsibilities.**

18 166. Plaintiff’s tasks were not limited only to developing advertising and engaging
19 with customers, but included other necessary work.

20 167. For example, for most of her employment, including until the summer of 2022,
21 Plaintiff’s upline coach held weekly meetings, which Plaintiff often attended. The meetings lasted
22 about an hour.

23 168. Beachbody also regularly changed its marketing strategies for Coaches. Whenever
24 Beachbody changed its marketing strategies, these changes were communicated to Plaintiff
25 through the Coach Office and during weekly meetings with her upline Coach and her team.
26 Plaintiff would spend time learning and adapting to these new strategies to ensure her posts
27 reflected the changes.

1 169. Plaintiff also had recruiting responsibilities, which included not only trying to
2 identify and recruit interested people to a Coach position but taking the time to learn and stay up
3 to date on Beachbody's rules for doing so. Plaintiff was required to and did abide by Beachbody's
4 rules for social media recruiting posts. For example, when posting about the income she would
5 make from Beachbody, an "Income Progression Post," she listed a required disclaimer. And
6 Plaintiff also reached out to potential customers on social media to recruit them into becoming
7 Beachbody Coaches.

8 170. During the time Plaintiff worked for Beachbody, Plaintiff recruited four new
9 Coaches.

10 171. Plaintiff spent time training these Coaches to help them be successful and
11 understand Beachbody policies. She responded to and helped her downline Coaches who
12 experienced issues with or had questions about Beachbody products, including informing them
13 of price increases or changes in the products. Typically, these inquiries were sent to Plaintiff via
14 online messaging.

15 172. Plaintiff also took part in the Beachbody "Success Club." The Success Club system
16 serves as an incentive program for Coaches, and when they earn a certain number of points, they
17 receive rewards, such as the Success Club Trips. Plaintiff, like other Coaches, was only eligible
18 because she purchased personal monthly subscriptions and enrolled at least three new people
19 every month.

20 173. As Plaintiff earned more Success Club Points, she qualified for free tickets to
21 Beachbody-sponsored trips, admission into test programs, and could use the points to purchase
22 Beachbody merchandise.

23 174. At Beachbody's prompting, Plaintiff often attended a yearly Beachbody
24 conference, the Coach Summit. At the Summit, Plaintiff and other Coaches attended keynote
25 speeches, Beachbody workouts, networking events, and training workshops. The workshops
26 provided trainings for Coaches on managing their Teams and increasing sales, such as trainings
27 on Challenge Groups and social media advertising. Plaintiff spent three full days participating in
28 the Coach Summit many years and paid personally for her airfare to attend. The last Summit that

1 she attended in-person was in July 2019, when she paid airfare and traveled to Indianapolis to
2 attend. At least two of the days she was there, she spent more than 8 hours participating in the
3 Summit.

4 175. Plaintiff, like other Coaches, paid out of pocket for her admissions ticket, meals,
5 lodging, and transportation for the Coach Summit.

6 **5. Plaintiff Spent Many Hours, Sometimes Without Breaks, and Paid for**
7 **Business Expenses.**

8 176. In addition to the time spent at the Summit, on other occasions, Plaintiff would
9 work at least four hours without a break or rest period. For example, in January 2020, Plaintiff
10 and another Coach traveled to take photographs for social media posts, spending at least 5 hours
11 on the task, without a break.

12 177. During her tenure, including during the last four years, Plaintiff was not
13 compensated for her time doing any of the forementioned activities, nor paid any overtime.
14 Plaintiff informed Beachbody on May 18, 2023 that she was terminating employment, effective
15 immediately. Plaintiff did not receive a final paycheck for unpaid wages within 72 hours of her
16 resignation.

17 178. During her tenure, including during the last four years, Plaintiff was not
18 compensated for out-of-pocket expenses. Plaintiff repeatedly purchased Beachbody workout
19 programs, products, and Shakeology in order to sell these products to customers, using her own
20 money and was never reimbursed. To perform the work, Plaintiff also paid a monthly bill of
21 approximately \$150 for her cell phone bill and \$100 for internet access.

22 179. Plaintiff estimates that she has spent approximately \$20,000 of her personal funds
23 with Beachbody.

24 180. She was successful in her sales activities and all the work that she undertook,
25 resulting in an average of \$50 a month in commission, often while working more than 50 hours a
26 month. These commissions were for sales made by Plaintiff and/or sales made by people
27 recruited by Plaintiff.
28

181. The commissions were paid via direct deposit. No paystub was provided that identified hours worked, nor were any employment taxes withheld at any time. For some of Plaintiff's sales, Beachbody did not pay commission because the customer returned the products.

CLASS ALLEGATIONS

182. Plaintiff incorporates and realleges the above paragraphs.

183. Plaintiff brings this action on her own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

184. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

185. Plaintiff's proposed class consists of and is defined as follows:

All current and former Beachbody Coaches who resided in the State of California or who performed marketing or sales activities in California during the applicable statutes of limitations through the date a class is certified.

186. Plaintiff also alleges the following subclasses:

The Los Angeles County Subclass

All current and Former Beachbody Coaches who resided in Los Angeles County or who performed marketing and sales activities in Los Angeles County during the applicable statutes of limitations through the date a class is certified.

The Los Angeles City Subclass

All current and Former Beachbody Coaches who resided in the City of Los Angeles or who performed marketing and sales activities in the City of Los Angeles during the applicable statutes of limitations through the date a class is certified.

The San Francisco Subclass

All current and Former Beachbody Coaches who resided in San Francisco or who performed marketing and sales activities in San Francisco during the applicable statutes of limitations through the date a class is certified.

187. Members of the Class will hereinafter be referred to as "Class Members." Plaintiff reserves the right to redefine the Class and to add subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

188. *Ascertainable and numerous.* The Class is ascertainable and numerous such that joinder is impractical. The membership of the entire class is unknown to Plaintiff at this time. However, the class will likely consist of thousands of members, the precise number which is within the knowledge of and can be readily ascertained through Beachbody's records.

1 189. *Community of Interest.* There is a well-defined community of interest amongst
2 Class Members. A class action is superior to all other available methods for the fair and efficient
3 adjudication of this lawsuit because the Class is both numerous and its membership is
4 geographically widespread across California. A class action will achieve economies of time, effort
5 and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because
6 the same issues can be adjudicated in the same manner and at the same time for the entire class.

7 In addition:

8 a. *Predominating Common Questions.* There are numerous questions of law and fact
9 common to the Class which predominate over any questions affecting only
10 individual members of the Class. Among the questions of law and fact common to
11 the Class are:

- 12 i. Whether Beachbody misclassified its Coaches as independent contractors
13 when in fact they were Beachbody employees;
- 14 ii. Whether Beachbody failed to pay Plaintiff and Class Members the legally
15 mandated minimum wage for all hours worked;
- 16 iii. Whether Beachbody failed to timely pay wages due to Plaintiff and Class
17 Members during their employment;
- 18 iv. Whether any misclassification by Beachbody was voluntary and knowing;
- 19 v. Whether Beachbody Coaches' duties fall within the Direct Sales Exemption
20 to AB5;
- 21 vi. Whether Beachbody controlled the manner and means of the Coaches'
22 work;
- 23 vii. Whether Beachbody failed to reimburse Coaches' business expenses;
- 24 viii. Whether Beachbody failed to maintain accurate time records for its
25 Coaches;
- 26 ix. Whether Beachbody failed to provide complete and accurate wage
27 statements to its Coaches;

x. Whether Beachbody failed to pay Coaches their wages due at termination;
and

xi. Whether Beachbody should be enjoined from continuing the practices
described herein.

b. **Typicality.** Plaintiff's claims are typical of the claims of Class Members because Plaintiff, like all members of the Class, worked as a Coach for Beachbody in California, was required to adhere to Beachbody's policies, and was paid on a commission basis. Furthermore, like all members of the Class, Plaintiff sustained damages from Beachbody's wrongful conduct. Accordingly, Plaintiff has no interests antagonistic to the interests of any other member of the Class.

c. **Adequacy.** Plaintiff will fully and adequately assert and protect the interests of the Class and has retained counsel who are experienced in prosecuting class actions. Plaintiff acknowledges that she has an obligation to make known to the Court any relationship, conflicts or differences with any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class.

FACTS RELATING TO PLAINTIFF AS A PRIVATE ATTORNEY GENERAL

190. At all times set forth herein, PAGA was applicable to Plaintiff's employment by Defendants.

191. At all times set forth herein, PAGA provides that, notwithstanding any other provision of law, any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA") for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of the aggrieved employee and other current or former employees pursuant to procedures set forth in California Labor Code section 2699.3.

1 192. Pursuant to PAGA, a civil action may be brought by an “aggrieved employee,”
2 who is any person that was employed by the alleged violator and against whom one or more of
3 the alleged violations was committed.

4 193. Plaintiff was employed by Defendants and the alleged violations were committed
5 against her and she is, therefore, an aggrieved employee. Plaintiff and the Class are “aggrieved
6 employees” as defined by California Labor Code section 2699(c) in that they are current or former
7 employees of Defendants and one of more of the alleged violations were committed against them.

8 194. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
9 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
10 requirements have been met:

11 a. The aggrieved employee shall give written notice (hereinafter “Employee’s
12 Notice”) to the LWDA and the employer of the specific provisions of the Labor
13 Code alleged to have been violated, including the facts and theories to support the
14 alleged violations.

15 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and
16 the aggrieved employee that it does not intend to investigate the alleged violation
17 within sixty (60) calendar days of the postmark date of the Employee’s Notice.
18 Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within
19 sixty-five (65) calendar days of the Employee’s Notice, the aggrieved employee
20 may commence a civil action pursuant to California Labor Code section 2699 to
21 recover civil penalties in addition to any other penalties to which the employee
22 may be entitled.

23 195. Irrespective of any representations to the contrary in this Class Action Complaint,
24 Plaintiffs specifically disclaim, at this time, any request for penalties under any provision of
25 PAGA, until such time when all the statutory exhaustion requirements described above have
26 been satisfied. On April 14, 2023, Plaintiff provided notice by electronic submission to the LWDA
27 and by certified mail to Defendants regarding the specific provisions of the Labor Code alleged
28 to have been violated, including the facts and theories to support the alleged violations, pursuant

1 to Labor Code section 2699.3. A true and correct copy of that notice letter is attached as “**Exhibit**
2 **F.**” Upon expiration of the notice period, either if the LWDA within 60 calendar days expressly
3 states that it will not intervene, or does not respond within 65 days, or elects to investigate but
4 issues no citation within 120 days, Plaintiffs will amend their complaint to assert PAGA claims
5 seeking civil penalties against Defendants for violations of California Labor Code sections 201,
6 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802.

7 **FIRST CAUSE OF ACTION**

8 **(Recovery of Unpaid Minimum Wages and Liquidated Damages)**

9 **Against THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY**
10 **VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50,**
11 **inclusive**

12 196. Plaintiff realleges and incorporates by reference all preceding allegations as
13 though fully set forth herein.

14 197. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1,
15 and 1198 have provided that the minimum wage for employees fixed by the Industrial Welfare
16 Commission is the minimum wage to be paid to employees, and the payment of a wage less than
17 the minimum so fixed is unlawful. California law provides employees in California must be paid
18 for all hours worked, up to 40 per week or eight (8) per day, at a regular time rate no less than the
19 mandated minimum wage. Compensable work time is defined by the applicable wage order as
20 “the time during which an employee is subject to the control of an employer, and includes all the
21 time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code.
22 Regs. tit. 8, section 11070(2)(G) (defining “Hours Worked”).

23 198. As alleged herein, during the relevant time period, Beachbody maintained and still
24 maintains a policy of requiring employees to work off-the-clock, without compensation.
25 Beachbody only compensates Coaches, including Plaintiff, based on specific sales placed through
26 Plaintiff’s Coach Site, and does not pay wages for other hours worked. These hours include time
27 spent:

- 28 a. in training;
- b. making and responding to social media posts;

- c. preparing for and participating in Challenge Groups;
- d. communicating with other Beachbody Coaches about policies, practices, and sales instructions and guidance;
- e. communicating with customers after their purchases were made to handle routine customer service; and
- f. handling other responsibilities as needed.

Plaintiff and Class Members performed these activities throughout the day, nearly every day, often in short increments adding up to one to two hours a day.

199. Beachbody provided no way for Plaintiff and Class Members to log time spent and submit to Beachbody.

200. Beachbody's failure to pay Plaintiff and Class Members for work, and failure to pay overtime wages owed, also resulted in failures to pay Plaintiff and Class Members the minimum wage required, in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198. In addition, Beachbody's failure to pay for work and overtime is a violation of various municipal and county codes across the state, including, but not limited to City of L.A. Cal. Code art. 7-7.5; County of Los Angeles Code § 8.100.040, *et seq.*, San Francisco Cal. Code 12R.

201. California Labor Code § 558.1 states that any employer or person acting on behalf of an employer who causes a violation is liable, among other things, for minimum wage violations. *See* Cal. Labor Code § 558.1. Defendants THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive, failed to pay Plaintiff and other aggrieved employees the minimum wage and all Defendants are liable for causing this violation under Labor Code § 558.1.

202. As such, pursuant to California Labor Code sections 558(a) and 2699(f), Plaintiff and Class Members are entitled to recover civil penalties, attorney's fees and costs pursuant to Labor Code section 2699(g), and interest pursuant to Labor Code section 218.6.

1 **SECOND CAUSE OF ACTION**

2 **(Failure to Provide Meal Periods or Meal Period Premium Wages)**

3 **Against THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY**
4 **VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50,**
5 **inclusive**

6 203. Plaintiff realleges and incorporates by reference all preceding allegations as
7 though fully set forth herein.

8 204. Under Cal. Lab. Code §§ 226.7, 512(a), 1198, and IWC Wage Order 4-2001,
9 Beachbody was required to provide Plaintiff and Class Members with one thirty-minute meal
10 break free from all duties for all shifts longer than five (5) hours, and a second thirty-minute meal
11 break free from all duties for all shifts longer than 10 hours and a third thirty-minute meal break
12 free from all duties for all shifts longer than 15 hours. Employers covered by the Wage Orders
13 have an obligation to both (1) relieve their employees for at least one meal period for shifts over
14 five hours, and (2) to record having done so. If the employer fails to properly record a valid meal
15 period, it is presumed no meal period was provided. Cal. Lab. Code § 226.7 also requires an
16 employer to pay mandated premiums of an extra hour of wages to any employees who have not
17 been provided with a timely meal or rest break.

18 205. As alleged herein, Plaintiff and the Class regularly worked periods of more than
19 five (5), ten and fifteen hours in a workday without being provided requisite mandatory timely,
20 thirty-minute, duty-free meal periods. Beachbody also failed to pay Plaintiff and the Class an
21 additional hour of wages at her regular rate for each workday a meal period and/or a legally
22 compliant meal period was not provided.

23 206. California Labor Code § 558.1 states that any employer or person acting on behalf
24 of an employer who causes a violation is liable, among other things, for meal period violations.
25 See Cal. Labor Code § 558.1. Defendants THE BEACHBODY COMPANY, CARL DAIKELER, JON
26 CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN,
27 and DOES 1-50, inclusive, failed to provide Plaintiff and other aggrieved employees all meal
28 periods or compensation in lieu thereof and all Defendants are liable for causing this violation
under Labor Code § 558.1.

207. As a result, under Labor Code section 226.7, Plaintiff and the Class are entitled to one additional hour's pay for each day a meal period was missed, late or interrupted, all in an amount according to proof.

THIRD CAUSE OF ACTION

(Failure to Provide Rest Periods or Rest Break Premium Wages)

Against THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive

208. Plaintiff realleges and incorporates by reference all preceding allegations as though fully set forth herein.

209. Cal. Lab. Code § 226.7 requires an employer to authorize or permit an employee to take a rest period of ten net minutes for every four hours worked, or major fraction thereof, and such rest periods must be in the middle of the four-hour period insofar as practicable. If the employer fails to provide any required rest periods or fails to provide a fully compliant rest break for a net ten minutes wherein the employee is fully relieved of all duties and all employer control, the employer must pay the employee one hour of pay at the employee's regular rate of compensation for each workday the employer did not provide a legally required and/or fully compliant rest period.

210. Beachbody failed to provide Plaintiff and the Class all required and/or fully compliant rest periods, or compensation in lieu thereof. Beachbody employed policies and procedures that ensured Plaintiff and the Class would not receive all legally required rest periods as Beachbody improperly classified Plaintiff and the Class as independent contractors rather than as employees and did not authorize nor permit all required rest periods in strict accordance with the timing requirements of all applicable Wage Orders. Beachbody similarly employed policies and procedures that rendered rest periods non-compliant with the requirements of California law by, inter alia, failing to relieve Plaintiff and the Class of all duties and all employer control. Beachbody further employed policies and procedures ensuring Plaintiff and the Class never received a rest period premium during employment.

211. California Labor Code § 558.1 states that any employer or person acting on behalf of an employer who causes a violation is liable, among other things, for rest period violations. *See* Cal. Labor Code § 558.1. Defendants THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive, failed to provide Plaintiff and the Class all rest periods or compensation in lieu thereof and all Defendants are liable for causing this violation under Labor Code § 558.1.

212. As a result, under Labor Code section 226.7, Plaintiff and the Class are entitled to one additional hour's pay for each day a rest break was missed, late or interrupted, all in an amount according to proof.

FOURTH CAUSE OF ACTION

(Failure to Keep Requisite Payroll Records)

Against THE BEACHBODY COMPANY and DOES 1-50, inclusive

213. Plaintiff realleges and incorporates by reference all preceding allegations as though fully set forth herein.

214. Cal. Labor Code § 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years.

215. At all times herein set forth, Cal. Labor Code § 1174.5 has imposed a civil penalty of \$500 per aggrieved employee for each willful failure “to maintain . . . accurate and complete records required by subdivision (d) of Section 1174[.]”

216. Beachbody has intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Plaintiff and the Class. For example, any records kept by Beachbody did not include the hours worked off-the-clock, the premium wages owed, and for missed and non-compliant meal and rest breaks.

217. Plaintiff and the Class have been injured by Beachbody's intentional and willful violation of Cal. Labor Code § 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete payroll records pursuant to Cal. Labor Code § 1174(d).

FIFTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements)

Against THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive

218. Plaintiff realleges and incorporates by reference all preceding allegations as though fully set forth herein.

219. At all relevant times herein set forth, Cal. Labor Code § 226(a) provides that, at the time of each payment of wages, the employer must provide each employee with an itemized statement showing gross wages earned, total hours worked, all deductions taken, net wages earned, the inclusive dates for which the employee is being paid, the employee's name and last four digits of their social security number, the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and all hours worked at each rate.

220. Cal. Labor Code § 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period.

221. At all times herein set forth, Cal. Labor Code § § 226.3 has imposed a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation of Cal. Labor Code § 226(a), and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation.

222. As alleged herein, Beachbody knowingly and willfully failed to provide Plaintiff and the Class with proper, itemized wage statements. Wage statements provided to Plaintiff and the Class did not show total/actual hours worked and all applicable hourly rates in effect during the pay period and all hours worked at each rate. The wage statements provided to Plaintiff and the Class failed to reflect all time spent in training, making and responding to social media posts, preparing for and participating in Challenge Groups, and communicating with other Beachbody Coaches about policies, practices, and sales instructions and guidance. Beachbody's refusal to properly record this time, and to include it in its itemized wage statements, or to properly pay its employees for this time was willful and intentional. As a result of these violations, Plaintiff and the Class suffered injury because they were not paid for all hours worked.

223. California Labor Code § 558.1 states that any employer or person acting on behalf of an employer who causes a violation is liable, among other things, for wage statement violations. *See* Cal. Labor Code § 558.1. Defendants THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive, failed to provide Plaintiff and the Class accurate wage statements and all Defendants are liable for causing this violation under Labor Code § 558.1.

224. Pursuant to Cal. Lab. Code § 226(e), Plaintiff and the Class are entitled to a penalty in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurred, and a penalty of one-hundred dollars (\$100) for each violation in a subsequent pay period, up to an aggregate penalty of four-thousand dollars (\$4,000), as well as costs of suit and attorneys' fees, all in an amount according to proof.

SIXTH CAUSE OF ACTION

(Failure to Timely Pay Wages During Employment)

Against THE BEACHBODY COMPANY and DOES 1-50, inclusive

225. Plaintiff realleges and incorporates by reference all preceding allegations as though fully set forth herein.

226. At all relevant times herein set forth, Cal. Labor Code § 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any

1 calendar month, other than those wages due upon termination of an employee, are due and
2 payable between the 16th and the 26th day of the month during which the labor was performed.

3 227. At all times herein set forth, Cal. Labor Code § 204 provides that all wages earned
4 by any person in any employment between the 16th and the last day, inclusive, of any calendar
5 month, other than those wages due upon termination of an employee, are due and payable
6 between the 1st and the 10th day of the following month.

7 228. At all times herein set forth, Cal. Labor Code § 204 provides that all wages earned
8 for labor in excess of the normal work period shall be paid no later than the payday for the next
9 regular payroll period.

10 229. As alleged herein, during the relevant time period, Beachbody intentionally and
11 willfully failed to pay Plaintiff and the Class all wages due to them, within any time period
12 permissible under Cal. Labor Code § 204, including wages for minimum wage compensation,
13 overtime compensation, meal period premiums, and rest period premiums.

14 **SEVENTH CAUSE OF ACTION**

15 **(Failure to Pay All Earned and Unpaid Wages Upon Separation of Employment)**

16 **Against THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY**
17 **VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50,**
18 **inclusive**

19 230. Plaintiff realleges and incorporates by reference all preceding allegations as
20 though fully set forth herein.

21 231. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that
22 if an employer discharges an employee, the wages earned and unpaid at the time of discharge
23 are due and payable immediately, and that if an employee voluntarily leaves his or her
24 employment, his or her wages shall become due and payable not later than seventy-two (72)
25 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or
26 her intention to quit, in which case the employee is entitled to his or her wages at the time of
27 quitting.

28 232. Cal. Lab. Code § 203 provides that, at the time of termination of employment, the
employer must pay an employee all wages due and owing within the time frames set forth in Cal.

1 Lab. Code §§ 201, *et seq.* If an employer willfully refuses to pay, without abatement or reduction,
2 in accordance with Cal. Lab. Code §§ 201 and 202, any wages of an employee who is discharged
3 or who quits, the employee's wages shall continue as a penalty for up to thirty (30) days from the
4 due date, until paid or until an action to recover those wages is commenced.

5 233. As alleged herein, following his final day of employment, Beachbody willfully
6 failed to pay Plaintiff and the Class all wages due and owing within the deadlines set forth in Cal.
7 Lab. Code §§ 201, *et seq.*, including unpaid overtime wages and wages for missed/noncompliant
8 meal and rest periods.

9 234. California Labor Code § 558.1 states that any employer or person acting on behalf
10 of an employer who causes a violation is liable, among other things, for failure to pay all wages
11 at the time of termination. *See* Cal. Labor Code § 558.1. Defendants THE BEACHBODY
12 COMPANY, CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND,
13 MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive, failed to pay all wages at the time
14 of termination of Plaintiff and Class Members and all Defendants are liable for causing this
15 violation under Labor Code § 558.1.

16 235. Pursuant to Cal. Lab. Code § 203, Plaintiff and the Class are entitled to recover
17 waiting time penalties of up to thirty (30) days' pay, plus attorneys' fees and costs, in an amount
18 according to proof.

19 **EIGHTH CAUSE OF ACTION**

20 **(Failure to Reimburse Business Expenses)**

21 **Against THE BEACHBODY COMPANY, CARL DAIKELER, JON CONGDON, KATHY**
22 **VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50,**
23 **inclusive**

24 236. Plaintiff reallege and incorporates by reference all preceding allegations as though
25 fully set forth herein.

26 237. At all times herein set forth, Cal. Lab. Code § 2802 has provided and provides that
27 an employer must reimburse employees for all necessary expenditures and losses incurred by the
28 employee in the performance of his or her job. The purpose of Labor Code section 2802 is to
prevent employers from passing off their cost of doing business and operating expenses on to

1 their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The
2 applicable wage order, IWC Wage Order 4-2001, ¶9(B) provides that: "When tools or equipment
3 are required by the employer or are necessary to the performance of a job, such tools and
4 equipment shall be provided and maintained by the employer, except that an employee whose
5 wages are at least two (2) times the minimum wage provided herein may be required to provide
6 and maintain hand tools and equipment customarily required by the trade or craft." Beachbody's
7 conduct, in misclassifying Coaches as independent contractors and failing to reimburse them for
8 expenses they paid that should have been borne by their employer, constitutes a violation of
9 California Labor Code Sections 450 and 2802.

10 238. Beachbody violates Labor Code section 2802 by having failed, and failing, to
11 reimburse Plaintiff and the Class for their business-related expenses. Beachbody charged Plaintiff
12 and the Class a "Business Service Fee" of \$15.95/month, and \$1 per each commission payment
13 made, which Beachbody did not reimburse. And during the relevant period, Beachbody, required
14 that Plaintiff and the Class use their own personal cellular phones and/or cellular phone data to
15 carry out Beachbody's business operations, but failed to reimburse them for the full costs of their
16 work-related cellular phone expenses. For example, Plaintiff and the Class were required to use
17 a personal cellular phone to make social media posts, participate in Challenge Groups, and
18 communicate with customers and their upline. Plaintiff and the Class also incurred expenses
19 associated with maintaining a home internet connection. Beachbody did not reimburse Coach for
20 these expenses.

21 239. Beachbody's company-wide policy and/or practice of passing on their operating
22 costs to Plaintiff and the Class violates California Labor Code section 2802. At all times described
23 herein, Beachbody has acted willfully, and deliberately with oppression, fraud and malice to
24 unlawfully deprive their employees of the employees' own personal resources in furtherance of
25 Beachbody's profits.

26 240. California Labor Code § 558.1 states that any employer or person acting on behalf
27 of an employer who causes a violation is liable, among other things, for failure to reimburse
28 business expenses. *See* Cal. Labor Code § 558.1. Defendants THE BEACHBODY COMPANY,

CARL DAIKELER, JON CONGDON, KATHY VRABECK, MICHAEL NEIMAND, MARC SUIDAN, HELENE KLEIN, and DOES 1-50, inclusive, failed to reimburse business expenses to Plaintiff and the Class and all Defendants are liable for causing this violation under Labor Code § 558.1.

