

DISPUTE RESOLUTION AGREEMENT

This Dispute Resolution Agreement (the "Agreement") sets forth the procedures that will govern any dispute between **OPTAVIA LLC** ("**OPTAVIA**" or "Company") and an independent **OPTAVIA Coach** ("**OPTAVIA Coach**" or "Coach"). As of the date the Coach provides its electronic acceptance through **OPTAVIA'S** website or by otherwise applying a signature (any such method of acceptance being an "Acceptance"), the Coach confirms that he/she/ it will be bound by all terms and conditions of this Agreement. Throughout this Agreement, **OPTAVIA** and the Coach are sometimes individually referred to as a "Party" and collectively as "Parties."

SECTION 1 - PHASES OF DISPUTE RESOLUTION

Except for any emergency relief as provided in Section 2 below, any dispute that relates to, concerns, or otherwise arises from: (i) the Independent **OPTAVIA Coach Agreement** ("Coach Agreement"), (ii) the business operated by the Coach pursuant to the Coach Agreement, (iii) the opportunity offered by the Company to the Coach pursuant to the Coach Agreement, or (iv) the Company's business (each a "Covered Dispute" and collectively, the "Covered Disputes") shall be resolved according to the three-step procedure set forth herein. The Parties mutually intend and agree that Covered Disputes subject to the arbitration provision contained herein shall broadly apply to any and all claims of violation of federal, state, or local law, statute, ordinance, rule or regulation (including, but not limited to, claims of discrimination based upon race, sex, sexual orientation, religion, national origin, age, marital status, creed, color, medical condition as defined under federal and/or state law, physical or mental disability, and claims relating to leaves of absence mandated by state and/or federal law), breach of any alleged contract or covenant (express or implied), tort claims, wage payment claims, violation of public policy claims, or any other alleged violation of statutory, contractual or common-law rights (including claims against the Company's officers, directors, employees, and/or agents); provided, however, that this Agreement shall not require arbitration of any Covered Disputes which, by valid law that is binding on the Coach and the Company and not preempted by federal law, cannot be subject to compulsory arbitration, and any claims involving violations of a Party's trademarks and copyrights.

a. **Phase 1 - Negotiation.**

- i. The Parties shall first attempt in good faith to resolve any Covered Dispute promptly by negotiation between the aggrieved Coach(es) and executives of the Company who have authority to settle the controversy.
- ii. To institute the negotiation process, either Party must provide the other Party with written notice of any Covered Dispute, which may be provided electronically to a Coach at the address on file with the Company, or if such written notice is given to the Company, then to dispute@OPTAVIA.com. Within ten (10) days after delivery of the notice, the receiving Party shall submit to the other Party a written response. The notice and response shall include with reasonable particularity: (a) a statement of each Party's position and a summary of arguments supporting that position, and (b) the name and title of the executive and attorney who will accompany that Party (if applicable), or the name of the Coach and their attorney (if applicable) who will accompany him/her in the negotiation.
- iii. Within twenty (20) days after delivery of the notice, the Parties and the attorneys (as applicable) shall meet at a mutually acceptable time and place ("Negotiation Meeting"). Such Negotiation Meeting may occur telephonically if one Party requests that the meeting be held telephonically.
- iv. The negotiation phase will be terminated when one Party notifies the other in writing that it considers the negotiation "closed."

b. **Phase 2 - Non-Binding Mediation.**

- i. After the negotiation phase is closed, either Party can seek to resolve the Covered Dispute through non-binding mediation. If a Party elects to pursue mediation, the Party shall submit a written request for mediation ("Mediation Request") to the other Party no later than thirty (30) calendar days after the negotiation phase is closed.
- ii. The Parties shall have ten (10) calendar days following such request to select a mutually acceptable mediator. If the Parties cannot agree on a mutually acceptable mediator, they shall apply to JAMS (private alternative dispute resolution provider) to have a neutral mediator appointed.
- iii. The mediation shall occur in the city in which the Company maintains its principal place of business unless the Parties mutually agree on another forum, or agree to hold the mediation telephonically or by video.
- iv. Mediation shall be conducted within twenty (20) calendar days from the date on which the mediator is selected or appointed or as otherwise agreed upon by the Parties and the mediator.
- v. Unless otherwise agreed upon by the Parties in writing, the mediation shall be closed when the Parties settle the dispute, but in no case later than thirty (30) calendar days following the date on which the first meeting between the mediator and the Parties occurred.
- vi. If the Company is the Party initiating the mediation, the Company shall be solely responsible for the payment of all filing, administrative, and mediator's fees. If a Coach is the Party initiating the mediation, the Coach and the Company shall equally share the cost of all filing, administrative, and mediator's fees. Each Party shall be responsible for all other costs and fees associated with the mediation, including but not limited to, its own attorneys' fees, expert, professional and witness fees.