241. As a result of Beachbody's failure to reimburse Plaintiff and the Class for all business-related expenses, pursuant to Cal. Lab. Code § 2802, Plaintiff and the Class are entitled to recover unreimbursed business expenses, plus attorneys' fees and costs, in an amount according to proof.

NINTH CAUSE OF ACTION

(Unfair Competition)

Against THE BEACHBODY COMPANY and DOES 1-50, inclusive

242. Plaintiff realleges and incorporates by reference all preceding allegations as though fully set forth herein.

243. In addition to the unlawful conduct of Beachbody alleged herein and enumerated in the preceding causes of action, over the last four years, Beachbody has violated California's laws relating to the recovery of unpaid overtime. Specifically, Cal. Lab. Code § 510 provides employees in California must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or eight (8) per day and must be paid double wages for all hours worked in excess of 12 per day, unless they are exempt. California law also provides that any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. As alleged herein, in July 2019, Plaintiff worked more than eight (8) hours per day but was not paid all overtime wages, including but not limited to, "double time" wages, due and owing under California law.

244. The unlawful conduct of Beachbody alleged herein constitutes unfair competition within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair conduct includes all unlawful conduct alleged herein, including but not limited to: Beachbody's willful misclassification of its employees as independent contractors; Beachbody's failure to pay

1 minimum and overtime wages by virtue of its illegal policies and practices; Beachbody's failure
2 to authorize or permit, or provide, all required meal and rest periods or pay proper premiums in
3 lieu thereof; Beachbody's failure to furnish complete and accurate itemized wage statements;
4 Beachbody's failure to reimburse business expenses; Beachbody's failure to timely pay wages
5 during employment; and Beachbody's failure to timely pay all wages upon separation of
6 employment.

7 245. Due to Beachbody's unfair and unlawful business practices in violation of the
8 California Labor Code and Wage Orders, Beachbody has gained a competitive advantage over
9 other comparable companies doing business in the State of California that comply with their
10 obligations to authorize or permit rest and meal periods or pay proper meal and rest period
11 premiums in lieu thereof, to provide complete and accurate itemized wage statements, to
12 reimburse employees for all business expenses, to pay all owed minimum and overtime wages,
13 and to pay all wages due upon separation of employment of their employees.

14 246. As a result of Beachbody's unfair competition as alleged herein, Plaintiff and the
15 Class have suffered injury in fact and lost money or property, as described in more detail above.
16 Pursuant to California Business and Professions Code section 17200, *et seq.*, Plaintiff and the Class
17 are entitled to restitution of all wages and other monies rightfully belonging to them that
18 Beachbody failed to pay and wrongfully retained by means of its unlawful and unfair business
19 practices.

20 247. Plaintiff and the Class also seek an injunction against Defendants, enjoining
21 Beachbody and any and all persons acting in concert with them from engaging in each of the
22 unlawful practices and policies set forth herein.

23 **PRAYER FOR RELIEF**

24 WHEREFORE Plaintiff and the Class pray for judgment and relief as follows:

- 25 (1) An order certifying that this action may be maintained as a class action, that
26 Plaintiff be appointed Class Representative, and that Plaintiff's counsel be
27 appointed Class Counsel;
- 27 (2) Statutory penalties under the California Labor Code;
- 28 (3) Upon exhaustion of administrative remedies, civil penalties and reasonable

- 1 attorneys' fees pursuant to California's Private Attorneys General Act;
- 2 (4) Injunctive relief pursuant to California's Unfair Competition Law;
- 3 (5) Punitive damages against the individual officer, director or managing agent
- 4 Defendants pursuant to Cal. Civil Code § 3294;
- 5 (6) Reasonable attorneys' fees pursuant to the California Labor Code, including
- 6 sections 226(e), 2699(g), Code of Civil Procedure section 1021.5 and 29 U.S.C.
- 7 section 216(b);
- 8 (7) Costs of this suit per Labor Code section 2699(g);
- 9 (8) Pre- and post-judgment interest pursuant to Labor Code section 218.6; and
- 10 (9) Such other and further relief as the Court may deem just and proper.

11 **DEMAND FOR TRIAL BY JURY**

12 Plaintiffs and the Class hereby demand trial by jury on all issues in this complaint that are

13 so triable as a matter of right.

14 Date: May 22, 2023

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EXHIBIT A

TEAM BEACHBODY®

U.S. COACH POLICIES AND PROCEDURES

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SECTION 1 - INTRODUCTION

WELCOME TO TEAM BEACHBODY! You have joined a dynamic group of individuals who are dedicated to improving their health and that of their family and friends, while taking steps to improve their personal and financial wellbeing. Along the way we'll have a great time together and you will grow in ways you've probably never imagined. What follows are Team Beachbody's policies and procedures, which is frequently referred to as the "P&P." They are the rules of the road for your independent Beachbody business. By abiding by the letter and spirit of the rules, your business will stay on the right track.

1.1 Policies and Compensation Plan Incorporated into Coach Agreement

Your Independent Beachbody Coach contract includes several documents. In addition to the terms and conditions that you agreed to when you enrolled, your contract with Team Beachbody includes these Policies and Procedures, the Team Beachbody Compensation Plan, and if you enrolled as a business entity (such as an LLC or corporation), the Business Entity Application & Agreement. We will refer collectively to these documents as the "Agreement." The most current version of the Agreement, including these Policies and Procedures, will be posted on the Team Beachbody website, and within your Coach Office. When the terms "We", the "Company" or "Our" are used in the Agreement, it means Team Beachbody. When the terms "You", "Your" or "Coach" are used, we are referring to you and our other Independent Beachbody Coaches.

1.2 Purpose of Policies

In addition to other sales channels, Beachbody markets its products through independent contractor sales representatives called "Coaches." To clearly define the relationship that exists between Coaches and Beachbody, and to explicitly set a standard for acceptable business conduct, Beachbody has established the Agreement.

Team Beachbody Coaches are required to read and comply with all of the terms and conditions set forth in the Agreement, as well as all federal, state, and local laws governing their Beachbody business and their conduct. Because you may be unfamiliar with many of these standards of practice, it is very important that you read and abide by the Agreement. Please review the information in this manual carefully. It explains and governs the relationship between you, as an independent contractor, and the Company. If you have any questions regarding any policy or rule, do not hesitate to seek an answer from anyone in your upline or the Compliance Department at Team Beachbody. The Compliance Department may be reached via email at compliance@beachbody.com.

1.3 Changes to the Agreement

Because federal, state, and local laws, as well as the business environment, periodically change, Beachbody reserves the right to amend the Agreement and its prices from time to time in its sole and absolute discretion. By entering into the Coach Agreement, a Coach agrees to abide by the Agreement and financial terms of all amendments or modifications that Beachbody elects to make. Any of these changes will be effective upon posting such amendments or updated documents on the Team Beachbody website. The Company will provide or make available to all Coaches a complete copy of the amended provisions by one or more of the following methods: (1) posting on Team Beachbody's official website; (2) electronic mail (email); (3) inclusion in Company periodicals; (4) inclusion in product orders or bonus checks; or (5) special mailings. The continuation of a Coach's Beachbody business or a Coach's acceptance of bonuses or commissions constitutes acceptance of any and all amendments.

1.4 Delays

Beachbody will not be responsible for delays or failures in performance of its obligations when performance is made commercially impracticable due to circumstances beyond its reasonable control. This includes, without limitation, strikes, labor difficulties, riot, war, terrorism, acts of God, acts of nature, acts beyond the reasonable control of Beachbody, fire, death, curtailment of a party's source of supply, or government decrees or orders.

1.5 Policies and Provisions Severable

If any provision of the Agreement, in its current form or as it may be amended, is found to be invalid, or unenforceable for any reason, only the invalid portion(s) of the provision will be severed and the remaining terms and provisions shall remain in full force and effect and shall be construed as if the invalid, or unenforceable provision, never comprised a part of the Agreement.

1.6 Waiver

Beachbody never gives up its right to insist on compliance with the Agreement and with the applicable laws governing the conduct of your business. No failure of Beachbody to exercise any right or power under the Agreement or to insist upon strict compliance by a Coach with any obligation or provision of the Agreement, and no custom or practice of the parties at variance with the terms of the

Agreement, will constitute a waiver of Beachbody's right to demand exact compliance with the Agreement. Waiver by Beachbody can be effectuated only in writing by an authorized officer of the Company. Beachbody's waiver of any particular breach by a Coach will not affect or impair Beachbody's rights with respect to any subsequent breach, nor will it affect in any way the rights or obligations of any other Coach. In addition, no delay or omission by Beachbody to exercise any right arising from a breach will affect or impair Beachbody's rights as to that or any subsequent breach.

The existence of any claim or cause of action of a Coach against Beachbody will not constitute a defense to Beachbody's enforcement of any term or provision of the Agreement.

1.7 Beachbody Coach Code of Ethics

Beachbody Coaches have the unique opportunity of representing Beachbody, our vision and our products and services in the community at large. For this reason, we expect that Coaches will uphold the standards of our Company and that each Coach will serve as an ambassador of Our mission and Our brands. Accordingly, in addition to all terms of the Agreement, all Coaches must agree to the following Beachbody Coach Code of Ethics:

- As an Independent Beachbody Coach, I will conduct myself ethically and with integrity, including treating others the way I would expect to be treated as I operate my organization. I will uphold this Code of Ethics and promote its awareness among my fellow Beachbody Coaches.
- I will uphold the Beachbody Core Values and Team Beachbody Coach Policies & Procedures and not engage in any deceptive, unlawful, or unethical recruiting practice or otherwise engage or promote any other conduct which may be detrimental to or reflect poorly on myself, my fellow Beachbody Coaches or Beachbody. Key prohibited examples would include bonus buying; improper income, any other form of compensation plan manipulation, performance or medical claims; soliciting Coaches or otherwise promoting other MLM business opportunities to any Beachbody Coaches or customers or selling Beachbody products in prohibited marketplaces.
- I will learn and understand the Team Beachbody Compensation Plan and Beachbody's catalog of products and represent them accurately to my customers and prospective Coaches without misleading or false expectations. Any claims, representations or statements I make regarding Beachbody products or the Coaching opportunity will include important notices and disclaimers as provided by Beachbody.
- I will accept and fulfill my responsibilities to motivate and encourage my personally sponsored Coaches. I will treat my Beachbody Coach business like any other business and will fulfill each commitment I make to my customers, fellow Coaches or other associates.
- I will promote the Beachbody business opportunity to prospective Coaches with honesty and integrity. I will not misrepresent actual or potential sales or earnings. I will use business tools provided to me such as the Statement of Independent Coach Earnings and will remind each potential new Coach that each individual's success is based upon their individual efforts.
- I will offer my customers the highest level of service, offering assistance with any necessary product exchanges and/or refunds.
- I will maintain a basic loyalty and professionalism to the network marketing industry as a whole and will not involve myself in any unwarranted criticism of Beachbody or any other network marketing companies, including those in direct competition with Beachbody.
- I will abide by all laws which govern my business. I understand that as the owner of my Independent Beachbody Coach business, it is my responsibility to comply with these laws and with the Agreement.
- I will respect, protect, and treat the personal information of fellow Beachbody Coaches, Customers and any others I receive from Beachbody or otherwise through operating my Beachbody business in confidence and respect their privacy rights at all times.

SECTION 2 - BECOMING A COACH

2.1 Requirements for Becoming an Independent Beachbody Coach

There are a few requirements to be an Independent Beachbody Coach:

- You must be at least 18 years old.
- You must be a resident of the United States, a U.S. Territory, or another country where Beachbody has officially opened its network marketing business.
- You need a Social Security Number, Federal Tax ID Number or applicable tax identification number in the country in which you reside (so long as Team Beachbody has announced that the country is officially open for business).
- You must buy a Coach Business Kit (optional for residents of North Dakota).

2.2 What Does It Cost?

You are not required to buy products to be a Coach or to earn a commission, however there are some expenses. You must either buy a Coach Business Starter Kit or Challenge Pack at the time of enrollment, and there is a monthly charge for your Coach Office. There are a few limited exceptions to these initial and subsequent monthly costs. They are

- If you are a resident of North Dakota, the Coach Business Starter Kit and monthly business service fees are optional.
- If you are a bona fide nonprofit organization (that means you are properly organized as a nonprofit organization under the U.S. Internal Revenue Code) and you provide us with a copy of the relative IRS Ruling Letter or Letter of Determination confirming your tax exempt status at the time you complete your initial Coach enrollment, the cost of the Coach Business Starter Kit and the monthly business service fee is waived.
- If you are an active duty member of the U.S. Military or the spouse or partner of an active duty member, if you are a veteran of the U.S. Military, or if you are the spouse or partner of a U.S. Military service member lost or killed in action, your monthly business service fee will be waived once we receive proper documentation supporting you or your spouse's service. One caveat to this exemption – you must maintain at least 50 Personal Volume points every 90 days to continue to receive this exemption (“Personal Volume Points” or “PV” is defined further in the Compensation Plan).

2.3 Coach Benefits

Once we accept your Coach Application and Agreement, the benefits of the Team Beachbody Coach Compensation Plan and the Coach Agreement are available to you. These benefits include the right to:

- Sell and solicit orders for Beachbody products and submit them to the Company for fulfillment;
- Participate in the Team Beachbody Coach Compensation Plan (receive bonuses and commissions, if eligible);
- Sponsor other individuals as Customers or Coaches into the Beachbody business, build a marketing organization, and progress through the Team Beachbody Coach Compensation Plan;
- Participate in Team Beachbody-sponsored support, service, training, motivational and recognition functions; and
- Participate in promotional and incentive contests and programs sponsored by Team Beachbody for its Coaches.

SECTION 3 - OPERATING A BEACHBODY BUSINESS

3.1 Deceptive, Fraudulent and Illegal Activities

You must never engage in deceptive, fraudulent, or illegal activity in conjunction with your independent Beachbody business or make any false or deceptive claims about Beachbody's products or business opportunity. You must also conduct yourself so that Your activities outside of your independent Beachbody business do not affect Your business or Beachbody's reputation. For example, if you are convicted of a felony or some other illegal activity that is unrelated to Your Beachbody business, it can damage the Company's reputation and goodwill. Therefore, we reserve the right to cancel Your Agreement if You are convicted of, or plead no contest to, a felony or a crime involving drugs, fraud, theft, physical or sexual violence or abuse, or any other crime involving moral turpitude.

Coaches must promote and offer the Team Beachbody business and products in a manner that is consistent with the methods in the Company's training materials. Coaches may not create, publish or use marketing or training systems that are not approved by the Company in writing, and not use any contracts or forms that the Company does not publish. Coaches may not require or encourage other current or prospective Customers or Coaches to execute any agreement or contract other than the official Beachbody agreements and contracts in order to become an Independent Beachbody Coach. Coaches may not sell or in any manner profit from (directly or indirectly) or promote any marketing systems or lead generation systems or sell or promote lead lists to other Coaches.

Beachbody Coaches may not charge or receive any form of compensation or other benefits (such as income, traded or free services, recoupment of costs, charitable donations, etc.) for tools, consulting for Coaches, software or other sales aids, including requiring any other Coach to use any third party tools as part of their Coach business.

Coaches may not market any other goods or services to any Coaches or customers through any Beachbody tools, mediums or by using any Beachbody provided contacts or information. However, Coaches are permitted to market their own goods and services (subject to other restrictions set forth in these policies, including the restrictions around another Network Marketing Business, sales tools and software) through general social media and other non-Beachbody mediums.

Specifically with regard to events, Coaches may charge solely to recoup their direct, verifiable out of pocket costs for training and Coach building events at no more than four (4) live events per year (in addition to any Super Saturdays and Fit Clubs), which may be audited

by Compliance at any time. However, charging for any recruiting events, to receive any profit, or for personal time spent (rather than direct out of pocket expenses) is always prohibited.

3.2 Advertising

3.2.1 Branded Merchandise

You may only create Team Beachbody branded items (t-shirts, caps, etc.) for your own personal use (not sold for profit) and only with the prior written approval of our Compliance department. Your proposed designs may be submitted by emailing the proposed materials to compliance@beachbody.com. Any proposed branded items must comply with the terms of these Policies and Procedures and may not include the name, image or likeness of any Beachbody trainers.

3.2.2 Media Advertising

You may not engage in any television, radio, or video advertising that has not been preapproved in writing by the Company. Requests for the approval of television or radio advertising must be submitted to the Compliance department at compliance@beachbody.com.

3.2.3 Coach Websites and Other Communications Facilities

You may want to promote your Team Beachbody business through a website. We provide all Coaches with Team Beachbody replicated websites. These replicated websites are template websites from which you can sell Team Beachbody products and enroll new Coaches. If you want to use a website other than a Company provided replicated website, you must first create a beta site and submit it to the Company for review and receive the Company's written approval for the site before making it public. There are some fundamental rules you must follow:

- Your site must abide by the Policies and Procedures.
- Your site must accurately use text and the full warnings and disclaimers from the Company's official website.
- Your site may not advertise the price of or complete the sale for any Beachbody products for less than the advertised retail price by Beachbody on its official website.
- Your website may not accept new Coach enrollments. The only online forum from which you enroll new Coaches or customers is your Team Beachbody replicated website.
- Be extremely careful if you use any content on your website from a third party. If content appears on your site that is owned by a third party, you can be held responsible for copyright or intellectual property infringement. When Team Beachbody reviews your website, we do NOT review the content for copyright or other intellectual property infringement as we have no way of knowing what is owned by a third party. That is solely your responsibility, therefore you must always ensure that you have secured a license for all content that you use or obtain from a third party and have paid any associated license fee.
- For any content you add yourself, you must ensure that it is accurate and not misleading, and that you have the legal right to use it.
- Your website must clearly and conspicuously identify that it is the site of an Independent Beachbody Coach.
- Your independent website must post a privacy policy that complies with the applicable data protection and privacy laws, including without limitation, the General Data Protection Regulation. You are responsible to ensure that You comply with those laws and with the commitments you make in Your privacy policy.
- If Your website uses Your own, or third party, cookies or similar tracking technologies, You are responsible for ensuring that You get any proper consent that may be replicable data protection and privacy laws for such technologies.
- If Your website allows Beachbody Coaches, Customers or other third parties to register for e-mail or similar marketing, You are responsible for ensuring that You get any consents and comply with all other requirements that may be required under the applicable data protection and privacy laws for such marketing. You must always provide recipients of Your marketing with the ability to easily opt-out from receiving additional messages, and inform them how they can exercise this opt-out. For people who opt-out of marketing, you must honor their request and not further market to them.
- Once You receive written notice from the Company that Your website is authorized, You may go live with it. However, We reserve the right to revoke authorization at any time. If We revoke authorization, You must take the website down immediately. If authorization is revoked We are not responsible for reimbursing You any costs or expenses You have incurred in building or maintaining Your website. Therefore, if You create and launch Your own website, that is a risk that You must take. Furthermore, once Your website is approved, You must receive written approval from the Compliance department before you make any significant material changes to the site.

3.2.4 Trademarks, Copyrights, and Domain Names

Coaches may not use, attempt to register, or register with the U.S. Patent and Trademark Office, any state Trademark Office, any Trademark Office outside of the United States, or with any domain registrar any of the following or their translations (in any language), whether alone or in combination with any other word(s), design(s), or symbol(s): (1) Our name Beachbody; (2) Beachbody's brand names, trade names, trademarks, service marks, product names, domain names, symbols, logos, slogans, artwork, or other identifiers or designations of origin of Beachbody ("Marks"), a partial list of which is attached as Exhibit A; (3) anything confusingly or substantially similar to any of the Marks as determined by Beachbody, including any portion of, modification to, or derivative of any of the Marks, or (4) the word "Coach" by itself. This restriction includes any use of any of the above as or in connection with any symbols, keywords, advertisement buys, hidden text, or any other activities that are considered Internet optimization; as any Internet domain name (including, without limitation, as a sub-domain on the Team Beachbody website); or as the Coach's account name or user ID within any blogs, social networking websites, or any "posting" sites such as (but not limited to) Facebook, YouTube, Instagram, or Twitter; or as the numbers/designations within a Coach's phone number (for example, 1-800-BUY-P90X).

Beachbody products enjoy strong brand recognition. Because Beachbody brands are well recognized, we must go to great lengths to protect them. So long as You are an active Independent Beachbody Coach, You have limited license to use the Marks for the sole purpose of building your Beachbody business and selling Beachbody products. You can download the Marks from your Coach Office and You may only use the Marks that are available for download. That is, You must not try to copy or recreate any of the Marks or any mark that is similar to the Marks. You are expressly prohibited from modifying the Marks in any manner.

Finally, You must not use any of the Marks in any domain name, email address, social media handle, or use them in a team or company name, or use them in a customized license plate.

We also have to protect our copyrighted material. Therefore, You may not copy or produce for sale, distribution, or advertising any of the Company's copyright-protected material and may not record Company events and speeches without express written permission from Beachbody. Likewise, Beachbody produces its own promotional videos, some of which are posted in your Coach Office for Your use. If You use any of these videos, you must use the video as it is posted and never edit the video. If You use any of Our copyrighted materials in your promotional material, which Beachbody deems violates this Agreement or any of its intellectual property rights, it may ask you to immediately take down such promotional materials and remove Our copyrighted materials; otherwise, You agree that Beachbody shall have an irrevocable license to use the material You produce and shall not have any obligation to pay any form of remuneration or compensation to You.

To the extent that Coaches become aware of any activity that may infringe on any trademark, copyright, or other intellectual property rights of Beachbody, Coaches should immediately inform Beachbody via email at compliance@beachbody.com. Coaches should not, and are not authorized to, act on Beachbody's behalf in such situations for many reasons, including that any action could harm Beachbody's ongoing enforcement efforts.

3.2.5 Use of Related Third Party Assets

We have business relationships with other well-known companies. We usually have a license to use their marks but our license is limited. That means that We are only allowed to use their marks according to the terms of Our contract with them. Consequently, We need to be careful not to misuse their marks. If We have a license to use another business' Marks, and they have authorized Coaches to use their marks as well, We will post authorized and approved Marks in your Coach Office. You may ONLY use the marks that are posted in your Coach Office and You must never reproduce any mark of a third party.

3.2.6 Media and Media Inquiries

This policy is designed to assure that accurate and consistent information is provided to the public, as well as a proper public image. Coaches may not publish or allow any third party to publish a press release or news release without obtaining prior written approval of the content and proposed channels by Beachbody's Compliance department. Proposed press releases may be submitted by email to the Compliance department for further review and approval. If You are contacted by the media, please politely direct them to us at compliance@beachbody.com. Our media and public relations team will be prepared to respond.

3.2.7 Unsolicited Email

U.S. and international laws relating to unsolicited email (SPAM) are very strict and complex. To put it simply, you may not spam. If You want to send unsolicited email to anyone other than a friend, family member or business colleague, before doing so You must provide the Company with a written legal opinion from a lawyer licensed in the country into which you want to send the email that states that your proposed email campaign complies with the law of the country (the legal fees are at Your expense). Also, a word of

caution: some people may try to sell you an email list of leads. They may even say they are “prequalified leads”. We caution you that these are normally a waste of money. It is extremely unlikely that Your returns will exceed what You pay for the leads.

(a) Email Message Requirements

Beachbody does not permit Coaches to send unsolicited commercial emails, unless such emails strictly comply with applicable laws and regulations, including, without limitation, the U.S. Federal CAN-SPAM Act and the Canadian Anti-Spam Legislation. In some countries, this may mean You need to obtain the recipient’s consent before You can send any unsolicited commercial emails to them. It is Your responsibility to obtain consent where this is required.

Any email sent by a Coach that promotes Beachbody, the Team Beachbody Coach Business Opportunity, or Beachbody products and services must comply with the following:

- i. There must be a functioning return email address to the sender.
- ii. The email must contain a clear and conspicuous notice (in at least 10-point bold font) advising the recipient that he or she may opt-out or unsubscribe from future email solicitations or correspondence by clicking the applicable out-out or unsubscribe link contained within the email, or if applicable, replying to the email via the functioning return email address.
- iii. The email must include the Coach’s physical mailing address.
- iv. The email must clearly and conspicuously disclose that the message is an advertisement or solicitation.
- v. The use of deceptive subject lines and/or false header information is prohibited.
- vi. All opt-out requests, whether received by email or regular mail, must be promptly honored. If a Coach receives an opt-out request from a recipient of an email, the Coach must forward the opt-out request to the Company.

Team Beachbody may periodically send commercial emails on behalf of Coaches. By entering into the Coach Agreement, the Coach agrees that the Company may send such emails and that the Coach’s name and physical and email addresses may be included in such emails as outlined above. Coaches shall honor opt-out requests generated as a result of such emails sent by the Company.

(b) Canadian Anti-Spam Legislation (“CASL”) – Additional Requirements

- i. Obtaining Consent to Send Messages: Under CASL, a person who sends an unsolicited electronic commercial message from Canada or to a recipient who resides in Canada, including an email, must have the express or implied consent of the recipient of the message. The language you use to obtain written consent must:
 - a) State the purpose for which you are seeking consent (i.e. to send commercial email)
 - b) State the name under which you carry on business (i.e. Independent Team Beachbody Coach business entity or personal name) and that you are seeking consent on your own behalf.
 - c) Provide your physical mailing address.
 - d) Provide at least one of either your telephone number, email address or web address.
 - e) State that consent may be withdrawn.
 - f) Obtain the individual’s consent in a manner that allows you to prove it. For example, provide a consent box they may click, or physically check. Do not create an assumed consent (i.e. a pre-checked box) or an opt-out mechanism.
- ii. Implied consent to send commercial email will exist only where the recipient of the message:
 - a) Has an “Existing Business Relationship” with the Coach as the message recipient made a purchase or accepted a business opportunity from the Coach within a two-year period immediately prior to the day on which the message is sent, or made an inquiry or application to the Coach within the six-month period immediately prior to the day on which the message is sent.
 - b) Has a “Family Relationship” with the Coach through a legal parent/child relationship, marriage or common-law partnership, and the Coach and their relation have had voluntary, direct two-way communication.

- c) Has a “Personal Relationship” with the Coach, based on direct voluntary two-way contact and it should be reasonable to conclude that the relationship is “personal” taking into consideration all relevant factors such as the sharing of interests, experiences, opinions and information evidenced in the communications, the frequency of communication, the length of time since the communication and if the parties have met in person.

In all cases, there is no implied consent if the individual has indicated they do not wish to receive messages.

- iii. Referrals: CASL allows individuals to refer their friends and family to trusted companies and business people, and allows the company or business person who receives a referral to send one email to the referred person. However, in order to make a referral, the referring person must have a relationship with both the Coach to whom the referral is being made and the person referred. The acceptable relationships are defined in Section 3.2.7(ii) above (i.e. Existing Business Relationships, Family Relationships and Personal Relationships).

The above is only provided as a general outline of CASL’s requirements, so in order to fully comply with the law and various requirements; you should first consult an experienced attorney before undertaking this type of marketing, particularly around the use of any referrals. For additional information, please also visit <http://fightspam.gc.ca>.

3.2.8 Unsolicited Faxes and Telephone Calls or Other Messaging

The use of telephone calls, SMS/text messages, faxes or other messaging in connection with your Beachbody business is highly regulated and if not done in compliance with the law, can result in significant legal and financial liability (\$16,000 per violation in the U.S., as an example) for You and your business. As with all other marketing efforts You undertake as an independent business, you are fully responsible for being aware of and complying with all laws, rules and regulations, including those which apply to this kind of marketing. Accordingly, you must first consult with an experienced attorney in order to properly comply with the various legal requirements for conducting this type of marketing. In general, Coaches may send SMS/text messages to customers with whom they have an existing business relationship; however, sending such messages using technology that has automatic dialing capabilities requires the customer’s prior express written consent as specifically required by law. Any text message sent by a Coach relating to the promotion of their business or any Beachbody product or service must clearly identify the sender as an Independent Beachbody Coach. In addition, Coaches may not use an automatic telephone dialing system to call a customer’s cellular phone in connection with the operation of their Beachbody businesses without first obtaining the customer’s prior express written consent as specifically required by law. The term “automatic telephone dialing system” means equipment that has the capacity to: (a) store or produce telephone numbers to be called, using a random or sequential number generator and (b) to dial such numbers. In addition, except as stated in this Section, Coaches may not use or transmit unsolicited faxes in connection with the operation of their Beachbody business. The terms “unsolicited faxes” means the transmission via telephone facsimile or electronic mail of any material or information advertising or promoting Beachbody, Team Beachbody, its products and services, its Compensation Plan, or any other aspect of the Company that is transmitted to any person, except that these terms do not include a fax or email: (1) to any person with that person’s prior express invitation or permission or (2) to any person with whom the Coach has an established business or personal relationship. The term “established business or personal relationship” means a prior or existing relationship formed by a voluntary two-way communication between a Coach and a person, on the basis of (i) an inquiry, application, purchase, or transaction by the person regarding products offered by such Coach or (ii) a personal or familiar relationship, which relationship has not been previously terminated by either party.

3.2.9 Social Media & Online Conduct

Coaches rely heavily on social media as a tool to grow their business and share their passions. It is critical to remember that whether you do so by participating in a blog, video, Wiki, social network or any other form of online publishing or discussion, social media is heavily regulated and includes the following set of rules and guidelines that Coaches must follow.

You Are Responsible for Postings

You are personally responsible for Your postings and all of your other online activity that relates to Beachbody. Therefore, even if You don’t manage or operate a blog or social media site, if You post to any site about Beachbody, You are responsible for the posting. You are also responsible for postings that appear on any blog or Social Media site that you manage or control even if someone else posts offending material on that site.

Identification as an Independent Beachbody Coach

You must disclose your full name on all social media postings, and conspicuously identify Yourself as an Independent Beachbody Coach. Anonymous postings, blind ads, or use of an alias are not permitted. This identification must be in the original post and not in a separate comment that could be covered up by subsequent comments, or in your details about yourself. Whenever you provide your

personal opinion, you must clarify what is your opinion rather than a Beachbody position with a statement such as “The postings on my site are my own and do not necessarily represent the position, strategy or opinions of Beachbody and its brands.”

Social Media as a Sales and Promotion Forum

Some social media sites promote commercial use while others prohibit it. It’s Your responsibility to learn and abide by the social media site’s terms of use and policies. Remember, you are strictly limited as to what Beachbody provided content you may use from social media pages and other websites managed by Beachbody, and the Coach Office. At no time may any Coach upload or post more than two minutes of any original Beachbody workout content (audio or video) except as released by Beachbody directly for Coach promotional use (such as a new product or special bundle or sizzle reel). Coaches may only post videos of themselves doing a Beachbody workout—without including any of the original audio or visual Beachbody content—as long as the total video time (in whole or divided into multiple videos) does not exceed five minutes in length. Content that exceeds these restrictions and/or time limit (including if divided into multiple videos) or otherwise violates copyright will be removed from the associated site by the Company without any prior notification to the infringing account holder, and may result in disciplinary action under these policies and procedures as well as the suspension or termination of the user’s account.

Sales and Enrollments from Social Media Sites are Prohibited

Online sales and/or enrollments may only be generated from Your Beachbody replicated website. You must not use a social media site to accept orders or to attempt to sponsor or enroll prospective Coaches. You must not use any social media site to explain the Beachbody Compensation Plan or any component of it.

Use of Third-Party Intellectual Property in Postings

As with content you use on your own website, if You use the trademarks, trade names, service marks, copyrights, or intellectual property of any third party in any posting, it is Your responsibility to ensure that You have received the proper license to use it and have paid the appropriate license fee. All third-party intellectual property must be properly referenced as the property of the third-party, and You must adhere to any restrictions and conditions that the owner of the intellectual property places on the use of its property.

Respecting Privacy

Always respect the privacy of others in your postings. As a member of the Beachbody community, You should not engage in gossip or advance rumors about any individual, company or competitive product or service.

Professionalism

It is your responsibility to ensure that your postings are truthful and accurate. This includes any references you make to your title (Independent Beachbody Coach), as well as any other professional credentials you maintain. Coaches should not infer a professional qualification or certification they do not possess. In addition, this requires that You fact-check the material that you post. You should also carefully check Your postings for spelling, punctuation and grammatical errors. Use of offensive language or inappropriate images is prohibited.

Prohibited Postings

You may not make any postings or link to any postings or other material that:

- Is sexually explicit, obscene or pornographic;
- Is offensive, profane, hateful, threatening, harmful, defamatory, libelous, harassing, or discriminatory (whether based on race, ethnicity, creed, religion, gender, sexual orientation, physical disability, or otherwise);
- Is graphically violent;
- Is solicitous of any unlawful behavior;
- Engages in personal attacks on any individual, group, or entity; or
- Is in violation of this Agreement or any Beachbody intellectual property rights or the rights of any third party.

Responding to Negative Posts

Do not attempt to converse with someone who places a negative post against You, other Independent Beachbody Coaches, or Beachbody. You may report negative posts or your specific concerns to the Compliance department via email at compliance@beachbody.com. Responding to negative posts simply fuels a discussion with someone carrying a grudge who does not hold themselves to the same high standards as Beachbody, and therefore damages the reputation and goodwill of Beachbody.

Social Media Sites with Website-Like Features

Because some social media sites are very robust, the distinction between a social media site and a website may not be clear-cut. Beachbody therefore reserves the exclusive right to classify certain social media sites as websites and require that You adhere to the Company’s policies relating to independent websites if You use such social media site.

Promotion of Other Direct Selling Businesses Through Social Media

In addition to meeting all other requirements specified in these policies, if You use any form of social media in Your Beachbody business, any postings related to Beachbody or its products must link only to Your Beachbody replicated website. If You create a business profile page on any social media site that promotes or relates to Beachbody, its products, or opportunity, the business profile page must relate exclusively to Your Beachbody business and Beachbody products. If Your Beachbody business is cancelled for any reason, You must immediately deactivate the business profile page and any other links to it or your Beachbody business.

Failure to comply with these guidelines can not only lead to suspension or termination of your Team Beachbody Coach Business Center (“CBC”), but could also lead to direct action against you by the Federal Trade Commission (FTC), your state’s Attorney General or other regulatory agencies.

Coaches who are contacted directly via email, text, phone, or some form of social media by a Beachbody customer requesting no further contact or solicitation are obligated to remove that customer from future communications (including emails, Facebook posts and other means of social media). To remain compliant, Coaches must label any customer that requests not to be contacted as “Do Not Contact” in the Coach Office.

No Coach may use any electronic tools or forums or websites provided by Beachbody (including social media pages hosted by Beachbody) to advertise, promote, solicit, or otherwise conduct any third-party businesses, activities, and/or any other third-party business opportunities at any time. In addition, Coaches may not use these forums to advertise their Beachbody business, offer Beachbody products for sale, or recruit Coaches into their organization or Beachbody Challenge Group.

3.2.10 Telemarketing Techniques

The Federal Trade Commission and the Federal Communications Commission each have laws that restrict telemarketing practices. Both federal agencies (as well as a number of states) have “do not call” regulations with which You must comply. Although You probably don’t think of Yourself as a “telemarketer” in the traditional sense of the word, these government regulations broadly define the terms “telemarketer” and “telemarketing” so that your inadvertent action of calling someone whose telephone number is listed on the federal or a state “do not call” registry could cause you to violate the law. Moreover, these regulations must not be taken lightly as they carry significant penalties (including some penalties up to \$16,000 per violation). All penalties will be at Your sole expense and liability, including but not limited to if they are assessed directly against Beachbody due to any Coach’s noncompliance. Therefore, You must not engage in prohibited telemarketing in the operation of Your Beachbody businesses, and, in addition to complying with the “do not call registry,” must not make repeat or harassing phone calls to Prospective Coaches or Customers. The term “telemarketing” means the placing of one or more telephone calls to an individual or entity to induce the purchase of a Beachbody product or service, or to recruit them for the Team Beachbody Coach Business Opportunity. “Cold calls” made to Prospective Customers or Coaches to promote either Beachbody’s products or services or the Beachbody Coach Business Opportunity constitute telemarketing and are prohibited. However, a telephone call(s) to a Prospective Customer or Coach (a “prospect”) is permissible under the following situations:

- If You have an established business relationship with the prospect. An “established business relationship” is a relationship between You and a prospect based on the prospect’s purchase, rental, or lease of goods or services from You, or a financial transaction between You and the prospect, within the eighteen (18) months immediately preceding the date of a telephone call to induce the prospect’s purchase of a product or service.
- The prospect’s personal inquiry or application regarding a product or service you offer, within the three (3) months immediately preceding the date of such a call.
- If You receive written and signed permission from the prospect authorizing You to call. The authorization must specify the telephone number(s) You are authorized to call.
- You may call family members, personal friends, and acquaintances. An “acquaintance” is someone with whom you have at least a recent first-hand relationship within the preceding three (3) months. Bear in mind, however, that if you make a habit of “card collecting” with everyone you meet and subsequently calling them, the FTC may consider this a form of telemarketing that is not subject to this exemption. Thus, if you engage in calling “acquaintances,” you must make such calls on an occasional basis only and not make this a routine practice.
- In addition, Coaches shall not use automatic telephone dialing systems or software relative to the operation of their Beachbody businesses. The term “automatic telephone dialing system” means equipment or software which has the capacity to: (a) store or produce telephone numbers to be called, using a random or sequential number generator; and (b) dial such numbers.

3.2.10.1. Prerecorded Messages

By participating as a Coach and agreeing to the Agreement, you authorize Beachbody to place prerecorded telephone messages to the telephone number(s) you provided in your Team Beachbody Coach Application and Agreement.

3.2.11 Online Auctions, Marketplaces, Keywords, and Shop Sites

You may not offer or facilitate the offering of Beachbody products on or through any online auction or classified site, including but not limited to eBay, iOffer, and/or Craigslist, or any online marketplace, such as Amazon Marketplace.

You may use online marketplaces and social networking sites simply to discuss the Beachbody Coach Business Opportunity, but must always identify Yourself as an Independent Beachbody Coach in each of these forums. Similar to website advertising, any title or content of any social networking website, account or other forums cannot in any manner imply that the forum and/or its content is coming directly from or is in any manner sponsored or endorsed by the Company.

You may not buy or use Keywords, Sponsored Links, and/or Adword buys that include any Company Marks or other prohibited terms as defined in Exhibit A, on any search engines, websites or any other online marketplaces (including Facebook and other social media outlets). Similarly, You may not list or advertise on shopping comparison sites or similar product price search engines where You must purchase any placement or listing (including but not limited to Google Product Search, Shopzilla and NextTag), and must abide by the stated policies and prohibitions contained on any free registration shopping sites (including but not limited to Google Product Search).

3.2.12 Management of Your Beachbody Challenge Group or BOD Group

As part of Your opportunity to help other people try Beachbody products and achieve their fitness goals, You may organize, host and manage Your own Beachbody Challenge Group or BOD Group so long as You abide by the guidelines set forth in the Coach Office, as well as strictly adhering to the following:

- When hosting, promoting or conducting a Beachbody Challenge Group or BOD Group, You must always identify Yourself as an Independent Beachbody Coach.
- You must offer a random selection of Beachbody programs for the guest to sample during any weekly gathering. Playing an entire fitness program in the workout order provided and over the duration of the entire fitness program (i.e., the precise 90 days of P90X or 60 days of Insanity) is prohibited.
- The group may only consist of a Coach describing and playing the Beachbody DVDs or streaming Beachbody On Demand (“BOD”) for a group workout. Any workout offered may not be streamed live or broadcast through social media for participation by any individual or group in any remote location separate from the actual physical location.
- A Beachbody Challenge Group may be operated by a Coach with participation by other challengers in person or virtually. A Coach may offer prizes for their challenge group participants following the promotional and prize guidelines set forth in Sections 5.2 and 5.2.1 of these Policies & Procedures.
- Minor children may not participate in any Challenge Group or BOD Group workouts as most Beachbody fitness programs are not intended for use by children under the age of 18.

AT NO TIME MAY YOU ACT AS A FITNESS OR ANY OTHER TYPE OF INSTRUCTOR IN ANY GROUP WORKOUT.

You may not require a guest to pay simply to attend the Beachbody Challenge Group or BOD Group and only complete a Beachbody workout; however, You may ask for a financial donation from the guest (a) to cover the cost of the facility rental where the workout is held, or (b) if these guests wish to be served any supplements or consumables such as Shakeology® or Beachbody Performance™ Line) following the workout.

Each Coach promoting or conducting a Beachbody Challenge Group or BOD Group expressly understands and agrees that the Company in no manner endorses, sponsors, or promotes any Challenge Group or BOD Group offered by any Coach.

When hosting, promoting or conducting any Beachbody Challenge Group or BOD Group, you agree to indemnify, defend, and hold harmless the Company and its successors, assigns, affiliates, members, officers, and employees from any and all claims, causes of action, injuries, losses, damages, judgments, costs, or expenses, including attorney’s fees and costs, arising in any manner from the Challenge Group or BOD Group activities.

3.2.13 Fitness Instructors Using Team Beachbody Workouts

Fitness instructors and trainers can also be Independent Beachbody Coaches but may not incorporate Beachbody workout programs as part of their own exercise programs within fitness establishments (whether in a gym, community center, or other location). While those fitness classes may reference Beachbody product-inspired exercises, such as “plyometrics” and “kenpo,” You can never use any

Beachbody trademark (such as “Beachbody classes” or “P90X Circuit” in the name or description of the class, and may never play any Beachbody programs (via DVD or BOD) for any such classes.

3.3 Use of Beachbody Hosted Sites, Groups & Pages

You may not post messages (directly or through a third party) on any Beachbody hosted website (including but not limited to BODGroups, message boards, social media group, page or channel) promoting or alluding to the Team Beachbody business opportunity in any manner. Beachbody hosted sites, groups and pages are maintained solely to offer support, guidance, and a team motivational atmosphere for those participating members.

3.3.1 Posting Guidelines

Usernames

You may not use “Team Beachbody” or “Coach” (or anything similar such as “Top Coach”) in any message board screen name in accordance with Section 3.2.4 of the Policies and Procedures. For example, You may choose a screen name of “Coach Bill” but may not use a screen name only of “Coach.”

Offensive Content

Posts containing profanity, racist comments, hateful, inflammatory, abusive or offensive statements, or comments of a sexual nature are prohibited and will be removed immediately.

Profile Links

Links to profile pages directing anyone to a page other than Your Team Beachbody replicated website are not permitted.

Links

We will allow links to your favorite Team Beachbody threads and tools only. Members are prohibited from posting links that direct members away from the community forums. We reserve the right to edit, remove, or suspend any post or thread that is in violation of these rules.

Contact Information

In an effort to control spam, You may not post ANY contact information, including phone numbers, IM screen names, website links, signature blocks and/or email addresses.

Product Promotion

You may not promote competitor’s products (including supplements, videos, workout equipment or beauty products) on any of our message boards. You may discuss other non-Beachbody programs You are using or have used in the past.

Integrity

You may post open and honest remarks about Beachbody but Your remarks may not be slanderous, false, defamatory, hateful, or offensive, and they must not include personal attacks against any fitness trainer, Coach, member, product, service, or any other individual or company. The same standards apply when criticizing any other individual or business (including a Beachbody competitor).

We may remove or request that You remove any post that may violate these rules. To maintain a community focused on wellness, support, and motivation, You should not post identical posts in multiple threads and/or forums. We reserve the right to restrict any user’s use of or access to any Beachbody hosted platform without prior notification.

*These policies are in addition to the standard Terms and Conditions for the website and all other Coach Policies and Procedures, governing the use of social media platforms. Please review the Terms & Conditions found on our website, www.teambeachbody.com.

3.4 Bonus Buying Prohibited

Bonus buying is strictly and absolutely prohibited. “Bonus buying” includes: (a) the enrollment of individuals or entities without the permission and/or knowledge of such individuals or entities; (b) the fraudulent enrollment of an individual or entity as a Coach or Customer; (c) the enrollment or attempted enrollment of nonexistent individuals or entities as Coaches or Customers (“phantoms”); (d) purchasing Beachbody products or services on behalf of another Coach or Customer, or under another Coach’s or Customer’s I.D. number, to qualify for commissions or bonuses; or (e) any other mechanism or artifice to qualify for rank advancement, incentives, prizes, commissions, or bonuses that is not driven by bona fide product or service purchases by end-user consumers.

The use of any individual’s credit cards, debit cards, or other payment instruments to purchase products or service fees on the accounts of any other Coach or Customer other than two other immediate family members (defined as a parent, spouse, or child) is expressly

prohibited. If You wish to purchase product or cover service fees for an immediate family member, You must report this information to the Compliance department by sending the necessary information via email to compliance@beachbody.com. Similarly, subject to the allowance provided in the prior sentence, each Coach must maintain payment for their own account and may not use a third party's payment instrument to pay for their Beachbody products or services. Upon the first discovery of any bonus buying, any Coach having a lifetime rank of Diamond or above may be assessed a fine of **up to \$100,000** and any Coach having a lifetime rank of Ruby or below may be assessed a fine of **up to \$250**, which will be deducted from the Coach's upcoming check(s).

If the Coach who is found to be participating, facilitating or in any manner actively encouraging any bonus buying activity (including through communications, usage of credit cards or providing prepaid debit cards, etc.) would otherwise be eligible to participate in the Star Diamond Leadership Bonus, that Coach will lose their entire Star Diamond Leadership Bonus for that quarter (at all Star Diamond levels) and face additional fines and disciplinary action, including the immediate suspension or termination of that Coach's Beachbody Business. If bonus buying occurs in a Star Diamond Coach's organization which is unknown to the Star Diamond but the related activity contributes to the Star Diamond Coach's ability to raise or maintain their rank (which will be tracked within the first three levels of direct sponsorship, otherwise known as the Coach's advancement team), the bonus buying activity will be removed and the star Diamond Coach's rank will be recalculated without it, but the unknowing Star Diamond Coach will not face any disciplinary action. While the Star Diamond Coach who had no direct part in the bonus buying will not face disciplinary proceedings, the other Coaches who directly engaged in the bonus buying will, as provided above.

3.5 Business Accounts

3.5.1 Business Entities

A corporation, limited liability company, partnership, or trust (collectively referred to in this section as a "Business Entity") may apply to be a Team Beachbody Coach by submitting its Certificate of Incorporation, Partnership Agreement, or trust documents (these documents are collectively referred to as the "Entity Documents") to Beachbody, along with a properly completed Business Entity Registration form. Any and all owners with more than a five percent (5%) ownership interest in a prospective Business Entity must be disclosed on the applicable Business Entity Registration Form that is submitted to Beachbody. Upon registration as a Business Entity, a Coach has 90 days to provide to Coach Relations a copy of the IRS letter verifying the business contact information and FEIN. If the IRS letter is not received within this timeframe, the Business Entity account will be placed on a temporary hold until such documentation is received. Any of the owners listed on the Business Entity Application, or any other individuals for which the Company has received written notice, are acceptable as managing individuals for the business account, provided that managing individuals may not separately own or manage other Coach Business Centers. Acceptable written notice is the submission of the Business Contact Update Form, which can be requested from Coach Relations. A Beachbody business may change its status under the same sponsor from an individual to a partnership, corporation, or trust, or from one type of entity to another. There is a \$25.00 fee for each change requested; payment must be included with the written request and the completed Coach Application and Agreement. The Business Entity Registration form must be signed by all of the shareholders, members, partners, or trustees. Members of the entity are jointly and severally liable for any indebtedness or other obligation to Beachbody. There must be a named primary contact person per Beachbody Coach account.

3.5.2 Household Business Exception and Limitation

Spouses or couples residing in the same immediate household may maintain the same or separate Independent Beachbody Coach Business Center(s). However, for qualifying spouses or cohabitating couples sharing the same business entity with a common FEIN or FBN, there may be no more than two such Beachbody Coach Business Center(s) per household. Similarly, if qualifying spouses or cohabitating couples who each own a Beachbody Coach Business Center wish to form a single business entity for tax or business reasons, their respective Beachbody Coach Business Centers may both be held as assets of the business entity they form and their separate Coach Business Centers may both be converted to the common business entity, but their Coach Business Centers will be recognized and treated by Beachbody as separate and distinct businesses even though they are owned by a common business entity.

3.6 Changes to a Beachbody Business

3.6.1 Addition of Co-Applicants

When adding a co-applicant (either an individual or a business entity) to an existing Beachbody business, the Company requires a written request as well as a properly completed Coach Application and Agreement containing both the applicant's and the co-applicant's Social Security or Social Insurance numbers and signatures. To prevent the circumvention of Section 3.23 (regarding transfers and assignments of a Beachbody business), the original applicant must remain as a party to the original Coach Application and Agreement. If the original Coach wants to terminate his or her relationship with the Company, he or she must transfer or assign his or her business in accordance with Section 3.23, or the business shall be canceled upon the withdrawal of the original Coach. All bonus and commission checks will

be sent to the address of record of the original Coach. There is a \$25.00 fee for each change requested, and payment must be included with the written request and the completed Coach Application and Agreement. Beachbody may, at its discretion, require notarized documents before implementing any changes to a Beachbody business. Please allow thirty (30) days after the receipt of the request by Beachbody for processing. Please note that the modifications permitted within the scope of this paragraph do not include a change of sponsorship. Changes of sponsorship are addressed in Section 3.6.2.

3.6.2 Change of Sponsor

To protect the integrity of all marketing organizations and safeguard the hard work of all Coaches, We strongly discourage changes in sponsorship. A change of sponsorship from one sponsor to another is rarely permitted. If You want to request a sponsor change, you must submit a written request to the Compliance Department and your request must include the reason for the change. Depending upon the conditions of such request, Beachbody may require that the Coach who requests the transfer submit a change fee of \$50.00 for administrative charges and data processing. If the requesting Coach also wants to move any of the Coaches in his or her marketing organization, each downline Coach must also obtain a properly completed Sponsorship Transfer Form and return it to Beachbody with, if deemed necessary by Beachbody, the \$50.00 change fee (i.e., the transferring Coach plus each Coach in his or her marketing organization multiplied by \$50.00 is the cost to move a Beachbody business). Transfers will only be considered in the following three (3) circumstances:

- (a) In cases involving fraudulent inducement or unethical sponsoring, You may request to be transferred to another organization with his or her entire marketing organization intact. All requests for transfer alleging fraudulent enrollment practices shall be evaluated on a case-by-case basis at Beachbody's sole discretion. Such request must be made within sixty (60) days from the date on which the Coach was enrolled.
- (b) We reserve the right, at our sole discretion, to move a Coach from one organization or personal sponsor to another if we deem it necessary to maintain the integrity of the genealogy, You should be aware, however, that Beachbody will rarely authorize an organization or personal sponsor change request.
- (c) You may change sponsors within the first ten calendar days after submitting Your Coach Application and Agreement. To change Your sponsor within such time, You must complete an Independent Coach Cancellation Form and submit it together with a new Coach Application and Agreement which lists the new sponsor. The documentation must be received by Beachbody no later than 5:00 P.M. pacific time on the tenth calendar day following the Company's receipt of his or her original Coach Application and Agreement. If You change your sponsor pursuant to this policy, the 6-month waiting period under Section 3.6.3 shall not apply. There will be no fee associated with the switch, but if the Coach has a downline in his or her original business, the downline Coaches will remain in their original positions and will not change lines of sponsorship unless they too meet the prerequisites and follow the procedures set forth in this section 3.6.2(c).

In cases where in the appropriate sponsorship change procedures have not been followed, We make a mistake in the placement of a Coach, or if We exercise Our discretion to allow a Coach to change organization, We reserve the sole and exclusive right to determine the final disposition of the downline organization. YOU WAIVE ANY AND ALL CLAIMS AGAINST BEACHBODY AND ITS OWNERS, EMPLOYEES, AND AGENTS THAT RELATE TO BEACHBODY'S DISPOSITION OF ANY DOWNLINE ORGANIZATION.

3.6.3 Cancellation and Reapplication

If You have been enrolled as a Coach for ten (10) calendar days or fewer You may request a change of sponsorship by contacting Coach Relations at https://faq.beachbody.com/app/contact_us/lob/coach as detailed in Section 3.6.2(c) above. If You have been enrolled for more than ten (10) calendar days, You may cancel and re-enroll with a new sponsor only if You formally terminate your business (https://faq.beachbody.com/app/coach_cancellation_form/lob/team) and remain inactive (i.e. no purchases of Beachbody products for resale, no sales of Beachbody products, no sponsoring, no participation in any other form of Coach activity) for six (6) full calendar months; however, a Coach who has been enrolled more than ten (10) calendar days but less than thirty (30) days cancel their CBC and re-enroll immediately with their previous sponsor, in the same leg of that sponsor's organization, in the same side of the leg.

Regardless of the reason for Your re-enrollment, if You re-enroll You must start Your business a new under a new CBC and may not transfer into any existing CBC. Additionally if You re-enroll You will not be entitled to Your prior rank, benefits, volume, or position in the genealogy.

3.7 Unauthorized Claims and Actions

3.7.1 Indemnification

You are fully responsible for all of Your statements and actions regarding Beachbody, its products, and the Coach Compensation Plan that are not expressly contained in official Beachbody materials. You agree to indemnify Beachbody from liability, including settlements, judgments, penalties, refunds, attorney's fees, court costs, incurred as a result of Your statements, acts, omissions or any other violation of the Agreement (including, without limitation, its officers, directors, employees and agents) and hold them harmless. This policy shall survive the termination of Your Coach Agreement.

3.7.2 Product & Testimonial Claims

No claims (which include personal testimonials) as to therapeutic, curative, or diagnostic properties of any products offered by Beachbody may be made except those specific claims contained in official Team Beachbody literature. Such claims may only be repeated or republished in exactly the same format as that published by the Company and the claim must be republished in its totality. In particular, no Coach may make any claim that Beachbody products are useful in the cure, treatment, diagnosis, mitigation, or prevention of any diseases. Such statements can be perceived as medical or drug claims. Not only do such claims violate Beachbody policies, but they potentially violate federal and state laws and regulations, including the Federal Food, Drug, and Cosmetic Act and the Federal Trade Commission Act. Whenever a Coach is using any Beachbody product or opportunity materials, the Coach must always include any and all notices, warnings and disclaimers provided by Beachbody. For example, when discussing supplements (including Shakeology®) and their beneficial effects, the following statement should be included: **These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.**

If you host a challenge group or BOD Group, You may not publicly publish a participant's results without the express written consent of the participant. Additionally, You may not state or imply the results achieved by these groups are in any way scientific, clinical, a cure for any illness or injury, or include the use of any medical claims. Images and other digital assets made available to Coaches through the Coach Office may be used in the exact format offered without requiring additional consent from Beachbody, or any individual Coach or customer, but these assets may not be modified or edited in any way. In addition, Coaches receiving information about Coaches or Team Beachbody Customers as a result of information gathered through any Beachbody facilitated website, mobile application or other similar tool or advertising medium may not publish any individual's personal results without prior approval from the individual and without first submitting the proposed claim to the Compliance department for further review. Submissions may be made via email to compliance@beachbody.com.

3.7.3 Income Claims

You may not make unsubstantiated income claims about the Team Beachbody Coach Opportunity. Coaches may only make income claims that they can document as accurate (such as about their own income or that of other Coaches that they have actual proof to support). While Coaches may refer to financial achievements in general terms, a Coach may not include a specific dollar reference in any authorized income claim they intend to use. Coaches must include the following mandatory statement in all written and promotional materials, or online or live presentations:

Beachbody does not guarantee any level of success or income from the Team Beachbody Coach Opportunity. Each Coach's income depends on his or her own efforts, diligence, and skill. See our Statement of Independent Coach Earnings located at http://tbbcoa.ch/TBB_SOICE for the most recent information on our Coaches' actual incomes.

You must provide a copy of the Statement of Independent Coach Earnings to all prospects at every opportunity presentation you conduct.

Unsupported or unauthorized claims are expressly prohibited under these Policies and Procedures, but also violate multiple state and federal laws and regulations. Accordingly, any Coaches engaging in unsupported or prohibited income claims may be subject to immediate disciplinary procedures, including, without limitation, the suspension or termination of their Coach account. An example of this prohibited behavior includes, without limitation, sharing, displaying, or otherwise posting on any online forum or social media the amounts of, or actual pictures of, any compensation paid to Coaches from the Team Beachbody Coach Opportunity (such as pictures of compensation checks, tax statements, or screen shots of a bank account or the commission reports found in the Coach Office).

3.8 Commercial/Retail Outlets

Team Beachbody's business model calls for product sales through direct contact with customers. Therefore, You may not sell or facilitate the sales of Beachbody products out of stores, kiosks, food establishments, buying clubs, or any other general public retail or commercial outlets. You may display and sell Beachbody products in establishments that primarily provide services to private clientele.

Examples of these limited locations include doctors' offices, gyms, health clubs and private workout studios. In no instance, however, shall any displays or advertising of Beachbody products be visible from the street or otherwise to the general public.

3.9 Trade Shows, Expositions, and Other Sales Forums

Coaches may display and/or sell Beachbody products and the Coach Business Opportunity at trade shows and professional expositions. Before submitting a deposit to the event promoter, Coaches are encouraged to contact the Compliance department in writing to obtain Beachbody's approval. Coaches must always act in a professional and supportive manner at any such events. Beachbody must pre-approve all advertising material that the Coach who received approval to display at the event wishes to use.

Any Coach who wishes to participate as a Beachbody Coach at a trade show or expo must exclusively represent Beachbody products and services at the approved event, and may not market any other products or services with Beachbody products and services. Any requests to participate in future events must again be submitted to the Compliance Department. Beachbody further reserves the right to refuse authorization to participate at any function it does not deem a suitable forum for the promotion of its products, services, or the Coach Business Opportunity. Approval will not be given for swap meets, garage sales, online auctions, or flea markets, as these events are not conducive to the professional image Beachbody wishes to portray.

3.10 Conflicts of Interest

3.10.1 Non-solicitation

As a Beachbody Coach, you have made a commitment to helping others in their health and fitness journey. By participating as a Coach, you will not only have the opportunity to participate in the income opportunity and other rewards you may earn as a Coach, but you will also be provided proprietary tools, lists, direct customer leads and other trade secret sensitive information. Accordingly, during the term of this Agreement and regardless of your paid or lifetime rank, You may not directly or indirectly Recruit or solicit other Beachbody Coaches or customers for any other multi-level or network marketing business venture (collectively "Network Marketing Business") in any and all markets in which Beachbody conducts business.

The term "Recruit" means the actual or attempted sponsorship, solicitation, enrollment of, or effort to influence in any other way, either directly or indirectly, any Beachbody Coach or Customer to enroll, purchase any goods or services, or otherwise participate in another Network Marketing or direct sales opportunity, which at all times will be expressly prohibited.

Although your signed Coach Application constitutes a binding contract between you and Beachbody, you have no contractual relationship with any other Independent Beachbody Coach. You may not take any action that would interfere with Beachbody's contractual relationships with other Independent Beachbody Coaches, including, without limitation (i) any form of recruiting any Coach to participate in any Network Marketing Business other than Beachbody, directly, indirectly or through a third party, or (ii) to promote, feature or otherwise market any other Network Marketing Business, including its product or services, in any public or Beachbody forum, which includes direct contact with any Beachbody Coach or customer. To do so constitutes tortious interference with Beachbody's contractual relations. Any Coach who violates the restrictions set forth in this Section (directly or through another member of that Coach's household as provided in Section 3.10.4 below) will be subject to disciplinary action in accordance with these Team Beachbody Coach Policies & Procedures, to include, without limitation, suspension and termination of the Coach Business Center and Beachbody may additionally institute legal action against you seeking injunctive and monetary relief.

You agree that any violation of this Non-solicitation Policy will cause Beachbody irreparable harm for which there is no adequate remedy at law, and that such harm will outweigh any injury to You should injunctive relief be granted to the Company. Beachbody will therefore be entitled to immediate and permanent equitable relief to prevent further violations to this policy.

3.10.2 Participation in Other Network Marketing Business Opportunities

New Coaches joining Beachbody and Coaches enrolled with Beachbody for the sole purpose of the preferred pricing have the freedom to participate in other Network Marketing Business opportunities, provided their participation in another Network Marketing Business never includes any attempts to solicit any Beachbody Coach or customer as previously explained in Section 3.10.1 above. Coaches who are engaged with Beachbody for the purposes of earning income and who are developing a team of personally sponsored and downline Coaches or customers are receiving substantial proprietary and sensitive Company information as well as access to Company leads and customers, all of which must be carefully protected. In order to continue ongoing growth of the Coach network, we must balance the opportunity we provide to our Coaches with the following limitations related to a Coach's participation in another Network Marketing Business:

- A Coach who remains exclusive with Beachbody, meaning they are not enrolled as a distributor or representative with any other Network Marketing Business, has access to a variety of exclusive benefits including the eligibility to receive customer and Coach leads (as further defined in the Compensation Plan), participate in and attend special events such as the annual Leadership conference, and earn special recognition through different promotions offered throughout the year. Only these Coaches exclusive to Beachbody as described above will have access to these exclusive benefits.
- Coaches who maintain a lifetime rank of Diamond or below may participate as a distributor in another Network Marketing Business provided they do so in accordance with the other restrictions provided within this entire Conflicts of Interest Section 3.10. At the lifetime rank of Star Diamond or above, Coaches may not participate as a distributor in any other Network Marketing Business, regardless of the category of products or services that other Network Marketing Business offers.
- Regardless of Coaches' paid or lifetime rank as defined in our Compensation Plan, they may participate in another Network Marketing Business solely as a customer (including as a "preferred customer" or "discount customer"), provided that they are solely purchasing products or services from the other Network Marketing Business and are in no manner receiving any form of compensation (which includes payments, free product, prizes, trips, gifts or other benefits, even if such compensation is re-gifted or donated). Receiving any such form of compensation will be deemed as acting as a distributor with such other Network Marketing Business.

Any Coach who violates this Section, including when such violation causes any kind of business interruption or interference with the integrity of the Team Beachbody network and/or other Coaches, will be subject to disciplinary action, including without limitation, suspension and termination of the Coach Business Center

3.10.3 Participation in Other Business Opportunities

As independent contractors with independent interests, Coaches may engage in other business interests and opportunities provided that they comply with the terms and restrictions provided in these Policies and Procedures, including, without limitation, the specific limitations provided in this Conflicts of Interest Section.

If a Coach engages in another business opportunity which includes products or services related to fitness, nutrition, supplements or any other product or service which competes with a current Beachbody offering, they may not promote, advertise, sell, or attempt to sell any of those competing products using any Beachbody or Coach branded website or platform, or any other website or social media platform they primarily use to promote their Beachbody business (such as a Coach team page or group). Any program, product, or services in the same generic category as Beachbody products or services is deemed to be competing, regardless of differences in cost, quality, or ingredient content.

In addition to the restrictions above, Coaches may not display Beachbody promotional material, products, or services with any other promotional material, products, or services in a fashion that might in any way confuse or mislead a prospective Customer, Coach, or member of the public into believing there is a relationship between the Beachbody and non-Beachbody products or services. Coaches may not advertise, offer, or sell the Beachbody Coach Business Opportunity, Beachbody products, or Beachbody services to prospective or existing Customers or Coaches or to the public in conjunction with any non-Beachbody program, opportunity, product, or service. Coaches may not offer any non-Beachbody Coach Business Opportunity, products, or services at any Team Beachbody-related meeting, seminar, or convention, or immediately following such event.

Finally, Coaches may in no manner (a) "bundle" or combine any non-Beachbody products or services as a packaged offer for sale or advertisement with any Beachbody products or services, or (b) offer or require any non-Beachbody products or services as either an incentive or requirement to recruit prospective Coaches, or to provide support or training to existing Coaches.

Coaches found in violation of these policies may face the suspension and/or termination of their Beachbody Coach account.

3.10.4 Policy Violations by Members of Coach Household

Pursuant to Section 3.21 (Actions of Household Members or Affiliated Individuals), Team Beachbody Coaches who have family members or other individuals living in their immediate household who are engaged in other Network Marketing Business will be held responsible for the activities of these individuals should those individuals violate the Team Beachbody Coach Policies & Procedures, including the restrictions provided in this Section 3.10. The resulting disciplinary action may include the suspension and/or termination of the Coach's business center.

3.10.5 Genealogy Reports

Genealogy reports are available through Your Coach Office (“CO”) provided by the Company. The information in Your genealogy report is trade secret information that belongs exclusively to Beachbody. You must never use this information for any reason other than to build your Team Beachbody business and of course you must NEVER allow anyone to access Your genealogy report or provide any information in the report to anyone else. If You share your username, password or any other access to your Beachbody Coach account, Coach Office or Beachbody On Demand service, You are solely responsible, among other possible damages, for any resulting charges, activity or changes to your Coach organization, reports, rank or other financial information.

3.11 Cross-Sponsoring

You must never poach any Coach from another Coach. Poaching which is also called “Cross-Sponsoring” is any effort to enroll an existing Coach or someone who was a Coach whom You did not personally sponsor within the preceding six (6) calendar months. In the spirit of this policy, You must also not attempt to circumvent this policy through any other means (such as using a spouse’s name or forming an entity through which to operate). This policy shall not prohibit the transfer of a Beachbody business in accordance with Section 3.23.

If Cross-Sponsoring is discovered, You must bring it to the Company’s attention immediately. Beachbody may take disciplinary action against the Coach who changed organizations and/or those Coaches who encouraged or participated in the Cross-Sponsoring. Beachbody may also move all or part of the offending Coach’s downline to his or her original downline organization if the Company deems it equitable and feasible to do so. However, Beachbody is under no obligation to move the Cross-Sponsored Coach’s downline organization, and the ultimate disposition of the organization remains within the sole discretion of Beachbody. You waive all claims and causes of action against Beachbody arising from or relating to the Company’s disposition of the Cross-Sponsored Coach’s downline organization.

3.12 Compensation and Genealogy Errors

If You have questions or believe any errors have been made regarding Your commissions, bonuses, genealogy, placement, Downline Activity Reports, or charges, You must notify Beachbody in writing within ninety (90) days from the date on which the purported error occurred. BEACHBODY COACHES EXPRESSLY WAIVE CLAIMS FOR ANY COMMISSION AND/OR GENEALOGY ERRORS, OMISSIONS, OR PROBLEMS NOT REPORTED TO BEACHBODY WITHIN NINETY (90) DAYS.

3.13 Governmental Approval or Endorsement

Federal or state regulatory agencies or officials are not permitted to approve or endorse any direct selling or network marketing companies or programs. Therefore, You must never represent or imply that Beachbody or its Compensation Plan have been “approved,” “endorsed,” or otherwise sanctioned by any government agency.

3.14 Independent Contractor Status

You are an independent contractor not an employee of Beachbody, so You will not be treated as an employee for federal or state tax purposes, benefits or in any other manner. You are responsible for paying local, state, provincial and federal taxes due from all compensation You earn. Beachbody will not withhold any taxes from Your earnings unless we are compelled to do so by law. You have no authority (expressed or implied) to bind the Company to any obligation.

3.15 Income Taxes

You are responsible for paying local, state, and federal taxes on any income You earn as an Independent Beachbody Coach. If Your business is tax-exempt, You must provide Your Federal Tax Identification number to Beachbody. Every year, Beachbody will provide an IRS form 1099 MISC (Non-Employee Compensation) earnings statement (or any other updated form which may be required) to each U.S. individual or entity that: 1) had earnings of \$600 or more in the previous calendar year; or 2) made purchases during the previous calendar year in excess of \$5,000 or as otherwise required pursuant to any other applicable law, rule or regulation. No taxes of any kind will be withheld by Beachbody as You are an independent contractor.

3.16 Insurance

You may wish to arrange insurance coverage for your business. Your homeowner’s insurance policy does not cover business-related injuries or the theft of or damage to inventory or business equipment. Contact your insurance agent to make certain your business property is protected. This can often be accomplished with a simple “Business Pursuit” endorsement attached to your present home owner’s policy, although at no time can Beachbody provide any insurance or other financial advice to any Coaches as each Coach has his or her own unique circumstances as an independent contractor.

3.17 International Marketing

Because of critical legal and tax considerations, Beachbody must limit the advertising and sale of Beachbody products and services, and the presentation of the Beachbody business, to prospective Customers and Coaches located within the United States and U.S. Territories, Canada and those other countries where the Company has announced it has officially opened for its network marketing business. You may sell Beachbody products or sales aids only in the country in which you legally reside. In addition, You may not engage in any sales or business building activity in any country that Beachbody has not announced as officially open for business.

3.18 Inventory Loading

You must never purchase more products than You can reasonably use or sell in a month, and must not influence or attempt to influence any other Coach to buy more products than they can reasonably use or sell in a month. Beachbody reserves the right, in its sole discretion, to cancel, limit or modify any orders which it feels may violate this policy.

3.19 Adherence to Laws and Ordinances

You must obey all laws and ordinances that apply to Your business. For example, many cities require that You obtain a license to operate a business within the city limits. If a city or county official tells You that an ordinance applies to Your business, You should be polite and cooperative, and immediately send a copy of the ordinance to the Compliance department at Beachbody (compliance@beachbody.com). There may be exceptions to the ordinance that may apply to Independent Beachbody Coaches.

You must never pay, offer or promise to pay, or directly or indirectly authorize the payment of any money, gift, or anything of value to any government official, officer or employee of a government at any level, or any officer or employee of an entity controlled to any extent by a government, a public international organization, a person acting in an official capacity for or on behalf of any such government or public international organization, a candidate for political office, a political party or party official) for the purpose of influencing any act or decision of such official or to obtain or retain business.

3.20 No More than One Beachbody Business per Coach

You may operate or have an ownership interest, legal or equitable, in only one unique Beachbody business except as expressly permitted in Section 3.5.2. For purposes of clarification, except as permitted above no individual may have, operate, or receive compensation from more than one unique Beachbody business. For example, You may not own a Beachbody business individually and also have an interest in a business entity that owns or operates a Beachbody business.

3.21 Actions of Household Members or Affiliated Individuals

If any member of Your immediate household engages in any activity that would violate any provision of the Agreement, such activity will be deemed a violation by You, and Beachbody reserves the right to take any disciplinary action pursuant to these Policies and Procedures against You. Similarly, if any individual associated in any way with a corporation, partnership, trust, or other entity (collectively “affiliated individual”) violates the Agreement, such action(s) will be deemed a violation by the entity and each of its owners, shareholders, members or management, and Beachbody reserves the right to take disciplinary action against the entity and all individuals who own, operate, or manage the entity or the Beachbody business.

3.22 Requests for Records

Any request for hard copies of invoices, applications, Downline Activity Reports, or other records will require a fee of \$1.00 per page per copy with a minimum charge of \$10.00, which must be paid in advance.

3.23 Sale, Transfer, or Assignment of a Beachbody Business

If You want to sell, assign or otherwise execute a non-testamentary transfer of Your Beachbody business, You must follow these procedures (Beachbody’s succession policies apply to testamentary transfers as detailed in Section 3.25):

- Prior to selling a Your business, You must notify Beachbody’s Compliance department of Your intent to sell the Beachbody business and You must receive the Company’s written pre-approval. The Compliance department may be contacted via email at compliance@beachbody.com.
- You must be in good standing, have all debts, obligations and fees owed to Team Beachbody satisfied and not be in violation of any term of the Team Beachbody Coach Policies & Procedures for the six (6) calendar months preceding the date on which You request the transfer approval.
- The transferee may not have been an Independent Beachbody Coach at any point in the past, nor may the transferee have been an owner, officer, operator or agent of an entity that owned a Beachbody Coach Business Center at any time in the past.

- The transferee must satisfy Beachbody that they have the knowledge and skill necessary to support and train the organization that he or she is acquiring.
- Provided the transfer request is approved by Beachbody, for a period of sixty (60) calendar days from the completion of the transfer, the personally sponsored Coaches of the transferred CBC may, for any reason, request through the Compliance department that their sponsorship be rolled up to the next paid star diamond leader in their direct upline genealogy.
- Once the transfer has been approved, the transferee and the new Coach must execute the proper applications and agreements, submit paperwork to Beachbody and pay all applicable fees.
- A transfer request must be signed by both You and the Coach receiving the CBC, which specifies the existing placement and retention of the CBC in the genealogy. Once the transfer is completed, the CBC placement is considered fixed and will not be subject to any further movement, except in accordance with the terms of this section (3.23).
- If You have qualified for and are operating multiple CBCs You may not transfer an individual business center; if a business is transferred all business centers must be included in the transaction.
- Preexisting CBCs may not be transferred to Coaches with a lifetime rank of Two Star Diamond or above as a way of establishing a new CBC.
- Elite points earned by the transferring Coach during the calendar year in which the transfer occurs will not be transferred with the business unless the transfer is fully completed prior to July 1 of that calendar year.

Beachbody reserves the right to approve or deny any transfer request in its sole and absolute discretion.

3.24 Separation of a Beachbody Business

Team Beachbody Coaches sometimes operate their Beachbody businesses as husband-wife partnerships, regular partnerships, corporations, or trusts. In community property states the spouse of a Coach may have a legal interest in the Coaches' business. If You divorce, or if Your Beachbody business is owned by an entity that is dissolving or reorganizing, or if you reside in a community property state and Your spouse has an interest in your Team Beachbody business, during the divorce, dissolution or reorganization process, the parties must adopt one of the following methods of operation:

- One of the parties may, with written consent of the other(s), operate the Beachbody business pursuant to an assignment in writing (a copy of which must be submitted to the Company) whereby the relinquishing spouse, shareholders, partners, or trustees authorize Beachbody to deal directly and solely with the other spouse or non-relinquishing shareholder, partner, or trustee; or
- The parties may continue to operate the Beachbody business jointly on a "business-as-usual" basis, whereupon all compensation paid by Beachbody will be paid according to the status quo as it existed prior to the divorce filing or dissolution proceedings. This is the default procedure if the parties do not agree on the format set forth above.

Under no circumstances will the downline organization of divorcing spouses or a dissolving business entity be divided. Similarly, under no circumstances will Beachbody split commission and bonus checks between divorcing spouses or members of dissolving entities. Beachbody will recognize only one downline organization and will issue only one commission check per Beachbody business per commission cycle. Commission checks shall always be issued to the same individual or entity unless otherwise changed in accordance with this Section 3.24. If the parties to a divorce or dissolution proceeding are unable to resolve a dispute over the disposition of commissions and ownership of the business, the CBC shall be involuntarily canceled.

If a former spouse has completely relinquished all rights in their original Beachbody business, he or she is immediately free to enroll under any sponsor of their choosing, and need not meet the waiting period requirements set forth in Section 3.6.3. In such case, however, the former spouse shall have no rights to any Coaches in their former organization or to any former retail customer. He or she must develop the new business in the same manner as would any other new Coach. In cases of business entity dissolutions, a former business entity partner, member, shareholder, or other affiliate who loses his or her interest in the Beachbody business must wait six (6) calendar months as specified in Section 3.6.3 before enrolling again as a Coach.

3.25 Succession

Upon Your death or incapacitation of a Coach, Your business may be passed to Your heirs, even if such successor is already a Team Beachbody Coach. Accordingly, You should consult an attorney to assist in the preparation of a will or other testamentary instrument. Whenever a Beachbody business is transferred by a will or other testamentary process, the beneficiary acquires the right to collect all bonuses and commissions of the deceased Coach's marketing organization provided the following qualifications are met:

3.25.1 Transfer upon Death of a Coach

To affect a testamentary transfer of a Beachbody business, the successor must provide the following to Beachbody: (1) an original death certificate; (2) letters testamentary from the executor of the estate directing Beachbody on the proper disposition of the business; and

(3) a completed and executed Coach Agreement by the successor. If the successor is currently a Team Beachbody Coach, the successor Coach will be granted an exception and allowed two separate CBCs.

3.25.2 Transfer upon Incapacitation of a Coach

To transfer a Beachbody business because of incapacity, the successor must provide the following to Beachbody: (1) a notarized copy of an appointment as trustee; (2) a copy of the trust document or other documentation establishing the trustee's right to administer the Beachbody business; and (3) a completed Coach Agreement executed by the trustee.

3.25.3 Procedures

In all succession cases:

- The successor or trustee must execute a Coach Agreement;
- The successor and trustee must comply with terms and provisions of the Agreement;
- The successor business must meet all qualifications for the deceased Coach's status.
- The bonus and commission checks of a Beachbody business transferred pursuant to this section will be paid in a single check jointly to the devisees. The devisees must provide Beachbody with an authorized trustee and an address of record to which all bonus and commission checks will be sent; and
- If the business is bequeathed to joint devisees, they must form a business entity and acquire a Federal Taxpayer Identification number or appoint a single recipient within sixty (60) days from the date of the death of the deceased Coach.

SECTION 4 - RESPONSIBILITIES OF COACHES

4.1 Change of Address or Telephone

To ensure timely delivery of products, support materials, and commission checks, it is critically important that Beachbody's files are current. Street addresses are required for shipping because UPS cannot deliver to a post office box. If You plan to move, You should provide your new address and telephone number to Beachbody's Coach Relations Department. To guarantee proper delivery, two-week advance notice must be provided to Beachbody of all changes.

4.2 Continuing Development

4.2.1 Support

Beachbody Coaches are encouraged to maintain ongoing support and communication with their personally sponsored Coaches in their downline organization. Examples of this may include team newsletters, team calls, written correspondence, in person or ZOOM meetings, one-on-one telephone calls and emails, as well as attending any Beachbody event with your personally sponsored Coach where training is provided, such as during a Super Weekend or Summit.

4.2.2 Training

Beachbody Coaches are also encouraged to motivate and train new Beachbody Coaches in Beachbody product knowledge, effective sales techniques, the Team Beachbody Coach Compensation Plan, and compliance with these Policies and Procedures. As Coaches progress through the various levels of leadership, they will become more experienced in sales techniques, product knowledge, and their understanding of Beachbody programs. Sharing this knowledge with less-experienced Coaches is an important part of being a leader and mentor as a senior Coach.

4.2.3 Training on Policies

It is the responsibility of every Beachbody Coach to read, understand, adhere to and ensure that he or she is aware of and operating under the most current version of these Policies and Procedures. When enrolling a new Beachbody Coach, it is the responsibility of the sponsoring Coach to ensure that the applicant is provided with, or has online access to, the most current version of these Policies and Procedures and the Team Beachbody Compensation Plan, which will always be provided in the Coach Office and on the Team Beachbody website (www.teambeachbody.com/coach) prior to his or her execution of the Team Beachbody Coach Agreement.

4.2.4 Ongoing Sales Responsibilities

Regardless of Your level of achievement, You have an ongoing obligation to continue to personally promote sales through the generation of new Customers and through servicing their existing Customers.

4.3 Non-disparagement

Team Beachbody wants to provide its Independent Beachbody Coaches with the best products, compensation plan, and service in the industry. Accordingly, we value Your constructive criticisms and comments. All such comments may be submitted in writing to the

Beachbody Compliance Department (compliance@beachbody.com). Remember, to best serve You, we must hear from You! While Beachbody welcomes constructive input, negative comments and remarks made in any forum (online, written, or in the field) by Coaches about the Company, its compensation plan or other Coaches serve no purpose other than to sour the enthusiasm of other Team Beachbody Coaches. For this reason, and to set the proper example for their downline, You must not publicly disparage, demean, or make negative remarks about Beachbody, other Team Beachbody Coaches, Beachbody's products, the Team Beachbody Coach Compensation Plan, or Beachbody's directors, officers, or employees.

4.4 Reporting Policy Violations or Fraudulent Activity

If You see another Coach engaging in a Policy violation, You should report the violation directly to the Beachbody Compliance department. Details of the incidents, such as dates, number of occurrences, persons involved, and any supporting documentation, should be included in the report. Emails should be sent to compliance@beachbody.com.

4.5 Team Beachbody Lead Programs

The Company engages in various marketing activities that are directed at the Beachbody network customer database (those customers who have purchased through infomercials or other direct response channels). Beachbody network customers who are interested in Team Beachbody products or the Team Beachbody business opportunity are assigned a Coach through our various lead programs. If the Company assigns You a lead, You must promptly engage with these customers to ensure that they are getting the most out of their products, and to potentially connect them with other products which might help them achieve their goals.

If You discover any inaccuracy about Your eligibility to receive leads under any of Team Beachbody's lead programs, You must report it to the Company no later than the fifth calendar day of the following month. Your eligibility for leads for the new calendar month is locked in on the first of each month, as reported in the Coach Office. You may report errors or inaccuracies by contacting Coach Relations at (800) 240-0913. If You report an inaccuracy that is verified by the Company, You will be awarded any missed leads. Team Beachbody does not guarantee that You will be assigned leads under any of its lead programs even if you meet all of the qualification criteria for the program.

4.5.1 Customer Lead Program

When a prospective customer who is not associated with a Coach joins Team Beachbody, either as a paid or free member, they are assigned to a qualified Coach when the Team Beachbody account is created. The customer will then be assigned as a lead to an eligible Coach. To be eligible, You must meet the following requirements (all requirements below must be achieved in the previous calendar month to receive leads the following month. For example: requirements achieved in July will qualify You for leads in August:

- Be paid at the rank of Emerald or above a minimum of one business week in that month;
- Be an active Beachbody On Demand Member;
- You must not be enrolled as an independent contractor or representative with another direct selling company;
- You must have achieved Success Club 5 in the prior month; and
- You must not be delinquent in paying any business service fees or have been found to be in material violation of any of the Company's Policies and Procedures for six (6) months prior to the lead assignment.

Associated Commissions and Volume

Coaches who are assigned leads receive no commissions or volume points associated with the lead's initial product purchase or subsequent continuity orders for the initial product(s) that he or she purchased through Beachbody.com or through an Infomercial. However, the assigned Coach will receive the commissions and volume points on all other subsequent product purchases made by that customer lead. If the customer purchases on Teambeachbody.com and is assigned through the Customer Lead Program, then the assigned Coach will receive commission & volume on the customer purchase.

Dormant Leads

For any leads assigned to a Coach where no additional purchases have occurred from the assigned lead for a period of six (6) months, Beachbody may directly market its products and services to the lead and for any subsequent purchases from the lead responding to the Beachbody marketing, no commissions, volume, bonus, or any other form of compensation will be paid to the original coach.

Miscellaneous

There are some historical Team Beachbody lead purchases that paid commissions and volume points on continuity orders. If You are among those who received such commissions and points, Your status as being eligible to receive future commissions and volume points will be grandfathered so long as You remain in good standing and continue to meet the minimum Customer Lead Program qualifications to receive these commissions and volume points in the future. However, if at any time you fall out of good standing with your Coach account, you will no longer receive and will not be able to regain such grandfathered benefits.

4.5.2 Success Club Lead Program

When an individual who is not associated with a Coach purchases any product under the Shakeology brand, the Ultimate Reset brand, any Beachbody Challenge Pack, they are provided a Team Beachbody account and they are assigned to a qualified Coach at the time that their Team Beachbody account is created.

Associated Commissions and Volume

Retail commissions will be paid on purchases of products under the Shakeology brand, the Ultimate Reset brand or any Beachbody Challenge Pack to the Coach who receives the customer lead. Personal Volume (“PV”) and Team Volume (“TV”) (as each are used and defined in the Team Beachbody Compensation Plan) will NOT be paid in month 1, but continuity orders (beginning with the second Home Direct order) will carry 0 PV and standard TV associated with that product. To be assigned a lead, You must be in good standing and meet the minimum Success Club Lead Program qualifications to be eligible to receive commissions on continuity orders.

Qualifications to Receive Success Club Leads

- You must Achieve Success Club 10 in the prior month;
- You must be the paid rank of Emerald or above for at least one business week of the prior month;
- You must be an active Beachbody On Demand Member;
- You must not be enrolled in another direct selling company; and
- You must not be delinquent in paying any business service fees or been found to be in material violation of any of the Company’s Policies and Procedures for six (6) months prior to the lead assignment.

Success Club Lead Program Lifetime Limits on Leads

Success Club customer leads are limited by rank, so that regardless of the leads earned by a Coach, they will be limited by their current paid rank. The Success Club customer leads that would have been allocated to a Coach who has already reached the lifetime rank limit will be allocated to other qualified Coaches.

The lifetime Success Club lead wheel limits (not including income leads) are:

Emerald	75	11 Star Diamond	11,000
Ruby	125	12 Star Diamond	12,000
Diamond	500	13 Star Diamond	13,000
1 Star Diamond	0	14 Star Diamond	14,000
2 Star Diamond	,000	15 Star Diamond	Unlimited
3 Star Diamond	,000		
4 Star Diamond	,000		
5 Star Diamond	,000		
6 Star Diamond	,000		
7 Star Diamond	,000		
8 Star Diamond	,000		
9 Star Diamond	,000		
10 Star Diamond	,000		

NOTE: Only Success Club Leads where a Coach earns commissions when the lead is assigned will count towards the lifetime Success Club lead limit.

4.5.3 Coach Connection Program

If You are Qualified with a Paid-As Rank of Diamond Coach or above, You are eligible to receive new Coach or Preferred Customer leads from the Company if you satisfy the following additional eligibility criteria:

- Qualify for Success Club 10 in the prior month;
- Be a Paid 1 Star Diamond or higher for at least one business week of the prior month; and
- Be compliant with all of the sales leads requirements as stated above in this Section 4.5 above.

4.6 Data Protection

Various countries around the world have laws governing the protection of individual's personal information (such as their name, contact details, and so on). These laws, including the General Data Protection Regulation (GDPR) for personal information belonging to individuals in the European Union, are known as data protection laws. You should ensure that Your collection and use of personal information of fellow Beachbody Coaches, Customers and other individuals is in compliance with the data protection laws that apply to Your business – and seek legal advice if You are unsure of Your responsibilities, which may include:

- registering Your business with the relevant local data protection authorities in Your country;
- making available a compliant Privacy Notice that meets the requirement of applicable data protection laws at all times, and that You provide this Privacy Notice to anyone whose personal information You collect;
- ensuring that You are transparent, fair and lawful whenever You collect and use personal information;
- ensuring that You collect personal information only for specific, explicit and legitimate purposes, and that You do not use the personal information You collect in a manner incompatible with those purposes;
- ensuring that You collect and use only the minimum personal information necessary for the purposes communicated;
- ensuring that You keep the personal information You collect accurate and up-to-date;
- ensuring that You keep the personal information You collect confidential and secure at all times;
- ensuring that You do not keep the personal information You collect for longer than is necessary for the purposes for which it was originally collected.

4.6.1 Use of Personal Information for Marketing

Specific rules apply to the collection and use of personal information for marketing-related activities, including a potential requirement that you first obtain an individual's prior consent to marketing and the need to allow individuals to opt-out of marketing at any time. See section 3.2 above for more details.

4.6.2 Individuals' Data Protection Rights

Data protection laws often give individuals rights over their data too. This may include the right to access information You may have that pertains to them; the right to request that You correct information that pertains to them; the right to request that You delete information that pertains to them; and more. Where these rights exist, You must ensure that You allow (and help) individuals to exercise their rights upon request.

4.6.3 Sensitive Data

Be aware that some countries may treat the collection of fitness and health data as a type of "special" or "sensitive" data, and may have stricter requirements about the collection and use of this data (for example, a requirement to seek explicit consent or to apply stricter security protections to the data). It is Your responsibility to investigate this and take steps to comply with any applicable data protection law requirements as necessary.

4.6.4 Data Transfers

Some countries may have laws that prohibit You from transferring personal information to recipients in other countries – for example, it is generally prohibited to transfer personal information collected in the European Union outside of the European Union, unless You have implemented a legal data transfer solution. However, if you then wish to send or transfer any personal information outside your country, it is Your responsibility to investigate any such requirements and take steps to comply with any applicable data protection law requirements as necessary.

Any personal information of another individual that you receive from Beachbody, including if from another country, is provided to you pursuant to a legal data transfer solution.

4.6.5 Data Controller

Because You are a business owner who independently decides how You collect, store, use, and manage personal data belonging to residents of the European Union (which includes the United Kingdom), you acknowledge and agree You are a "Controller" of that personal data as defined in Article 4(7) of the GDPR. This means You are responsible for complying with the GDPR as an independent Controller for any such personal data, which includes without limitation, processing the personal data in a lawful manner and securing the personal data through appropriate technical and organizational measures.

SECTION 5 - SALES REQUIREMENTS

5.1 Credit Card Payment for Product Sales

You must only use Your own credit card, debit card, or other account to pay for Your products and service fees, and You may not use any of your accounts to pay for the products or fees of any other Coach or customer. The only exception is that You may use your account to pay for the products or fees of two other immediate family members (that is a parent, spouse or child over the age of 18). In addition, if You wish to purchase product or cover service fees for an immediate family member, You must report this information to

the Compliance department by sending the necessary information via email to compliance@beachbody.com. Your email must include the name and Coach ID or customer account number of the family member whose products you are purchasing and the fees for which you are paying, and Your relationship to the individual.

5.2 Product Pricing and Promotion Guidelines

Coaches may not sell Beachbody products below the list price on the Team Beachbody price list, nor may they offer additional incentives not offered by Beachbody, including but not limited to, free or reduced shipping charges, bundles, coupons, promotional codes, or any other similar incentives on the sale of Beachbody products. In addition, the offering of free gifts as a promotional tool is allowable only if the gift is a product or service that: (a) is offered for a limited time of 30 days or less, (b) has a suggested retail value of \$100.00 or less if the gift offered is not a Beachbody branded product (c) is offered for all new enrollments and/or purchases from the Coach of any product for new customers, and (d) only one giveaway per week is offered. If a gift card is provided as an incentive, it must be a gift card or certificate for a specific retailer, not a bank or credit card company branded card as that is equivalent to cash, which is not allowable. At no time however may any cash payment, directly, as a reimbursement or through any third party, be offered or made in connection with any recruitment, enrollment, or business activities, except as otherwise defined in the Team Beachbody Compensation Plan.

The only permissible exception to the stated dollar value immediately above is the giveaway of basic Beachbody products (having a reasonable retail value). A giveaway of any Beachbody product is limited to one giveaway per Coach per month. Any gift cannot be offered in such manner to form a new product or discounted bundle (i.e., any limited-time free gifts must be offered separately from any Beachbody products). Coaches may not offer “free” enrollment or any reduction in the standard enrollment charges as an incentive to new Coaches by refunding any or all of the cost of the new Coach’s original enrollment fee.

Coaches operating a fitness or nutrition focused challenge group or BOD Group may offer prizes to their participants. Prizes offered must be in line with values stated above. If cash is offered as a prize for the winning participant(s), on a monthly basis the hosting Coach may not offer cash prizes in excess of \$250 combined for all individuals taking part in the group.

5.2.1 Bonus Pools & Incentives

Coaches may offer incentives to their team; however cash incentives at any amount are not permitted, especially where directly related to any recruitment activity. Where a Coach offers a non-cash team incentive, each Coach offering such an incentive must publish clear guidelines to his or her team which outline the qualifications necessary to be eligible for the incentive. Again, the incentives must be achievement based and never based on or focused around recruiting, or enrollment with a certain Coach or team as an “enrollment bonus” or perk. Coaches wishing to offer their teams the opportunity to participate in a bonus pool (separate from any bonus paid by Beachbody as outlined in the Team Beachbody Compensation Plan) must review the offer they wish make with the Compliance department for prior approval. Participation in a business challenge operated by an Independent Beachbody Coach where a bonus pool is available must be completely voluntary. The bonus pool must not have a combined value of greater than \$5,000 and all monies paid in by participating Independent Beachbody Coaches must be paid out to all participating Coaches at the end of the promotion with no monies being retained by the sponsoring Coach.

5.3 No Exclusive Territories

There are no exclusive territories granted to anyone.

5.4 Sales Receipts

You must provide Your retail customers (direct orders not placed through Your Team Beachbody website) with two copies of an official sales receipt at the time of the sale. These receipts set forth the Customer Satisfaction Guarantee, as well as any consumer protection rights afforded by federal or state law. Coaches must maintain all retail sales receipts for a period of two (2) years and furnish them to Beachbody at the Company’s request for sales that are fulfilled from a Coach’s inventory. Records documenting the purchases of Coaches’ Direct Customers will be maintained by Beachbody. In addition, Coaches must orally inform the buyer of his or her cancellation rights.

5.5 Fundraising Programs

Beachbody businesses may be operated for fundraising purposes. However, if you are using your Beachbody business in a fundraising program for any entity or individual, You must not represent or imply to anyone that any (a) Beachbody, Team Beachbody or its Coaches are directly involved with the charitable promotion or (b) the purchase they make from You will be for the benefit of any charitable purpose or program.

5.6 Charitable Donations

Although Coaches may contribute a portion of their Beachbody earnings to a charitable cause, due to the charitable permit and registration requirements of multiple states and additional federal requirements, You may not use any contribution as a means of promoting Your Beachbody business, or run any sales or incentive promotions where a charitable group or cause is identified as the benefitting organization.

SECTION 6 - BONUSES AND COMMISSIONS

6.1 Bonus and Commission Qualifications

The minimum amount for which Beachbody will issue a check is \$10.00. If Your bonuses and commissions do not equal or exceed \$10.00, the Company will accrue the commissions and bonuses until they total \$10.00. A check will be issued once \$10.00 has been accrued.

6.2 Adjustment to Bonuses and Commissions

6.2.1 Adjustments for Returned Products and Services

Coaches receive bonuses and commissions based on the actual sales of products and services to end consumers. When a product is returned to Beachbody for a refund or is repurchased by the Company, the bonuses and commissions attributable to the returned or repurchased product(s) will be deducted, in the month during which the refund is given, and continuing every pay period thereafter until the commission is recovered, from the Coaches who received bonuses and commissions on the sales of the refunded products. The Company may, at its discretion, also deduct the corresponding PV from Coach's future purchases and sales and may make adjustment to any contest or incentives qualified for as a result of the original purchase.

6.2.2 Other Deductions

Beachbody may pass along to Coaches a small fee of no more than \$1.00 to electronically deposit Coaches' commissions and bonuses into their bank accounts. If a Coach requests that a physical check be issued, Beachbody will deduct a processing fee of \$2.50 per check. Further, although all genealogy information is electronically available to Coaches, Beachbody will charge a processing fee of \$19.95 for any hard-copy genealogy reports requested to be sent to a Coach.

6.3 Reports

ALL PERSONAL AND GROUP SALES VOLUME INFORMATION, DOWNLINE ACTIVITY REPORTS, AND ALL OTHER INFORMATION PROVIDED THROUGH YOUR TEAM BEACHBODY COACH OFFICE IS OWNED EXCLUSIVELY AND AT ALL TIMES BY BEACHBODY, AND IS PROVIDED "AS IS" WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OR REPRESENTATIONS OF ANY KIND WHATSOEVER. IN PARTICULAR BUT WITHOUT LIMITATION THERE SHALL BE NO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR NONINFRINGEMENT. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, BEACHBODY, ITS OWNERS, AFFILIATES, PARENT ENTITIES, SUBSIDIARIES, OFFICERS, DIRECTORS, REPRESENTATIVES, AGENTS, AND/OR OTHER PERSONS CREATING OR TRANSMITTING THE INFORMATION WILL IN NO EVENT BE LIABLE TO ANY COACH OR ANYONE ELSE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES THAT ARISE OUT OF THE USE OF YOUR RELATIONSHIP WITH BEACHBODY AS AN INDEPENDENT COACH, INCLUDING WITHOUT LIMITATION ACCESS TO OR LOSS OF PERSONAL AND GROUP SALES VOLUME INFORMATION (INCLUDING BUT NOT LIMITED TO LOST PROFITS, BONUSES OR COMMISSIONS, LOSS OF OPPORTUNITY, AND DAMAGES THAT MAY RESULT FROM INACCURACY, INCOMPLETENESS, INCONVENIENCE, DELAY, OR LOSS OF THE USE OF THE INFORMATION), EVEN IF BEACHBODY OR OTHER PERSONS CREATING OR TRANSMITTING THE INFORMATION SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, BEACHBODY OR OTHER PERSONS CREATING OR TRANSMITTING THE INFORMATION SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO YOU OR ANYONE ELSE UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY, OR OTHER THEORY WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO.

Access to and use of Beachbody's online and/or hard-copy reporting services, and your reliance upon such information, is at your own risk. All such information is provided to you "as is." If you are dissatisfied with the accuracy or quality of the information, your sole and exclusive remedy is to discontinue use of and access to Beachbody's online, hard copy, and telephone reporting services and your reliance upon the information. The Company is not responsible for losses or damage incurred by Coaches that arise from or relate to problems with Beachbody's system or problems with a Coach's replicated Website or Coach Office, including losses from but not limited to software error, hardware malfunction, unauthorized third-party access to the system, or other system malfunctions or errors.

ANY AND ALL SOFTWARE, WEBSITES, ELECTRONIC TOOLS, AND ANY OTHER SYSTEMS OFFERED OR PROVIDED BY BEACHBODY ARE EXPRESSLY PROVIDED SOLELY “AS IS” AND WITHOUT ANY WARRANTIES OR ASSURANCES OF ANY KIND. BEACHBODY MAKES NO WARRANTY THAT ANY SOFTWARE OR WEBSITE SYSTEM IS ERROR FREE AND DOES NOT INFRINGE ON ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

SECTION 7 - PRODUCT GUARANTEES, RETURNS AND INVENTORY REPURCHASE

7.1 Product Guarantee

Beachbody offers a 100% money-back satisfaction guarantee (less shipping and handling charges) to all Customers, retail customers, Preferred Customers and Coaches on all of our products. Please review the specific guarantee with each applicable product (refund periods are from 30 days to 90 days, depending on the product).

7.2 Three-Day Sales Rescission Period

A retail customer has three (3) business days (Saturday is a business day) after the sale or execution of a contract to cancel the order and receive a full refund consistent with the cancellation notice on the order form (five (5) business days for Alaska residents and fifteen (15) business days for residents of North Dakota who are 65 or older). If you make a sale or take an order from a retail customer or Preferred Customer who cancels or requests a refund within the cancellation period, You must promptly refund the customer's money as long as the products are made available to You in substantially as good condition as when received. Additionally, Coaches must orally inform customers of their right to rescind a purchase or an order within the cancellation period, and ensure that the date of the order or purchase is entered on the order form. All retail customers and Preferred Customers must be provided with two (2) copies of an official sales receipt at the time of the sale. The back of the receipt provides the customer with written notice of his or her rights to cancel the sales agreement.

7.3 Return of Products and Sales Aids by Coaches

Upon cancellation of Your Coach Agreement, You may return products and sales aids that You purchased within 12 months prior to the date of your cancellation for a refund. You must return the products and sales aids within 30 days from the date on which you cancel, and You may only return products and sales aids that You personally purchased from the Company and which are in Resalable Condition. You may not return products which you purchased for another household member who is also a Coach. Upon receipt of the products and sales aids, You will be reimbursed ninety percent (90%) of the net cost of the original purchase price(s), less shipping charges. If the purchases were made through a credit card, the refund will be credited back to the same account. If You were paid a commission based on the purchase of a product or products, and such product or products are subsequently returned for a refund, the commission that was paid to You will be deducted from the amount of the refund.

7.3.1 Montana Residents

A Montana resident may cancel his or her Coach Agreement within 15 days from the date of enrollment and may return his or her business starter kit and all products and sales aids he or she purchased during that time period for a full refund.

7.4 Procedures for All Returns

The following procedures apply to all returns for refund, repurchase, or exchange:

- All merchandise must be returned directly to Beachbody's fulfillment center according to the directions on the packing slip by the Coach or Customer who purchased it directly from Beachbody.
- All products to be returned must have a Return Authorization Number, which may be obtained by calling the Coach Relations Department. This Return Authorization Number must be written on each carton returned.
- The return must be accompanied by (a) a copy of the original dated retail sales receipt and (b) the unused portion of the product in its original container.
- Proper shipping carton(s) and packing materials are to be used in packaging the product(s) being returned for replacement, and the best and most economical means of shipping is suggested. All returns must be shipped to Beachbody with shipping prepaid. Packages returned to Beachbody on a collect-shipped basis will not be accepted. The risk of loss in shipping for the returned product shall be assumed by the Coach. If returned product is not received by the Company's Distribution Center, it is the responsibility of the Coach to trace the shipment.
- If a Coach is returning merchandise to Beachbody that was returned to him or her by a personal retail customer, the product must be received by Beachbody within thirty (30) days from the date on which the retail customer returned the merchandise to the Coach, and must be accompanied by a copy of the sales receipt the Coach gave to the customer at the time of the sale. No refund or replacement of product will be made if the conditions of these rules are not met.

SECTION 8 - DISPUTE RESOLUTION AND DISCIPLINARY PROCEEDINGS

8.1 Disciplinary Measures

If You violate the Agreement or engage in any illegal, fraudulent, deceptive, or unethical business conduct, or any act or omission that, in the sole discretion of Beachbody, may damage Beachbody's reputation or goodwill, You are subject to disciplinary measures, which, at Beachbody's discretion may result in one or more of the following corrective measures:

- Issuance of a written warning or admonition.
- Requiring You to take immediate corrective measures.
- Suspension of Your Coach Business Center for one or more business weeks with a loss of all or part of the compensation during the suspension period and potential interruption to rank qualifications in process at the time of Your suspension.
- If Your business is suspended pending an investigation, Beachbody may withhold all or part of Your bonuses and commissions during the suspension period. If Your business is canceled for disciplinary purposes, You will not be entitled to receive any commissions withheld during the investigation period. If the Company determines that You violated the Agreement, but the violation does not warrant termination of Your business, the Company reserves the right to permanently withhold all or part of the bonuses and commission that were withheld during the suspension period.
- Involuntary termination of Your CBC.
- Any other measure expressly allowed within any provision of the Agreement or which Beachbody deems reasonable to implement and appropriate to equitably resolve injuries caused partially or exclusively by Your violation of the Agreement.
- In situations deemed appropriate by Beachbody, Beachbody may institute legal proceedings for monetary and/or equitable relief.

8.2 Liquidated Damages

In any case which arises from or relates to the wrongful termination of a Coach's Agreement and/or independent business, the parties agree that damages will be extremely difficult to ascertain. Therefore, the parties stipulate that if the involuntary termination of a Coach's Agreement and/or loss of their independent business held to be wrongful through final adjudication under any theory of law, Coach's sole remedy shall be liquidated damages calculated as follows:

- For Coaches at the Paid rank of Coach through Emerald, liquidated damages shall be in the amount of his/her gross compensation that he/she earned pursuant to Team Beachbody's Compensation Plan in the six (6) months immediately preceding the termination.
- For Coaches at the Paid rank of Ruby through Diamond, liquidated damages shall be in the amount of his/her gross compensation that he/she earned pursuant to Team Beachbody's Compensation Plan in the twelve (12) months immediately preceding the termination.
- For Coaches at the Paid rank of 1 Star Diamond through 9 Star Diamond, liquidated damages shall be in the amount of his/her gross compensation that he/she earned pursuant to Team Beachbody's Compensation Plan in the eighteen (18) months immediately preceding the termination.
- For Coaches at the Paid rank of 10 Star Diamond and above, liquidated damages shall be in the amount of his/her gross compensation that he/she earned pursuant to Team Beachbody's Compensation Plan in the twenty-four (24) months immediately preceding the termination.

Gross compensation shall include commissions and bonuses earned by the Coach pursuant to Team Beachbody's Compensation Plan as well as retail profits earned by Coach for the sale of Team Beachbody merchandise. However, retail profits must be substantiated by providing the Company with true and accurate copies of fully and properly completed retail receipts provided by Coach to Customers and Preferred Customers at the time of sale.

The Parties agree that the forgoing liquated damage schedule is fair and reasonable.

8.3 Grievances and Complaints

If You have a grievance or complaint with another Coach You should first report the problem to the other Coach's sponsor, who should review the matter, and if the matter does not involve the interpretation of the Policies and Procedures, try to resolve it with the other party's sponsor. If the matter cannot be resolved, or if it requires an interpretation of the Policies and Procedures, it must be reported in writing to the Compliance Department at the Company. The Compliance Department will review the facts and resolve the issue. In your

submissions to the Compliance Department, You must specify the Coach's conduct that You believe violated the Policies and identify the precise policy(s) you believe were violated.

8.4 Good Faith Resolution of Disputes, Binding Individual Arbitration, and Waiver of Class Actions and Class Arbitrations

For purposes of this Section, "Dispute" shall mean any dispute, claim, or action between You and Beachbody arising under or relating to the Agreement, the Team Beachbody Coach opportunity or any other transaction involving you and Beachbody, whether in contract, warranty, misrepresentation, fraud, tort, intentional tort, statute, regulation, ordinance, or any other legal or equitable basis, and shall be interpreted to be given the broadest meaning allowable under law. **YOU AND BEACHBODY AGREE THAT "DISPUTE" AS DEFINED IN THE AGREEMENT SHALL NOT INCLUDE ANY CLAIM OR CAUSE OF ACTION BY YOU OR BEACHBODY FOR (A) TRADE SECRET MISAPPROPRIATION, (B) PATENT INFRINGEMENT, (C) COPYRIGHT INFRINGEMENT OR MISUSE, (D) TRADEMARK INFRINGEMENT OR DILUTION, (E) ANY INJUNCTIVE, EQUITABLE OR DECLARATORY RELIEF SOUGHT BY BEACHBODY AGAINST YOU TO ENFORCE ANY TERMS OR REQUIREMENTS IN THE AGREEMENT, AND (F) ANY INDEMNIFICATION OBLIGATIONS OWING FROM A COACH TO BEACHBODY UNDER THE AGREEMENT OR OTHERWISE. Moreover, notwithstanding anything else in the Agreement, you agree that a court, not the arbitrator, may decide if a claim falls within one of these six exceptions.**

Dispute Notice. In the event of a Dispute, You or Beachbody must first send to the other party a notice of the Dispute that shall include a written statement that sets forth the name, address and contact information of the party giving it, the facts giving rise to the Dispute, and the relief requested (the "Dispute Notice"). The Dispute Notice to Beachbody must be addressed to: Beachbody, LLC, 3301 Exposition Blvd., 3rd Floor, Santa Monica, CA 90404, U.S.A., Attn.: Chief Legal Officer (the "Beachbody Notice Address"). The Dispute Notice to You will be sent by certified mail to the most recent address we have on file or otherwise in our records for you. If Beachbody and You do not reach an agreement to resolve the Dispute within sixty (60) days after the Dispute Notice is received, You or Beachbody may commence an arbitration proceeding pursuant to this Section. Following submission and receipt of the Dispute Notice, each of us agrees to act in good faith to seek to resolve the Dispute before commencing arbitration.

Binding Arbitration. In the event You and Beachbody do not reach an agreement to resolve the Dispute as stated in the preceding paragraph, You and Beachbody further agree: (a) to arbitrate all Disputes between the parties pursuant to the provisions in the Agreement; (b) the Agreement memorializes a transaction in interstate commerce; (c) the Federal Arbitration Act (9 U.S.C. §1, et seq.) governs the interpretation and enforcement of this Section; and (d) this Section shall survive termination of the Agreement. **ARBITRATION MEANS THAT YOU WAIVE YOUR RIGHT TO A JUDGE OR JURY IN A COURT PROCEEDING AND YOUR GROUNDS FOR APPEAL ARE LIMITED.** The arbitrator may award You the same damages as a court sitting in proper jurisdiction could, and may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. In addition, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court. The decision of the arbitrator shall be final and enforceable by any court with jurisdiction over the parties.

Small Claims Court. Notwithstanding the foregoing, You may bring an individual action in the small claims court of your state or municipality if the action is within that court's jurisdiction and is pending only in that court.

WAIVER OF CLASS ACTIONS AND CLASS ARBITRATIONS. YOU AND BEACHBODY AGREE THAT EACH PARTY MAY BRING DISPUTES AGAINST THE OTHER PARTY ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, INCLUDING WITHOUT LIMITATION FEDERAL OR STATE CLASS ACTIONS, OR CLASS ARBITRATIONS. ACCORDINGLY, UNDER THE ARBITRATION PROCEDURES OUTLINED IN THIS SECTION, AN ARBITRATOR SHALL NOT COMBINE OR CONSOLIDATE MORE THAN ONE PARTY'S CLAIMS WITHOUT THE WRITTEN CONSENT OF ALL AFFECTED PARTIES TO AN ARBITRATION PROCEEDING.

Arbitration Procedure. If a party elects to commence arbitration, the arbitration shall be governed by the rules of JAMS that are in effect at the time the arbitration is initiated (the "JAMS Rules"), available at <http://www.jamsadr.com> or by calling 1-800-352-5267, and under the rules set forth in this Section, except that JAMS may not administer any multiple claimant or class arbitration, as the parties agree that the arbitration shall be limited to the resolution only of individual claims. If there is a conflict between the JAMS Rules and the rules set forth in this Section, the rules set forth in this Section shall govern. You may, in arbitration, seek any and all remedies otherwise available to You pursuant to federal, state, or local laws. All Disputes shall be resolved by a single neutral arbitrator, and both parties shall have a reasonable opportunity to participate in the selection of the arbitrator. The arbitrator is bound by the terms of the Agreement. The arbitrator, and not any federal, state or local court or agency, shall have exclusive authority to resolve all disputes

arising out of or relating to the interpretation, applicability, enforceability or formation of the Agreement, including, but not limited to, any claim that all or any part of the Agreement is void or voidable. Notwithstanding this broad delegation of authority to the arbitrator, a court must determine the limited question of whether a claim or cause of action is for: (a) trade secret misappropriation; (b) patent infringement; (c) copyright infringement or misuse; (d) trademark infringement or dilution; (e) any injunctive, equitable or declaratory relief sought by Beachbody against You to enforce any terms or requirements in the Agreement; and (f) any indemnification obligations owing from a Coach to Beachbody under the Agreement or otherwise which are excluded from the definition of “Disputes.” The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator’s award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. You may choose to engage in arbitration hearings by telephone. Arbitration hearings not conducted by telephone shall take place in a location reasonably accessible from your primary residence, or in Los Angeles County, California, at your option.

- (a) Initiation of Arbitration Proceeding. If either You or Beachbody decide to arbitrate a Dispute, we agree to the following procedure:
- i. Write a Demand for Arbitration. The demand must include a description of the Dispute and the amount of damages sought to be recovered. You can find a copy of a Demand for Arbitration at <http://www.jamsadr.com> (“Demand for Arbitration”).
 - ii. Send three copies of the Demand for Arbitration, plus the appropriate filing fee, to:

JAMS
707 Wilshire Blvd, 46th Floor
Los Angeles, CA 90017, U.S.A.
 - iii. Send one copy of the Demand for Arbitration to the other party at the same address as the Dispute Notice, or as otherwise agreed to by the parties.
- (b) Hearing Format. In all hearing formats, the arbitrator shall issue a written decision that explains the essential findings and conclusions on which an award, if any, is based. During the arbitration, the amount of any settlement offer made by Beachbody or You shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which You or Beachbody is entitled. The discovery or exchange of non-privileged information relevant to the Dispute may be allowed during the arbitration.
- (c) Arbitration Fees. Beachbody shall pay, or (if applicable) reimburse You for, all JAMS filing, administration, and arbitrator fees for any arbitration commenced (by you or Beachbody) pursuant to provisions of the Agreement.
- (d) Opt-out. You may elect to opt-out (exclude Yourself) from the final, binding individual arbitration procedure and waiver of class and representative proceedings specified in this Section by sending a written letter to the Beachbody Notice Address within thirty (30) days of your submission of a completed application to become a Coach which includes: (i) your name and provided Coach ID number, (ii) your mailing address, and (iii) your request to be excluded from the final, binding individual arbitration procedure and waiver of class and representative proceedings specified in this Section. In the event that you opt-out consistent with the procedure set forth above, all other terms shall continue to apply, including the requirement to provide notice prior to arbitration.

Amendments to this Section. Notwithstanding any provision in this Agreement to the contrary, You and Beachbody agree that if Beachbody makes any future amendments to the dispute resolution procedure and class action waiver provisions (other than a change to Beachbody’s address) in this Section, Beachbody will obtain Your affirmative assent to the applicable amendment. If You do not affirmatively assent to the applicable amendment, You are agreeing that you will arbitrate any Dispute between us in accordance with the language of this Section.

Severability. If any provision in this Section is found to be unenforceable, that provision shall be severed with the remainder of this Agreement remaining in full force and effect. The foregoing shall not apply to the prohibition against class or representative actions; if the prohibition against class or representative actions is found to be unenforceable, this entire Section shall be null and void. The terms of this Section shall otherwise survive any termination of these Policies and Procedures.

Exclusive Venue for Other Controversies. Beachbody and You agree that any controversy excluded from the dispute resolution procedure and class action waiver provisions in this Agreement (other than an individual action filed in small claims court) shall be filed only in the Superior Court of Los Angeles County, California, or the United States District Court for the Central District of California,

and each party hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction of such courts for any such controversy. The terms of this Section 8.4 shall otherwise survive any termination of these Policies and Procedures.

SECTION 9 - PAYMENT AND SHIPPING

9.1 Returned Checks

All checks returned by a Coach's bank for insufficient funds will be resubmitted for payment. A \$25.00 returned check fee will be charged to the account of the Coach. After receiving a returned check from a Customer or a Coach, all future orders must be paid by credit card, money order or cashier's check. Any outstanding balance owed to Beachbody by a Coach for NSF checks and returned check fees will be withheld from subsequent bonus and commission checks.

9.2 Sales Taxes

Beachbody is required to charge sales taxes on all purchases made by You and Your customers, and remit the taxes charged to the respective states. Accordingly, Beachbody will collect and remit sales taxes on Your behalf based on the sales price of the products, according to the applicable tax rates in the state or province to which the shipment is destined. If a Coach has submitted, and Beachbody has accepted, a current Sales Tax Exemption Certificate and Sales Tax Registration License, sales taxes will not be added to the invoice and the responsibility of collecting and remitting sales taxes to the appropriate authorities shall be on the Coach. Exemption from the payment of sales tax is applicable only to orders which are shipped to a state for which the proper tax exemption papers have been filed and accepted. Applicable sales taxes will be charged on orders that are drop-shipped to another state. Any sales tax exemption accepted by Beachbody is not retroactive. Applicable sales tax exemption documents may be submitted via email to taxes@beachbody.com, and any such request must also clearly verify the Coach's ID number and current billing address.

9.3 Drop Shipment

If You order merchandise and direct that products be drop-shipped to a Customer, You are responsible for all Customer Service functions relating to the order. Because Your Customer has purchased and paid You directly (i.e., they did not complete a recorded and trackable transaction directly with Beachbody), You are the only one who can track and service the order. You may not refer Customers of drop-shipments direct to Beachbody. You are solely responsible to accept properly returned merchandise, and, as applicable, issue refunds directly to Your Customers. If Beachbody issues any refunds to Your Customers who have paid You directly, Beachbody may then, without limitation of any other rights, deduct such amounts (along with corresponding commissions and other compensation plan adjustments) from Your commissions and bonuses.

SECTION 10 - INACTIVITY, RECLASSIFICATION, AND CANCELLATION

10.1 Effect of Cancellation

Your bonuses and commissions constitute the entire consideration for Your efforts in generating sales and all activities related to generating sales (including but not limited to building, training, and maintaining a downline organization). Following the non-renewal of Your Agreement, cancellation for inactivity, reclassification of Your Agreement, or voluntary or involuntary cancellation of Your Agreement (all of these methods are collectively referred to as "cancellation"), You shall have no right, title, claim, or interest to the marketing organization You operated, or any pending or future commission or bonus payment from the sales generated by Your CBC or the organization. Your independent Beachbody business is cancelled simultaneously with the cancellation of Your Agreement. You will lose all rights as a Coach. This includes the right to sell Beachbody products and services and the right to receive future commissions, bonuses, or other income resulting from the sales and other activities of Your former downline sales organization. In the event of cancellation, You agree to waive all rights they may have, including but not limited to property rights, to Your former downline organization and to any bonuses, commissions, or other remuneration derived from the sales and other activities of Your former downline organization.

10.2 Reclassification After Cancellation Due to Inactivity or Nonpayment of Business Services Fees

If You are not current with the payment of Your Business Service fees, then You will not be "Current" and will not be eligible to receive any bonuses, commissions, or other payments under the Coach Compensation Plan. If You do not make payment in full to the Company of all outstanding Business Service fees to become Current, then any and all withheld bonuses, commissions or any other payments due You exceeding three (3) weeks shall be permanently waived and forfeited. Without limitation of the foregoing, if You have not paid

Your Business Service fees when due for either three (3) consecutive months or any four (4) times in a rolling twelve (12) month period, Your Agreement and independent business will be cancelled for inactivity, and You will be reclassified as a Customer.

Additionally, Coaches who fail to meet the minimum requirements of enrollment related or sales related activity on an annual basis will be subject to reclassification, which results in the Coach account being reclassified to a Preferred Customer, and any pending commissions, bonuses or other payments due at the time of this reclassification will be permanently forfeited.

You may ask Beachbody for reinstatement in less than the standard six (6) month period. However if You do so, You must start Your business anew under Your original sponsor, but You will not be entitled to Your prior position in the genealogy.

Notwithstanding the foregoing, You may ask Beachbody to place Your account on hold during a limited period of time for extraordinary circumstances. Beachbody may approve such a temporary voluntary suspension at its sole discretion.

10.3 Involuntary Cancellation

Your violation of any of the Agreement, including any amendments that may be made by Beachbody, or any misconduct stated in Section 8.1 may result in any of the disciplinary measures listed in Section 8.1, including the involuntary cancellation of Your Agreement and Beachbody business. Cancellations for Policy and Procedure and Coach behavior violations shall be effective on the date on which written notice is emailed, mailed, faxed, or delivered to an express courier, to the Coach's last known address (or email address), or to his or her attorney, or when the Coach receives actual notice of cancellation, whichever occurs first. For Account maintenance violations, such as account verification or Business Service Fee violations, You will have 72 hours from the time you receive notice of the maintenance violation to resolve the issue before Your account is suspended. If Your business is suspended due to an account maintenance violation, You will forfeit any pending or future commissions or bonus payments. If You do not fully resolve the account maintenance violation Your Agreement and business will be permanently terminated.

10.3.1 Global Cancellation

Beachbody reserves the right to terminate all Coach Agreements upon thirty (30) days' written notice in the event that it elects to (1) cease business operations; (2) dissolve as a corporate entity; or (3) discontinue distributing its products via direct selling.

10.4 Voluntary Cancellation

You have the right to cancel at any time, regardless of reason. Cancellation must be submitted online via the Coach service portal. The notice must include Your signature, printed name, address, and Coach I.D. Number. If You are also an Autoship Customer or a Beachbody on Demand Member, Your Autoship Agreement and/or Beachbody on Demand Membership shall continue in force unless You also specifically request that it/they also be canceled. Additionally, a Coach may request to voluntarily reclassify their account to become a Preferred Customer, provided they have not achieved a lifetime rank higher than Ruby. A Coach who has achieved a lifetime rank of Diamond or higher must reclassify to a retail customer.

10.5 Disposition of Coach's Genealogy Position, Customers, and Coaches Upon Cancellation

The following shall occur if Your CBC is cancelled for any reason:

- Your rank is changed to "Cancelled"
- All of Your Active Home Direct programs will be cancelled.
- Your personally enrolled Customers (and their active Home Direct programs) will be placed below Your Personal Sponsor in the Team Beachbody genealogy.
- Your personally sponsored downline Coaches are assigned to Your Personal Sponsor.
- If You have only one downline Coach (in either the right or left leg) on the first level, that downline Coach will be moved up into the position in the genealogy that You occupied before Your Agreement and business were cancelled.
- If You have downline Coaches in both legs in Your first level, there will be no change in genealogy positions. Your position in the genealogy will be marked as cancelled.

The following shall occur if Your CBC is reclassified to a Preferred Customer:

- Your rank is changed to Preferred Customer
- All of Your Active Home Direct programs will remain.
- Your personally enrolled Customers (and their active Home Direct programs) will be placed below Your Personal Sponsor in the Team Beachbody genealogy.
- Your personally sponsored downline Coaches are assigned to Your Personal Sponsor.
- As a Preferred Customer account remains in the established genealogy, no other changes in position will take place for any previously personally sponsored or downline Coaches.

EXHIBIT A - PARTIAL LIST OF BEACHBODY TRADEMARKS

10-Minute Trainer	Double Time	Slim in 6
10 Rounds	80 Day Obsession	Slim Series
3-Day Refresh	End the Trend	T25
2B Mindset	E&E	Tai Cheng
22-Minute Hard Corps	Energy & Endurance	Team Beachbody
30-Day Breakaway	Fiber Sweep	Team Beachbody Coach
645	Fixate	TBB On Demand
9 Week Control Freak	Focus T25	Team Beachbody Club
ActiVit	Focused Energy	Ten Minute Trainer
A Little Obsessed	Hip Hop Abs	Top Coach
ASYLUM	Hip Hop Hustle	Total Body Solution
Barre Blend	INSANITY	Total Solution
BEACHBAR	INSANITY: THE ASYLUM	TurboFire
Beachbody	INSANITY: MAX 30	Turbo Nation
Beachbody BEVVY	Job1	Turbo Jam
Beachbody Challenge	Let's Get Up	TurboKICK
Beachbody Nutritionals	LIIFT4	21 Day Fix
Beachbody On Demand	The Masters Hammer and Chisel	21 Day Fix Extreme
Beachbody Performance	Mes de Más	Ultimate Portion Fix
BB On Demand	Million Dollar Body	Ultimate Reset
Beachbody Streaming	Morning Meltdown 100	Vanilla Fresh
BOD	#MBF	WOWY
BODi	Muscle Burns Fat	Yoga Booty Ballet
Beachbody Ultimate Reset	MYX	Amoila Cesar
B-LINES	ONE on ONE	Autumn Calabrese
Body Beast	PiYo	Carl Daikeler
Body Beast Supplements	P90	Chalene Johnson
Body Gospel	P90X	Debbie Siebers
Brazil Butt Lift	P90X2	Elise Joan
Breakthrough in Beauty	P90X3	Ilana Muhlstein
Bring It!	P90X+	Idalis Velazquez
ChaLEAN	Portion Fix	Jericho McMatthews
ChaLEAN Extreme	Power 90	Jennifer Jacobs
CIZE	Power Greens	Joel Freeman
Combat	Power Half Hour	Jon Congdon
Cordastra	Product Partners	Kathy Smith
Core Cal-Mag	Pro Team	Leandro Carvalho
Core de Force	Results and Recovery Formula	Dr. Mark Cheng
Core Omega-3	RevAbs	Megan Davies
Country Heat	Rockin' Body	Sagi Kalev
Daily Sunshine	Shakeology	Shaun T
<i>Decide. Commit. Succeed.</i>	Shaun T's Fit Kids Club	Tony Horton
Digestive Health	Shift Shop	

EXHIBIT B - TEAM BEACHBODY COACH COMPENSATION PLAN

The Beachbody Coach Compensation Plan has been designed to reward Independent Beachbody Coaches for sharing our products, services, and income opportunity with others. The Coach Compensation represents an innovation in Business Income Opportunity – paid weekly!

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EARNING OPPORTUNITIES

There are multiple opportunities to earn income with Coach Compensation Plan.

Retail Commissions

Paid weekly to all Coach Ranks

Earn up to twenty-five percent (25%) commission on the retail sales price of Beachbody products you sell to your Personal Retail Customers through your Team Beachbody Website. These commissions will continue to be paid to the Coach so long as the customer remains attached to the Coach. Please note some items earn a commission below 25%, such as apparel which carries a 20% commission. For full details, please review the price list found in the Coach Office.

Beachbody On Demand Membership Commissions (Subscription Commissions)

Paid weekly to all Coach Ranks

Earn a forty percent (40%) commission on the sales and renewals of Beachbody On Demand memberships. These Beachbody On Demand membership commissions are paid weekly. Coaches will receive 40% commission of the retail price on Beachbody On Demand subscription plans. The retail price used to calculate applicable commissions is the most current pricing of BOD on TeamBeachbody.com and Beachbodyondemand.com only. Calculations of commissions will not be adjusted for pricing changes of Beachbody On Demand available on Beachbody.com and other direct marketing channels.

Shakeology Fast Start Bonus

Paid weekly to all Coach Ranks

Earn a \$20 bonus each time one of your personally sponsored Coaches or Preferred Customers purchases a Shakeology Home Direct Starter Pack.

Shakeology Fast Start Plus Bonus

Paid weekly to all Coach Ranks

Earn a \$100 bonus each time you earn five (5) Shakeology Fast Start bonuses in any consecutive five (5) week period.

Challenge Pack Fast Start Bonus

Paid weekly to all Coach Ranks

Earn a bonus each time one of your newly recruited personally sponsored Coaches or Preferred Customers purchases a Challenge Pack. The bonus amount depends on the type of Challenge Pack purchased. See the pack pricing and commissions guide (which may be found in the Coach Office) for information on the different packs available and the bonus that can be earned on each

The company may add additional Challenge Packs or amend the Challenge Pack configurations and payout structures. Please note the Challenge Pack Fast Start Bonus is not paid on challenge packs sold to a new Coach transferring into an existing Coach Business Center. Changes will be posted in the Coach Office.

Team Cycle Bonus

Paid weekly to qualified Emerald, Ruby, Diamond, and Star Diamond Coaches

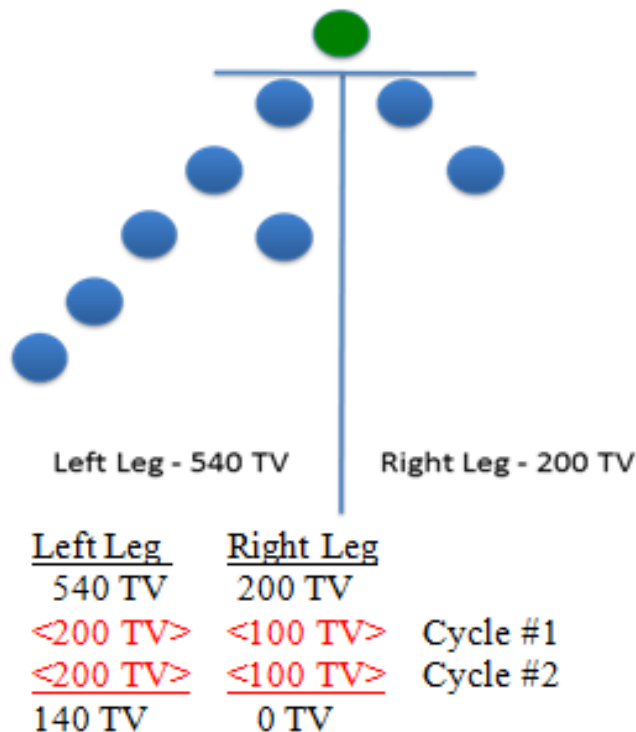
Each week, up to thirty-five percent (35%) of the total Company Bonus volume is set aside for Team Cycle Bonus. *

As an Active and Qualified Emerald or higher Coach, your Coach Business Center (CBC) will start accumulating and banking Team Volume (TV). Team Volume is generated by the sales of the Coaches in the left and right legs of your entire downline organization, regardless of depth. When the accumulated Team Volume totals 300 TV, with a minimum of one-third of the TV (100 TV) in one leg and two-thirds of the TV (200 TV) in the other leg, you earn a cycle. The 300 TV used for the cycle will be deducted from the appropriate Left and Right volume totals. The remaining volume will carry over to be applied towards your next cycle. As long as you have sufficient TV, you will cycle up to a maximum of 96 cycles per day.

Your Team Volume will remain in your CBC as long as you maintain your active status and until it is either applied to a cycle or subjected to a Master Cycle flush. Every 5,000 lifetime cycles, a **Master Cycle** occurs and a maximum of 5,000 TV in the strong leg (your leg with the most volume) and all of the volume in the weak leg carries over to the next cycle, which may occur in the same day.

Team Cycle Bonus example:

In the example below, an Emerald Coach has accumulated Team Volume of 540 TV in their strong leg and 200 TV in their weak leg.



Cycle Values

Emerald Coaches earn \$14 per Cycle

Ruby Coaches earn \$16 per Cycle

Diamond and Star Diamond Coaches earn \$18 per Cycle

Potential Weekly Earnings Team Cycle Bonus per Week

Potential earnings from Team Cycle Bonus value have been set for each rank level within the Team Beachbody Compensation Plan. The weekly values shown in the chart below represent, for each rank level, the potential weekly earnings from Team Cycle Bonus.

Active and qualified Emerald and above Coaches will generate Team Cycles based upon their accumulated volume, up to the allowable number of cycles each day and will have that volume deducted from their available Team Volume totals. Payment will be issued based on the number of cycles generated up to the potential weekly earnings value for the rank level for which the Coach is fully qualified. Cycles generated beyond the potential earnings value at each rank will be unpaid cycles.

Once the allowable number of cycles for a day has been generated for a Coach, cycling will stop for that day and will resume the following day as long as the Coach has sufficient volume to continue cycling.

Potential Weekly Team Cycle Bonus Earnings per Week

Ranks	Potential Weekly Team Cycle Bonus Per Business Center	Potential Annual Team Cycle Bonus Per Business Center
Coach	0	0
Emerald	\$250	\$13,000
Ruby	\$1,000	\$52,000
Diamond	\$2,000	\$104,000
1 Star Diamond	\$3,000	\$156,000
2 Star Diamond	\$4,000	\$208,000
3 Star Diamond	\$5,000	\$260,000
4 Star Diamond	\$6,000	\$312,000
5 Star Diamond	\$7,000	\$364,000
6 Star Diamond	\$8,000	\$416,000
7 Star Diamond	\$9,000	\$468,000
8 Star Diamond	\$10,000	\$520,000
9 Star Diamond	\$11,000	\$572,000
10 Star Diamond and above	\$12,000	\$624,000

*In order to maintain the profitability required to successfully fund and operate the Coach Business Opportunity and to ensure business stability for the Independent Team Beachbody Coaches, the Company has established a cap of thirty-five percent (35%) of the total accumulated Company TV to be paid in Team Cycle Bonuses, and may, if necessary, implement a Team Cycle Bonus payout adjustment that, in order to maintain the established cap, will adjust all Team Cycle Bonus payouts on an equal pro-rata basis for each CBC after the first 20 cycles. Accordingly, the first 20 cycles are exempt from proration.

Matching Bonus

Paid weekly to qualified Ruby, Diamond, and Star Diamond Coaches

Earn a matching bonus on the Team Cycle Bonuses earned by your personally sponsored Coaches. Ruby Coaches earn a five percent (5%) matching bonus. Diamond and Star Diamond Coaches each earn a ten percent (10%) matching bonus.

Star Diamond Leadership Bonus

Paid quarterly to qualified 2 Star Diamond and higher Coaches

The Company sets aside two percent (2%) of the total Company TV, which is paid quarterly to our top producing Active and Qualified Star Diamond Coaches. Each of the Qualified Star Diamond ranks share equally in the Star Diamond Bonus Pools in which they are qualified to participate. Each of the four (4) different Star Diamond Leadership Bonus pools is funded with one-half percent (½%) of the total Company BV.

Pool # 1 – Active and Qualified Two Star Diamond or higher share in this one-half percent (½%) pool

Pool # 2 – Active and Qualified Five Star Diamond or higher share in this one-half percent (½%) pool

Pool # 3 – Active and Qualified Ten Star Diamond or higher share in this one-half percent (½%) pool

Pool # 4 – Active and Qualified Fifteen Star Diamonds share in this one-half percent (½%) pool

In order to qualify to participate in the Star Diamond bonus pool:

Coaches must achieve and maintain a Qualification Status of 2, 5, 10 or 15 Star Diamond for six (6) consecutive bonus periods all within a 13-week quarter as defined by Team Beachbody. Each pool will be equally divided by the total number of qualifying Coaches for that applicable pool.

If no Coaches qualify to participate in a specific bonus pool, then any unpaid accumulated Star Diamond Leadership bonuses will roll over to the next quarterly qualification period until they are paid. A calendar representing key dates for the quarterly qualifying periods for each calendar year will be published in the Coach Office.

In order to receive the Star Diamond bonus payment as a qualified Coach:

For each of the Five, Ten or Fifteen Star Diamond Leadership Bonus Pools, Coaches who properly qualify as detailed above must also earn a minimum of 10 Elite points during the quarterly qualifying period. Additionally, Coaches must meet the Earning Volume requirement associated with the final bonus week of the qualifying period. For those Coaches who properly qualify but do not earn a minimum of 10 Elite points during the quarterly qualifying period, their applicable share of one or more of the Diamond Leadership Bonus Pools will be forfeited and not rolled into an existing or future Diamond Leadership Bonus Pool.

Additional Coach Business Centers

Team Beachbody Coaches may qualify to open up to 25 Coach Business Centers. Each additional business center may participate in all of the earning opportunities.

Once a Coach's CBC#1 achieves a Two Star Diamond rank, the Coach can optionally request to open up one additional CBC (CBC#2) downline from CBC#1. Additional CBCs must be started and built as new CBCs, and for the avoidance of doubt, a new CBC cannot be opened by acquiring a preexisting CBC. CBC#2 can start the process of building and qualifying for advancing ranks. Once CBC#2 has achieved an Active and Qualified Two Star Diamond rank, then the CBC#2 may optionally request one additional CBC (CBC#3) anywhere in the Coach's original organization (i.e., downline from CBC#1). This process of qualifying for additional Coach Business Centers may be repeated until the Coach has a maximum total of 25 Coach Business Centers.

Additional Coach Business Centers must qualify independently for participation in the Star Diamond Leadership Bonus. Each CBC may only count their own personally sponsored downline diamond Coaches toward that specific CBC's qualification and participation in the Star Diamond Bonus Pool.

Coaches who have qualified for and operate multiple Coach Business Centers may cancel and re-open their most recently opened CBC following a six month waiting period, provided that this most recently opened business center has not achieved a lifetime rank higher than Diamond. If that most recently opened business center has achieved a lifetime rank of one-star Diamond or above, the Coach may not close that business center unless they are resigning as a Beachbody Coach, whereby all Coach Business Centers associated with that Coach would be closed completely.

Retail Sales Requirements for All Additional Coach Business Centers

For each additional downline CBC that a Coach opens after CBC#1, 100 percent of the PV (which determines the Team Cycle Bonus payout) needs to be generated through retail sales (i.e., non-Coach orders) from either Website retail sales to Customers and/or Beachbody on Demand memberships. Ranks and qualifications

There is a total of 19 Official ranks in the Team Beachbody Compensation Plan.

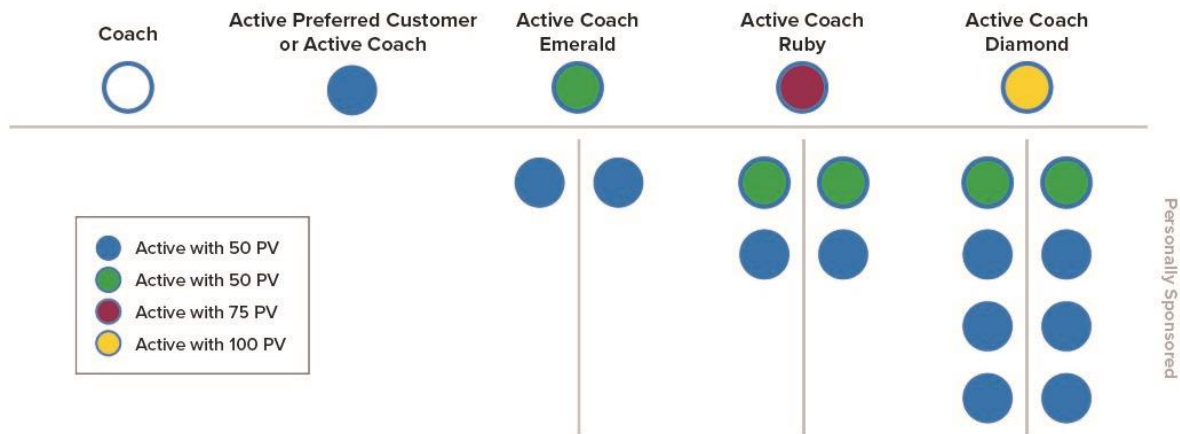
Official Ranks

Coach – has established a Team Beachbody Coach account.

Emerald Coach – is Active, has met the Emerald PV requirements of 50 PV, and has one (1) personally sponsored Active Coach (or higher) or active Preferred Customer on his right and left legs.

Ruby Coach – is Active, has a minimum of 75 PV, and has one (1) personally sponsored Active Emerald Coach (or higher) on each of his right and left legs, plus one (1) additional Active Coach or active Preferred Customer on each of his left and right legs.

Diamond Coach – is Active, has a minimum of 100 PV, and has one (1) personally sponsored Active Emerald Coach (or higher) on each of his right and left legs, plus three (3) additional Active Coaches or active Preferred Customer on each of his left and right legs.



Star Diamond Coaches

There is a total of fifteen (15) Star Diamond ranks.

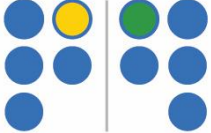
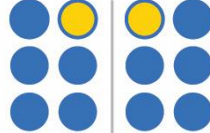
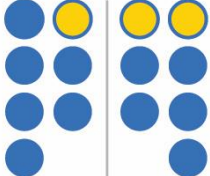
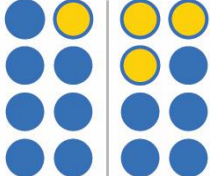
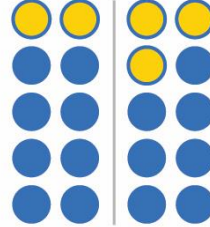
The following charts present the requirements for Team Cycle Bonus eligibility at each of the Star Diamond rank levels. Notable for each rank level are:

- The required number of Personally Sponsored Active Coaches or Active Preferred Customers at each Star Diamond rank
- The required minimum Personal Volume of 200 PV at all Star Diamond ranks
- The required balance of Personally Sponsored Diamond Coaches on each leg at each Star Diamond Rank (note that this changes at the 5-Star and 10-Star rank levels)

Note: Once the Personally Sponsored Active Coaches or Active Preferred Customers necessary to achieve and maintain the rank of Diamond Coach have been met, the additional Personally Sponsored Active Coaches or Active Preferred Customers required for Star Diamond rank levels may be placed anywhere within a Coach's downline; that is, there is no specific "balance" requirement on Personally Sponsored Active Coaches or Active Preferred Customers beyond that required for Diamond rank. The Personally Sponsored Active Coaches or Active Preferred Customers shown in the charts below reflect a balanced organization only for ease of display.

Star Diamond Ranks

	Active with 50 PV
	Active with 50 PV
	Active with 75 PV
	Active with 100 PV
	Active with 200 PV

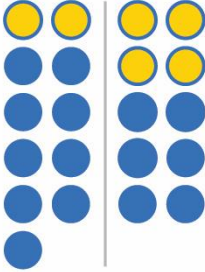
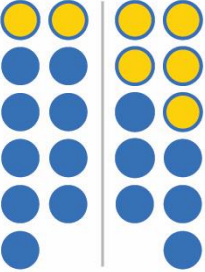
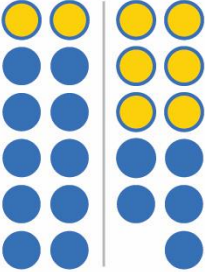
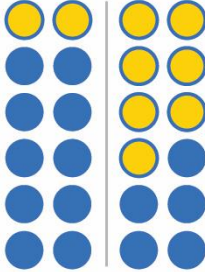
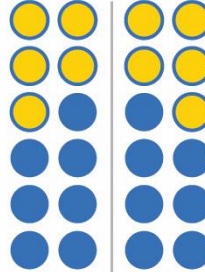
Active 1 Star Diamond	Active 2 Star Diamond	Active 3 Star Diamond	Active 4 Star Diamond	Active 5 Star Diamond
- Must be a Diamond - Must have 1 PS Diamond - Must have a minimum of 10 PS Active Preferred Customers or Coaches (including the PS Diamonds)	- Must be a Diamond - Must have at least 1 PS Diamond on each leg - Must have a total of 2 PS Diamonds - Must have a minimum of 12 PS Active Preferred Customers or Coaches (including the PS Diamonds)	- Must be a Diamond - Must have at least 1 PS Diamond on each leg - Must have a total of 3 PS Diamonds - Must have a minimum of 14 PS Active Preferred Customers or Coaches (including the PS Diamonds)	- Must be a Diamond - Must have at least 1 PS Diamond on each leg - Must have a total of 4 PS Diamonds - Must have a minimum of 16 PS Active Preferred Customers or Coaches (including the PS Diamonds)	- Must be a Diamond - Must have at least 2 PS Diamonds on each leg - Must have a total of 5 PS Diamonds - Must have a minimum of 20 PS Active Preferred Customers or Coaches (including the PS Diamonds)
 	 	 	 	 

Personally Sponsored

Star Diamond Ranks

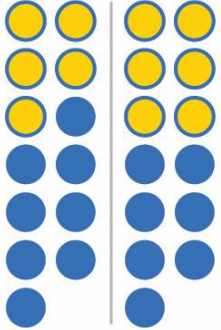
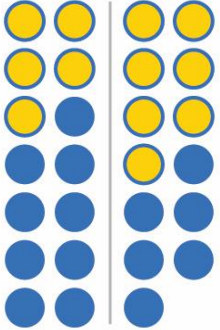
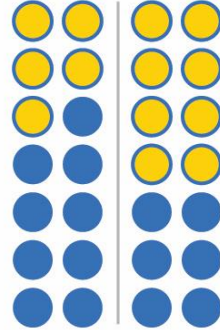
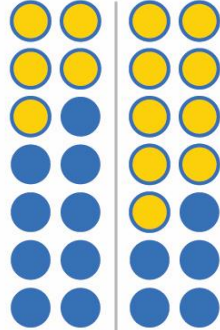
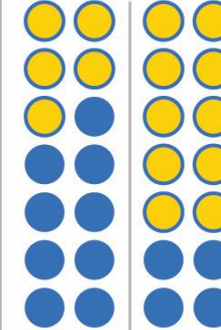
	Active with 50 PV
	Active with 50 PV
	Active with 75 PV
	Active with 100 PV
	Active with 200 PV

Personally Sponsored

Active 6 Star Diamond	Active 7 Star Diamond	Active 8 Star Diamond	Active 9 Star Diamond	Active 10 Star Diamond
• Must be a Diamond • Must have at least 2 PS Diamonds on each leg • Must have a total of 6 PS Diamonds • Must have a minimum of 21 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 2 PS Diamonds on each leg • Must have a total of 7 PS Diamonds • Must have a minimum of 22 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 2 PS Diamonds on each leg • Must have a total of 8 PS Diamonds • Must have a minimum of 23 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 2 PS Diamonds on each leg • Must have a total of 9 PS Diamonds • Must have a minimum of 24 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 5 PS Diamonds on each leg • Must have a total of 10 PS Diamonds • Must have a minimum of 25 PS Active Preferred Customers or Coaches (including the PS Diamonds)
 	 	 	 	 

Star Diamond Ranks

	Active with 50 PV
	Active with 50 PV
	Active with 75 PV
	Active with 100 PV
	Active with 200 PV

Active 11 Star Diamond	Active 12 Star Diamond	Active 13 Star Diamond	Active 14 Star Diamond	Active 15 Star Diamond
• Must be a Diamond • Must have at least 5 PS Diamonds on each leg • Must have a total of 11 PS Diamonds • Must have a minimum of 26 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 5 PS Diamonds on each leg • Must have a total of 12 PS Diamonds • Must have a minimum of 27 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 5 PS Diamonds on each leg • Must have a total of 13 PS Diamonds • Must have a minimum of 28 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 5 PS Diamonds on each leg • Must have a total of 14 PS Diamonds • Must have a minimum of 29 PS Active Preferred Customers or Coaches (including the PS Diamonds)	• Must be a Diamond • Must have at least 5 PS Diamonds on each leg • Must have a total of 15 PS Diamonds • Must have a minimum of 30 PS Active Preferred Customers or Coaches (including the PS Diamonds)
 	 	 	 	 

For each of the Star Diamond Ranks (1 Star through 15 Star), a Coach must achieve the requirements as set forth in the charts above AND must maintain those requirements for each of six (6) consecutive weekly bonus pay periods to fully achieve that rank level. For participation in the quarterly Star Diamond Leadership Bonus Pools (calculated and paid to active and qualified 2 Star, 5 Star, 10 Star and 15 Star Diamond Coaches), a Star Diamond Coach must achieve the above requirements and maintain those requirements, and meet the earning volume requirement associated with the final bonus week of the qualifying period for each of six (6) consecutive weekly bonus periods, all within a 13-week quarter as defined by Team Beachbody.

Qualification Status

A tracking element known as Qualification Status (which is separate from Rank) is now in place to assist Coaches in tracking their qualification progress toward each of the Star Diamond Rank levels. The Qualification Status displays a Coach's qualification levels for each period toward advancement to Star Diamond Rank. A Coach must achieve the Qualification Status for a Star Diamond Rank level for six (6) consecutive periods to fully achieve that Star Diamond Rank. At the end of the sixth consecutive week for which a Qualification Status for Star Diamond level or higher has been maintained, the Coach's rank will then reflect the fully achieved Rank level. To qualify for the Star Diamond Leadership Bonus Pools, Qualification Status for the 2 Star, 5 Star, 10 Star or 15 Star levels must be achieved and maintained for six (6) consecutive bonus periods, and meet the earning volume requirement associated with the final bonus week of the qualifying period, all within a 13-week quarter as defined by Team Beachbody.

Qualification Status Example:

In this example, a Diamond Coach (shown as DC) achieves the requirements for the 1-Star Diamond level in Week 1 (shown as 1SDQ or 1-Star Diamond Qualifying). In Week 4, the Diamond Coach achieves the requirements for 2-Star Diamond level and then in Week

4 has only met the requirements for 1-Star Diamond level. In Week 6, as a result of six (6) consecutive weeks of meeting the 1-Star Diamond level or higher, this Coach's rank reflects the full achievement of the 1-Star Diamond rank (shown as 1SD).

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6
Paid-As Rank	DC	DC	DC	DC	DC	1SD
Qualification Status	1SDQ	1SDQ	1SDQ	2SDQ	1SDQ	1SDQ

GLOSSARY

ACCUMULATING TEAM VOLUME – Once a Coach Business Center (CBC) achieves Active Status and meets the qualifications for the rank of Emerald Coach or higher, the CBC can start accumulating and banking (holding) Team Volume (TV) from its left and right downline legs (regardless of depth) and may become eligible to start earning Team Cycle Bonuses and other bonuses per the Beachbody Coach Compensation Plan.

ACTIVATED – The status reached when a CBC first becomes Active AND personally sponsors two Coaches or Preferred Customers, one placed in each of the Coach's left and right legs, who both become Active. Once a CBC is Activated, it begins to accumulate and bank (hold) Team Volume (TV) from each downline leg for the purpose of earning Team Cycle Bonuses and other bonuses. Once a CBC becomes activated, that CBC retains that status indefinitely.

ACTIVE AND QUALIFIED – The status where a CBC has achieved Active Status AND has fully met the qualifications for a specific Rank level within the Beachbody Compensation Plan within the Bonus Qualification Period.

ACTIVE STATUS – A Coach's CBC or a Preferred Customer achieves Active Status by accumulating and maintaining a total of 50 or greater Personal Volume (PV) within the Bonus Qualification Period. As a Coach, Personal Volume is calculated from your personal or retail customer orders. The Bonus Qualification Period includes the current bonus week and the previous four (4) bonus weeks.

AGREEMENT – The contract between Beachbody and each Independent Beachbody Coach, which includes the Independent Beachbody Coach Application and Agreement, the Beachbody Coach Policies and Procedures, and the Beachbody Coach Compensation Plan, all in their current form and as may be amended by Beachbody in its sole discretion. These documents are collectively referred to as the "Agreement."

BINARY GENEALOGY – The tree-like organizational structure utilized by the Beachbody Compensation Plan to organize Independent Beachbody Coach businesses, to create the related sponsorship connections between personally sponsored Coaches and Preferred Customers, and to calculate Rank levels and bonus compensation. In a Binary Genealogy structure, each position in the Genealogy has two positions directly below, creating a left and right leg for each position. This structure repeats for each position within the overall Binary Genealogy.

BONUS (ES) – Additional compensation paid per the Beachbody Compensation Plan. There are five (5) different bonuses: 1) Team Cycle Bonus, 2) Matching Check Bonus, 3) Shakeology and Challenge Pack Fast Start Bonus, 4) Fast Start Plus Bonus, and 5) Star Diamond Leadership Bonus.

BONUS EARNING PERIOD – This is the weekly timeframe for totaling and calculating all sales, volume, commissions, and bonuses. The period commences each Thursday morning at 12:00 am ET and continues until 11:59 pm ET the following Wednesday night. Commissions and Bonuses are processed and paid weekly (one week in arrears) based upon a day-by-day calculation of sales activity within the Bonus Earning Period.

BONUS POINTS – Points used to determine Commissions and bonuses to be paid to a Coach each Bonus Earning Period. Bonus Points are a universal denomination to which the Company multiplies a currency conversion rate (current conversion rate for each registered country to be published in the Coach FAQ) to determine the actual amount paid to a Coach in the applicable country currency.

BONUS QUALIFICATION PERIOD – The timeframe within which Active Status for a Coach or Preferred Customer is determined for a given Bonus Earning Period. The Bonus Qualification Period includes the current Bonus Ending Period plus the previous four (4) Bonus Ending Periods.

BUSINESS SERVICES FEES (BSF) – The monthly cost of maintaining a CBC and receiving the proprietary back office tools, dashboard, and replicated Website charged to Coaches by Beachbody. Payment of the monthly Business Services Fees by a CBC is required for that CBC to remain Current.

CARRY-OVER VOLUME – TV that remains after all possible Cycles have been calculated for a given day. This remaining TV is brought forward to the next day and is added to any new TV generated by a CBC until additional Cycles may be achieved.

COACH BUSINESS CENTER (CBC) – An independent sales position within the Beachbody Genealogy, which is assigned to and represents an Independent Beachbody Coach business. Each position is used to track a Coach’s retail sales activity and to track any TV generated by a Coach’s downline sales organization.

COMMISSION – A portion of the retail volume of a Beachbody product that is paid to a Coach as compensation for their sales in the Beachbody Coach Business opportunity.

CURRENT STATUS – A CBC is determined to be Current if the monthly Business Services Fees has been paid for that CBC within the last month (30 days). Any CBC that does not have Current Status is subject to the withholding or forfeiture of any earned and unpaid compensation, as well as additional penalties, including suspension and/or termination of the CBC if the account is not brought Current within specified timeframes as defined in the Beachbody Policies and Procedures document.

CUSTOMER – A purchaser of Beachbody products or membership services, either as a Retail Customer or as a Beachbody On Demand Member. Each Customer is assigned to a Coach, but Customers are not placed in any Genealogy, nor may they sign up Coaches or other Customers. Further, Customers cannot receive Commissions or Bonuses.

CYCLE (CYCLING) – A bonus calculation and payment process that occurs when an Active and Qualified Emerald or higher Rank CBC reaches an accumulated 300 TV or greater, balanced with one-third (or 100 TV) from one downline leg and two-thirds (or 200 TV) from the other downline leg. Once these levels of TV are achieved, the CBC uses that accumulated TV (called a “Cycle”), which generates a payment to the CBC for that week. Cycling continues until no further Cycles can be deducted from the accumulated TV. Any unused TV in each leg becomes Carry-Over Volume.

Note:

The Beachbody software system determines which leg is the weak leg between the cycles in a week. For instance, if a CBC has 260 TV in the left Coach leg and 200 TV in the right Coach leg before cycle 1 (300 TV with 200 TV – 100 TV balance is deducted from the total of both legs), the system determines that the left Coach leg is the strong leg in cycle 1 (260 TV) and the right Coach leg (200 TV) is the weak Coach leg in cycle 1.

After cycle 1 is complete, the right Coach leg, with 100 TV carried over (i.e., 200 TV – 100 TV = 100 TV) becomes the strong Coach leg and the left Coach leg, with 60 TV carried over (i.e., 260 TV – 200 TV = 60 TV) becomes the weak Coach leg. In other words, the swapping of strong and weak leg determination often occurs between Team Cycle Bonus cycles. This is standard binary compensation plan methodology.

In the Team Beachbody back-office software, left and right Team Volume is denoted as LV (Left Volume) and RV (Right Volume).

Cycling Example – Four Complete Cycles

Left Team Volume (LV)	Right Team Volume (RV)	Cycles
3700	480	
-200	-100	1
3500	380	
-200	-100	2
3300	280	
-200	-100	3
3100	180	
-200	-100	4
2900	80	
4 cycles complete		
2900	80	Carry over to the next cycle

DAILY CYCLE LIMITS – The maximum number of Cycles a CBC may achieve each day based on the current Rank of the CBC. Emerald, Ruby, Diamond, and Star Diamond may each cycle a maximum of 96 cycles per day.

DAY PERIOD – A day is defined as 12:00am ET to 11:59pm ET (Eastern Standard Time).

DIRECT LINE OF SPONSORSHIP – The lineage within the Binary Genealogy that begins with a specific CBC and moves to that CBC's personally sponsoring CBC, then to *that* CBC's personally sponsoring CBC, and so on (i.e., Mary is personally sponsored by Bob, who is personally sponsored by Sally, etc.). The Direct Line of Sponsorship is NOT necessarily the same as the Genealogy lineage, as it is possible that two adjacent CBC's could not have a personally sponsoring relationship.

DOWNLINE – A term that defines the Binary Genealogy structure that begins with the two positions directly below a specific CBC and extends to all CBCs that emanate from those two positions, whether or not they're Personally Sponsored by that specific CBC.

DOWNLINE ACTIVITY REPORTS (GENEALOGY REPORTS) – Refers to any of several reports generated by Beachbody or from Beachbody-controlled data that provide critical data relating to the identities of Coaches or Preferred Customers, sales information, and enrollment activity of each Coach's Downline. These reports contain confidential and trade secret information, which is proprietary to Beachbody.

EARNING VOLUME – Earning Volume (EV) is a value assigned to products. EV is a requirement used to determine bonus eligibility.

GENEALOGY – The organizational structure utilized by the Beachbody Compensation Plan to organize Independent Beachbody Coach businesses, to create the related sponsorship connections between CBCs, and to calculate Rank levels and bonus compensation. A Binary Genealogy structure has one CBC in a position with exactly two CBC positions directly below that CBC, creating a left leg and a right leg for each CBC. This structure repeats for each CBC within the overall Binary Genealogy.

HOME DIRECT (aka AUTOSHIP) – A convenience program wherein preselected products are shipped to you or to your Beachbody Customers each month and are automatically billed to the credit card that was provided at the initiation of the program.

INACTIVE STATUS – The status that exists for a CBC when 49 PV or less has been accumulated in any Bonus Qualification Period. Inactive Status will cause a demotion to the rank of Coach and will also cause permanent removal of all Team Volume banked at the time the Coach goes Inactive. Upon achieving a minimum of 50 PV or greater, the status of a CBC will be changed to Active, and TV may again begin to accumulate for that CBC.

LEFT TEAM VOLUME – Represents a CBC's accumulated TV generated from the downline Coaches in the left leg of the CBC.

LIFETIME CYCLES – The number of Cycles achieved in the lifetime of a CBC.

LIFETIME RANK – The highest Rank level that a CBC has achieved in its lifetime. Once a Rank is achieved, it is permanent for Coach recognition purposes; however, Bonuses will be calculated and paid based upon the Paid-As Rank determined in the current Bonus Earning Period. Also known as Highest Achieved Rank or Official Rank. If a CBC reclassifies from the lifetime rank of Coach or higher to a Preferred Customer, their lifetime rank will be reset.

MASTER CYCLE – Each time a CBC completes 5,000 consecutive Cycles, a Master Cycle occurs and a maximum of 5,000 TV from the CBC's strong leg and the entire TV from the CBC's weak leg is carried over to the next Cycle. Cycling may resume on the same day.

MATCHING BONUS – One of the bonus opportunities under the Beachbody Compensation Plan, which may be paid to Active and Qualified Ruby and Diamond Coaches. This bonus is calculated and paid weekly as a five percent (5%) (Ruby) or ten percent (10%) (Diamond) matching payment based on the Team Cycle Bonus earnings of a Coach's Personally Sponsored downline Coaches.

PAID-AS RANK – The Rank level for a CBC that has been achieved in the current Bonus Earning Period. This Rank level will determine the calculation of Bonuses earned in the current period. This rank may be equal to or lower than the Lifetime Rank for the CBC.

PERSONALLY SPONSORED – Any or all of the Beachbody Coaches or Preferred Customers who have been directly sponsored by a specific Beachbody Coach.

PERSONAL RETAIL CUSTOMER – A Coach’s Personal Retail Customers, including: 1) those Home Direct Customers whom the Coach enrolls into the Home Direct Program (excluding those who are already Coaches) and 2) those non-Coaches who make product or membership service purchases from a Coach’s Beachbody Website. Coaches may additionally sell products to third parties, from their personal inventory or in other manners, which are not placed through their Coach’s Beachbody Website, provided that these sales will not provide any volume or commissions toward their CBC.

PERSONAL VOLUME (PV) – PV is a value assigned to products. PV is used to determine Active Status.

PREFERRED CUSTOMER – A purchaser of Beachbody products or membership services, including but not limited to the Preferred Customer Membership Fee. Each Preferred Customer is assigned to a Coach and is also placed in the Genealogy. However, they may not sign up Coaches or other Customers. Further, Preferred Customers cannot receive Commissions or Bonuses.

QUALIFIED – Indicates that a Coach has fully met all requirements to achieve a specific Rank level.

RANKS – The 19 different levels for which a Coach may qualify within the Beachbody Compensation Plan. Rank levels have a direct impact on the amount of compensation a Coach may earn, and may also be a qualifier for participation in various Beachbody programs and promotions. Rank levels are recalculated weekly.

The Rank levels are:

1. Coach
2. Emerald Coach
3. Ruby Coach
4. Diamond Coach
5. One Star Diamond Coach
5. Two Star Diamond Coach
6. Three Star Diamond Coach
7. Four Star Diamond coach
8. Five Star Diamond Coach
9. Six Star Diamond Coach
10. Seven Star Diamond Coach
11. Eight Star Diamond Coach
12. Nine Star Diamond Coach
13. Ten Star Diamond Coach
14. Eleven Star Diamond Coach
15. Twelve Star Diamond Coach
16. Thirteen Star Diamond Coach
17. Fourteen Star Diamond Coach
18. Fifteen Star Diamond Coach

RETAIL COMMISSIONS – One of the commission opportunities that may be paid to Coaches under the Beachbody Compensation Plan. This commission is calculated and paid weekly on the sales of products and Membership services to a Coach’s Personal Retail Customers through that Coach’s Team Beachbody Website so long as that customer remains attached to that Beachbody Coach.

RETAIL VOLUME – Retail Volume is a value assigned to each product in order to calculate Commissions paid in Bonus Points. It is equal to the current US retail price for each product.

RETAIL SALES – Retail sales are purchases made by an individual who is not a Beachbody Coach or Preferred Customer.

RIGHT TEAM VOLUME – Represents a CBC’s accumulated TV generated from the downline Coaches in the Right leg of the CBC.

SPONSOR – A Beachbody Coach who enrolls another Beachbody Coach into the Company. The act of enrolling others and/or training them to become Beachbody Coaches is called “sponsoring” or “Personally Sponsoring.”

STAR DIAMOND LEADERSHIP BONUS – One of the bonus opportunities that may be paid to Coaches under the Beachbody Compensation Plan. This bonus is calculated and paid quarterly based on a percentage of the total Company TV, and is paid to those meeting and maintaining Star Diamond qualifications for six (6) consecutive weeks within each quarter.

STRONG LEG – In evaluating the TV from a CBC's Downline, the leg with the higher accumulated TV at any time is deemed the Strong Leg at that time.

SUBSCRIPTION COMMISSIONS – One of the commission opportunities that may be paid to Coaches under the Beachbody Compensation Plan. This commission is calculated and paid weekly on the sales and renewals of Beachbody On Demand Memberships to a Coach's Personal Retail Customers, Personally Sponsored Preferred Customers or Personally Sponsored Coaches.

TEAM CYCLE BONUS – One of the bonus opportunities that may be paid to Active and Qualified Emerald or higher Coaches under the Beachbody Compensation Plan. This bonus is calculated and paid weekly on the accumulated TV from a CBC's Downline.

TEAM VOLUME (TV) – TV is a value assigned to products and Membership services sold in a Bonus Earning Period and is used to calculate Team Cycle Bonus. The TV for a CBC is the sum of all TV generated from purchases made by the CBCs Downline Personal Sponsored Coaches, Personally Sponsored Preferred Customers and their Personal Retail Customers. TV for a CBC does not include volume generated by the CBC's personal purchases or purchases of their Personal Retail Customers.

UPLINE – This term refers to the CBCs above a particular Beachbody Coach in the Direct Line of Sponsorship.

WEAK LEG – In evaluating the TV from a CBC's Downline, the leg with the lower accumulated TV at any time is deemed the Weak Leg at that time.

EXHIBIT B

MY WHY: Restate the purpose(s) supporting your coaching business

MY TARGET MARKET: Stay focused on connecting with your ideal person

1. BE PROOF THE PRODUCTS WORK	THU	FRI	SAT	SUN	MON	TUE	WED
Work out and drink Shakeology	 ☐  ☐	 ☐  ☐	 ☐  ☐	 ☐  ☐	 ☐  ☐	 ☐  ☐	 ☐  ☐

2. CONNECT, INVITE, FOLLOW UP (1 HR 40 MIN)	THU	FRI	SAT	SUN	MON	TUE	WED
Initiate connections and add followers (20 min)	☐	☐	☐	☐	☐	☐	☐
Do a social media post that showcases the benefits of your healthy lifestyle or has a call-to-action (10 min)	☐	☐	☐	☐	☐	☐	☐
Update your IG Story throughout the day (about 3 min per post) • Daily life • Workout clips • Product use (no brand name shown) • Healthy meal or meal prep • Invitation/promote group/poll or a call-to-action • Recognition/shout-out	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
Respond to all new likes, comments, or views (25 min)	☐	☐	☐	☐	☐	☐	☐
Invite at least 5 people to join a Challenge Group or learn about the coaching opportunity (15 min)	☐	☐	☐	☐	☐	☐	☐
Follow up with people you've invited (15 min)	☐	☐	☐	☐	☐	☐	☐

3. GET PEOPLE RESULTS (30 MIN)	THU	FRI	SAT	SUN	MON	TUE	WED
Contribute to your Challenge Group	☐	☐	☐	☐	☐	☐	☐
Recognize achievement	☐	☐	☐	☐	☐	☐	☐

4. DO PERSONAL DEVELOPMENT	THU	FRI	SAT	SUN	MON	TUE	WED
Engage in personal/professional development (15 min)	☐	☐	☐	☐	☐	☐	☐

MY WEEKLY BUSINESS RESULTS	# of new Followers:	# of new Challengers:	SC points:		# of new Coaches:
			this week	this month	

EXHIBIT C

What to Know About Being an Independent Team Beachbody Coach (U.S.)



Customers	Preferred Customers	Coaches
Customers purchase Beachbody products at retail prices and cannot participate in the Team Beachbody Compensation Program.	Preferred Customers can purchase Beachbody products at reduced prices, but cannot participate in the Team Beachbody Compensation Program.	Coaches can purchase Beachbody products at reduced prices and have the opportunity to earn money through the Team Beachbody Compensation Program.

What is the Team Beachbody Coaching opportunity?

- Team Beachbody Coaches are rewarded for retail sales of our proven fitness programs, nutritional content, and nutritional supplements via a 20–50% retail commission program. Coaches who sell our products and develop a team of other Coaches selling products can also be rewarded through a binary compensation plan which pays bonuses at the Development and Leadership Ranks of Emerald Coach and above.
- Coaches can choose to earn supplemental income by participating in the Team Beachbody opportunity, either on a part-time basis, or to focus their full-time attention on the opportunity to try to earn more.
- There are no guarantees of success or earning any amount of income at all when participating in the Team Beachbody Coaching opportunity. However, there is a genuine opportunity to earn supplemental income for individuals willing to dedicate the time and diligence to develop customers interested in purchasing Beachbody products and mentoring others to do the same.

What does it take to become a Team Beachbody Coach?

- The cost to enroll as a Coach is minimal. There are no required product purchases to be a Coach, but there is a \$39.95 fee for the Business Starter Kit, which contains helpful business information and tools. This fee is waived with a purchase of a Total-Solution Pack upon enrollment. There is a subsequent monthly Business Service Fee of \$15.95 that gives a Coach access to run their business.

What if it doesn't work me?

- You can cancel your Coach account at any time or reclassify as a customer or Preferred Customer.
- If you cancel your Coach account within 30 days of Coach enrollment, you can request a refund for your Business Starter Kit and any products or services purchased during that time period.
- Please contact [Coach Support](#) for more information.

U.S. Statement of Coach Earnings in 2021

The earnings listed below do not include any expenses incurred by a Coach in operating and growing their business which can vary widely. Team Beachbody Coach Development ranks include Emerald and Ruby, and Leadership Ranks include Diamond and Star Diamonds (one through fifteen), all of which are eligible to earn several types of bonuses. Additional leadership bonuses are available to Coaches who achieve certain Star Diamond qualifications.

The earnings and commissions reported below include all Team Beachbody Coaches that participated in the Coaching opportunity for the entire period of January 1 – December 31, 2021.¹

Coach Rank ²	Average Tenure (In Years)	% of Development & Leadership Ranks	% of All Coaches	Low Earnings	Average Earnings	High Earnings
Development Ranks						
Emerald	4.98	82.2%	20.2%	\$12	\$3,283	\$138,483
Ruby	7.04	2.9%	0.7%	\$410	\$12,670	\$121,326
Leadership Ranks						
Diamond	5.82	9.4%	2.3%	\$124	\$18,289	\$161,072
Star Diamond	7.36	5.5%	1.3%	\$863	\$119,475	\$2,846,299
All Development & Leadership Ranks						
NA	5.17	100%	25.5%	\$12	\$10,932	\$2,846,299
Coach						
NA	4.12	NA	75.5%	\$10	\$491	\$41,516
All Ranks						
NA	4.40	NA	100%	\$10	\$3,169	\$2,846,299

All figures in U.S. dollars.

The figures stated above are not a guarantee and are not a projection of a typical Coach's earnings through participation in the Team Beachbody compensation plan. As in any independent business, the level of success or achievement of each Team Beachbody Coach is dependent upon the commitment, skill level, drive, and desire to succeed of the individual Coach. Success with Team Beachbody results only from effective product and program sales efforts, which require hard work, diligence, and leadership.

EXHIBIT D



Launch Reference Guide

This guide includes everything you need to promote the 21 Day Fix Super Block, including key dates, offers and pricing, and links to all training and marketing tools.

[Watch Trailer](#)

BODi Block Accountability Group - Click [HERE](#) to join!

Autumn will take over as the "Guest Star" for the month of April.

Overview

If you're a fan of Autumn's 21 Day Fix programs, you're going to love what she has in store for you now. And if you're new to Autumn's workouts, get ready to have a blast. She's dialed-in the right combo of resistance training and cardio, and added her signature motivation and tough love to push you to reach your goals, no matter your fitness level. Paired with her simple approach to eating, she brings out the best in you as you get stronger and gain confidence.

For more information on the 21 Day Fix Super Block, visit [FAQ 8052](#).

Coach Tools:

- 21 Day Fix Super Block Key Program Info PDF ([US English](#), [CA English](#), [UK English](#))
- Offer Graphics feat. NEW BODi Essentials Collection and Qualifying HD - Opportunity to get 2 FREE Super Blocks ([US English](#), [CA English](#), [UK English](#))
- Key Promo Videos:
 - [21 Day Fix Super Block Trailer](#)
 - [Meet Your Trainer: Autumn Calabrese Video](#)
 - [What is a Super Block? 21 Day Fix Edition](#)
- Workout Calendars
 - [Workout Calendar PDF](#)
 - [Social #SweatySelfie Workout Calendar](#)
- [21 Day Fix Super Block Logos](#)
- [Key Art Images](#)

- [Personal Message for Prospective Customers, from creator Autumn Calabrese](#)
 - Group Guides:
 - [Super Block Group Guide](#)
 - [Group Guide Posts, Images, and Videos](#)
 - Social Media Posts and Assets:
 - [CANVA Social Media Templates](#)
 - [Customizable Screen Asset Quotes](#)
 - [Instagram Story Assets](#)
 - [Quotes Assets](#)
 - [Invite a Friend to 21 Day Fix Super Block Asset](#)
 - [Ring the Bell Asset](#)
 - [Additional Social Media Assets](#) (including Trailer Cutdown) - note, this will be updated on an ongoing basis once social assets are finalized
 - [Instagram/Social Reels](#) - note, this will be updated on an ongoing basis once social assets are finalized
 - [Email Banners](#) + [CANVA Template](#)
 - [Super Block Blog Article](#) - 21 Day Fix Super Block to be featured through April 9, 2023
 - [Super Block Calendar Assets](#)
 - [BODi Infographic](#)
-

Key Dates:

- **Available NOW:**
 - 21 Day Fix Super Block Sample Workout *exclusively* on BODi
 - For sharing with prospective Customers who do not yet have BODi, there's a free version with no music, available on [Vimeo](#)
 - Additional Videos LIVE on BODi Program Page
 - What is a Super Block? 21 Day Fix Edition
 - Meet Your Trainer: Autumn Calabrese
 - Introduction to Portion Fix
 - Mindset on BODi
- **April 3:** 21 Day Fix Super Block BEGINS!

Additional Program Information:

- 30 minutes a day, 5 days a week for 3 weeks, plus UP Week (with 2 workouts)
- 1 5er Ab Fix workout
- 3 bonus Cycle Fix workouts, to swap in on cardio days—or tack on as an extra workout and challenge
- Modifier for every move

Equipment Needed:

- Light, Medium, and Heavy Dumbbells
- Mat*

**Optional*

Who is the 21 Day Fix Super Block For?

If you've worked out with Autumn before, you know that she's going to bring the heat — and the fun. She's dialed-in the right combo of resistance training and cardio and added her signature motivation and tough love to push you to reach your goals, whether you're just starting out or you've worked out for years. Don't worry if you've never done a workout with Autumn. She makes sure this Super Block will work for everyone.

What is a Super Block?

An incredible program made into a fresh and new BODi Block for you by our Super Trainers—that's a Super Block. Reach your goals with 5 workouts a week for 3 weeks followed by an UP week to reset. It's all about block periodization—the perfect balance of exercise, recovery, and training variation. Start the first Monday of the month or whatever day works best for you.

What is Block Periodization?

Block periodization is a 4-week “mesocycle” of 3 weeks of progressive exercise (5 workouts a week), followed by 1 week of functional recovery - an Unconditional Progress “UP” Week, featuring 2 bonus workouts. Research shows that using this block periodization model not only helps people improve their overall fitness and performance, but also their adherence to exercise - to provide better long-term results without overtraining.

What is “UP” Week?

The fourth week of your Super Block is your UP Week, which stands for Unconditional Progress. This is the week your body recovers—take time off or do the 2 optional workouts to keep up your progress while giving your body time to repair. You can also explore other BODi classes or watch Monthly Mindset Master Classes from guest presenters. These options are designed to strengthen your inner motivation and mindset as you look ahead to new goals and build on this moment of feeling incredible.

Recommended Eating Plan: Portion Fix!

Complete your Health Esteem routine with Autumn's Portion Fix eating plan and delicious recipes. You'll feel in control as you eat all your favorite foods (yep, that includes dessert and wine!) in the portions that work for you. Autumn's color-coded containers take all the guesswork out of eating the foods you love. And you won't be asked to count calories or cut out food groups.

For more information on this program, visit beachbodyondemand.com

Recommended Supplements:

- Shakeology
- Energize

For more information on these products, visit teambeachbody.com

What should I buy in order to get started with the 21 Day Fix Super Block?

There are a few ways to get FREE access to the 21 Day Fix Super Block:

- You can access AND get a second Super Block for FREE, if you purchase one of the following:
 - Our recommended BODi Essentials Collection, or any Total-Solution or Completion Pack purchase
 - A new qualifying nutrition subscription purchase
 - Qualifying nutrition subscriptions include: Shake & Hustle, Shakeology, Performance Stack, Go & Glow Stack, FIRST THING, and FIRST THING + LAST THING. Products vary by market.
- If you purchase or renew any combination of nutrition subscriptions totaling at least \$115 (\$141 CAD, £115 GBP, €115 EUR)* in March 2023, you will receive the 21 Day Fix Super Block for FREE. *Total is based on retail price. Coach/Preferred Customer pricing may be lower.
- And note, each month you stay on your qualifying nutrition subscription, you will earn the next month's Super Block for FREE.

Alternatively, you can purchase the 21 Day Fix Super Block separately for \$29 (\$35 CAD, £29 GBP, €35 EUR).

Note: You will need an active BODi subscription to purchase, earn, or access a Super Block in all cases.

Who is Autumn Calabrese?

Super Trainer Autumn Calabrese is the creator of 21 Day Fix® and 4 Weeks For Every Body™, as well as other breakthrough fitness programs, the cooking show FIXATE®, and the Portion Fix® and The 4 Week Gut Protocol® eating plans. She's a certified holistic health coach through the Institute of Integrative Nutrition and has held certifications from NASM and AFPA.

EXHIBIT E

Health & Fitness Conversation Starters

Conversation Starters

Before you start talking about Beachbody fitness programs and Shakeology, health and fitness goal questions are important to ask. They help you learn more about your potential customers so that you can offer the best programs, products, and support to meet their needs. Below are some conversation starters to help you get started:

1. Tell me what you want to accomplish and why.

Do they want to lose weight (# of pounds), tone up, or improve their overall health? Dig deeper into why they have this goal. Do they have an emotional reason behind what they want to accomplish?

2. Tell me how long have you've wanted to make this change.

Was there a life-changing event like having kids, etc.?

3. Explain to me what you've tried in the past.

What did they like and dislike about what they've already tried?

4. Why did it fail for you?

Why do they think it didn't work out in the long term?

5. Tell me about your support system.

Remember, most diets and fitness programs fail.

6. How often do you go out to eat?

Find out how much on average they spend per meal.

7. Tell me about your energy levels. Do you feel like you are full of energy or do you get tired a lot?

Do they get enough sleep at night? What time of day do they lose energy?

8. Do you feel like you are at a plateau with your weight loss?

Ask what they think could be blocking them?

9. Explain to me what you eat and drink on an average day.

Do they drink coffee? How often do they eat from vending machines or eat fast food?

10. What does a typical day look like for you?

Are they active during the day? Do they sit behind a desk? Do they watch a lot of TV?

Listen for clues and find ways that both exercise and Shakeology can help with:

Signs of poor health:

- Sluggishness
- Fatigue
- Bloating
- Digestive issues
- Abnormal sleep patterns
- Cravings

Anticipate objections:

Potential signs of negative mindset:

- The Diet Cycle
- No time to prepare healthy foods
- No support
- No consistency
- Love to eat

Write down your strengths and unique value:

What you offer as their Coach:

- Energy
- Healthy lifestyle
- Discipline
- Confidence
- Accomplishment
- Accountability
- (Add your own unique talents and wisdom to offer)

EXHIBIT F

Clarkson

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April 14, 2023

VIA ONLINE ELECTRONIC SUBMISSION

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, California 94102
SUBMITTED ONLINE

Re: Notice Pursuant to California Labor Code § 2699.3 re Beachbody LLC

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code § 2698, et seq., Ms. Jessica Lyons provides this notice on behalf of herself and other aggrieved employees in the State of California to the Labor and Workforce Development Agency (“LWDA”) and Beachbody LLC (now also known as “BODi” and “Beachbody on Demand”, and including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively, “Beachbody”) of Labor Code and Industrial Welfare Commission (“IWC”) Wage Order violations committed by Beachbody. Please allow this letter to serve as notice and a request pursuant to § 2699.3 of the California Labor Code that your agency investigate the claims described below. If the agency does not intend to investigate the alleged violations, we ask that you please notify us of that fact. If your agency decides not to investigate the below-described claims, Ms. Lyons intends to pursue civil penalties through a court action and/or in arbitration, on behalf of herself and the other aggrieved employees against whom Labor Code and Wage Order violations were committed by Beachbody.

Introduction

Beachbody (now also doing business as “BODi” and/or “Beachbody on Demand”) is headquartered in El Segundo, California. Beachbody develops and sells in-home fitness and weight loss products online. Pursuant to Beachbody’s business model, it establishes explicit relationships with various individuals known as “Coaches” or “Partners” who market and sell

Beachbody products for Beachbody, establishing and managing a broad range of employment policies and procedures for these “Team Beachbody Coaches.” Despite calling these salespeople “Coaches” or “Partners” but designating them independent contractors, these “Coaches” or “Partners” are in fact employees under California law. Beachbody has violated numerous provisions of the California Labor Code and applicable IWC Wage Order by denying its Coaches and/or “Partners” the compensation, other benefits and statutory entitlements that they are owed.

One of the many individuals whom Beachbody employs as a Coach and/or Partner is Ms. Lyons. Ms. Lyons worked for Beachbody as a Team Beachbody Coach from approximately December 2016 to March 2023 in California. During that entire time, Ms. Lyons was under Beachbody’s control, selling and marketing Beachbody products online in accordance with strict guidelines.

Unless the agency decides to investigate and issue citations for Beachbody’s numerous Labor Code and Wage Order violations, Ms. Lyons intends to bring a representative action in court and/or in arbitration seeking civil penalties for violations of the Labor Code that are recoverable under PAGA on behalf of the State of California and all other aggrieved employees. The aggrieved employees on whose behalf Ms. Lyons will file a PAGA civil action include all current and former Beachbody “Coaches” and/or “Partners” who sold Beachbody products and services in the State of California during the relevant statutory period, and any other individuals who are actually non-exempt employees of Beachbody under California law.

As set forth below, Beachbody has violated and/or continues to violate, among other provisions of the California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 226.8, 510, 512(a), 1194, 1997, 1997.1, 2802, and IWC Wage Orders, including inter alia, Wage Order No. 4.

Willful Misclassification of an Individual as an Independent Contractor

California law prohibits the willful misclassification of an individual as an independent contractor when he or she is in fact an employee under California law. Cal. Lab. Code § 226.8(a). “Willful misclassification” means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor. Cal. Lab. Code § 226.8(i)(4). When an employer willfully misclassifies an individual as an independent contractor, the employer is subject to civil penalties. Cal. Lab. Code § 226.8(b)–(c). Beachbody willfully misclassified Ms. Lyons and other aggrieved employees as independent contractors, because it has been clear for several years now under California law that its “Coaches” or “Partners” are in fact employees under Cal. Lab. Code § 2775, insofar as such “Coaches” or “Partners” are under Beachbody’s control in performing their selling duties, the selling duties that “Coaches” or “Partners” do is within the usual course of Beachbody’s business, and they are not engaged in an independently established trade, occupation or business. Even under a looser definition of “employee,” “Coaches” or “Partners” would also be considered employees because Beachbody controls the manner and means through which Ms. Lyons and other aggrieved employees carry out their duties, including but not limited to restricting advertising, restricting what channels products may be sold through, and providing proprietary lists and direct customer leads.

Failure to Provide Meal Periods and Rest Periods

California law requires employers to provide their employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a); Wage Order No. 4. A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a); Wage Order No. 4. Further, an employer must provide an uninterrupted rest period of no less than ten (10) minutes for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7; Wage Order No. 4. When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Beachbody failed to provide Ms. Lyons or the other aggrieved employees with an opportunity to take timely, uninterrupted meal and rest periods of the requisite length, free from employer control. Beachbody also failed to compensate Ms. Lyons and the other aggrieved employees properly for the non-compliant meal and rest periods including, inter alia, missed, short, late, and/or interrupted meal and rest periods. Beachbody also failed to pay premium wages for the many meals and rest breaks that Ms. Lyons and the aggrieved employees were deprived of. Indeed, Beachbody did not provide any meal or rest breaks or premium compensation for missed breaks to Ms. Lyons or other aggrieved employees, since Beachbody improperly classified its Coaches as independent contractors who were not entitled to meal or rest breaks.

Failure to Pay Minimum Wages and Failure to Pay Overtime Wages

Beachbody violated California Labor Code sections 1194, 1197, and 1197.1 and Wage Order No. 4 by failing to pay Ms. Lyons and other aggrieved employees at least minimum wages for all hours worked. Primarily, this was due to Beachbody having misclassified its Coaches and/or Partners as independent contractors rather than as employees. Ms. Lyons and other aggrieved employees were required or knowingly permitted to perform all their work duties off-the-clock, including but not limited to training, communicating with Beachbody, and selling and marketing Beachbody products and services. By failing to pay Ms. Lyons and other aggrieved employees any wages for their time spent performing work duties for Beach Body, Beachbody violated Labor Code sections 1194, 1197, and 1197.1 and Wage Order No. 4, which require employers to pay at least the legal minimum wage to their employees.

California Labor Code section 510 and Wage Order No. 4 require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek. During the relevant time period, Ms. Lyons and other aggrieved employees worked over 8 hours in a day and/or 40 hours in a week without overtime compensation because

Beachbody failed to pay them for their work duties, as described above. This was, in turn, due to Beachbody's unlawful misclassification of Coaches as independent contractors rather than as employees. On occasions when Ms. Lyons and other aggrieved employees had already worked eight hours in one day (performing all their work off-the-clock), Beachbody failed to pay them any overtime compensation due. Therefore, Ms. Lyons and the other aggrieved employees were entitled to receive overtime compensation from Beachbody that Beachbody failed to pay, violating Labor Code § 510 and Wage Order No. 4.

Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor more than the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant period, Beachbody failed to pay Ms. Lyons and other aggrieved employees all wages due to them, including minimum wages, overtime wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204. Moreover, Beachbody failed to pay Ms. Lyons or other aggrieved employees earned commissions in a timely and complete fashion.

Failure to Timely Pay Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant period, Beachbody willfully misclassified Ms. Lyons and other aggrieved employees as independent contractors rather than employees, and willfully failed to pay them overtime, or meal or rest break premiums for missed breaks, during their employment with Beachbody. When "Coaches" and/or "Partners" such as Ms. Lyons and other aggrieved employees were terminated or quit, Beachbody willfully failed to pay them all wages to which they were entitled. Moreover, Beachbody failed to pay Ms. Lyons and other aggrieved employees all commissions owed to them prior to their termination. Beachbody's willful failure to pay such commissions during employment carried on following termination of Ms. Lyons and other aggrieved employees' employment.

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Failure to Keep Accurate Payroll Records

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant period, Beachbody failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages paid to Ms. Lyons and other aggrieved employees.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code section 226(a) and Wage Order No. 4 require an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, inter alia, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer. Beachbody failed to provide any wage statements to Ms. Lyons and other aggrieved employees, despite being required to do so. Accordingly, Beachbody is subject to civil penalties under Labor Code section 226.3.

Failure to Reimburse Necessary Business Expenses

Labor Code section 2802 and Wage Order No. 4 require employers to indemnify their employees for all necessary business expenses that they incur in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant period, Ms. Lyons and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Beachbody. These costs include, but are not limited to, the use of personal cell phones and computers, Wi-Fi and internet connections, premium memberships for access to sites like youtube.com that “Coaches” and/or “Partners” were required to use to market and sell Beachbody services and products, home office equipment, ring lights other equipment for making content videos, among other expenses. Indeed, Ms. Lyons and the other aggrieved employees absorbed all the costs associated with marketing and selling Beachbody’s products and services at their own expense and without reimbursement by Beachbody. Ms. Lyons and the aggrieved employees are entitled to reimbursement for all such expenses.

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Beachbody has violated, caused to be violated, or is currently violating, numerous provisions of the California Labor Code, as described above. Ms. Lyons respectfully requests that

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the agency investigate the above allegations, and, in any event, provide notice regarding its intent to investigate pursuant to Labor Code § 2699.3. If the agency does not intend to investigate the alleged violations, Ms. Lyons respectfully requests a letter confirming the same so that we may bring a civil action under PAGA against Beachbody for the violations described in this letter. Please know that we intend to file a civil complaint and to bring the appropriate claims under Labor Code § 2699 should your office decline to investigate, or investigate but decline to issue citations, within the time frames set out in Labor Code § 2699.3.

Should you require anything further or have questions, please do not hesitate to contact me. Thank you for your consideration.

Respectfully Submitted,

CLARKSON LAW FIRM, P.C.

A handwritten signature in blue ink, appearing to read "Glenn A. Danas", with a stylized flourish at the end.

Glenn A. Danas, Esq.