c. **Phase 3 - Mandatory Arbitration.** In the event that mediation is not successful in resolving the Covered Dispute, it must be resolved by final and binding arbitration administered by JAMS in accordance with its Comprehensive Rules and Procedures, which are available on JAMS' website at: <https://www.jamsadr.com/rules-comprehensive-arbitration/>. Copies of JAMS Rules and Procedures will also be e-mailed to Coaches upon request to dispute@OPTAVIA.com. The Arbitration shall be heard by one (1) arbitrator, selected according to the above JAMS Rules and Procedures, and shall be conducted in the city in which the Company has its principal place of business, unless the Company agrees to an alternate venue. Each Party shall be entitled to be represented by an attorney at the Arbitration. Notwithstanding the rules of JAMS, unless otherwise stipulated by the Parties in writing, the following shall apply to all Arbitrations:

- i. Any arbitration proceeding, decision, or award rendered hereunder, and the validity, effect, and interpretation of this arbitration provision, shall be governed by the Federal Arbitration act, 9 U.S.C. § 1. For the avoidance of doubt, the Parties agree and intend that all issues of arbitrability, both procedural and substantive, shall be decided by the arbitrator.
- ii. The Parties shall be entitled to all discovery rights permitted by the Federal Rules of Civil Procedure and the arbitrator shall have the authority to resolve all discovery disputes.
- iii. The Parties shall be entitled to bring dispositive motions under Rules 12 and/or 56 of the Federal Rules of Civil Procedure.

- iv. The arbitration hearing shall commence no later than 365 days from the date on which the arbitrator is appointed, and shall last no more than five (5) business days.
- v. The arbitrator's award will be issued as soon as practicable after the conclusion of the Arbitration, but in any event, within 30 (thirty) days of the conclusion of the Arbitration, and the award shall consist of a written statement stating the disposition of each claim. The award will also provide a concise written statement of the essential findings and conclusions on which the award is based.
- vi. All costs and fees of the Arbitration shall be borne equally by the Parties, including any costs or fees that are due and payable prior to the issuing of the award, except that the initiating Party shall be responsible for filing fees. Each Party shall be solely responsible for its own expenses, including but not limited to, attorneys' fees, expert, professional and witness fees.
- vii. The arbitrator shall have the authority to award either Party any remedy, at law or in equity, that the Party would otherwise have been entitled to had the matter been litigated in court, including but not limited to, compensatory damages, declaratory judgments, specific performance, injunctive and other equitable relief (including attorneys fees' and costs), but subject to the Damages Waiver set forth in Section 5(d) below.
- viii. An award may be enforced in a court of competent jurisdiction, subject to Section 5(c) below.

SECTION 2 - EMERGENCY RELIEF

To protect certain intellectual property rights, including but not limited to protecting its rights pursuant to the Non-Solicitation and Confidential Information provisions contained in the **OPTAVIA** Policies ("Policies"), the Parties agree and acknowledge that either Party can commence an action without the need for following phase 1 or phase 2, if such action seeks a temporary restraining order, or other emergency or preliminary injunctive relief in aid of arbitration. The Parties further agree and acknowledge that any violation of the Non-Solicitation or Confidential Information provisions of the Policies will cause the Company to suffer immediate and irreparable harm for which there is no adequate remedy at law.

- a. The Parties acknowledge and agree that in situations where either Party deems emergency relief necessary, it may commence an action seeking such relief in court or before JAMS pursuant to its Emergency Relief Procedures in the JAMS Comprehensive Rules and Procedures, (available at <https://www.jamsadr.com/rules-comprehensive-arbitration/>, or by contacting the company at dispute@OPTAVIA.com).
- b. The Parties acknowledge and agree that, in the event emergency relief is granted, the Party that is granted such relief shall not be required to post a bond.
- c. The Parties acknowledge and agree that, if a Party chooses to obtain relief in a court of law under this provision, venue and jurisdiction shall be as set forth in Section 5(c) below.
- d. At the conclusion of the emergency injunctive proceeding, the court shall be divested of jurisdiction and the Covered Dispute shall be finally adjudicated in arbitration in accordance with the procedures set forth in phase 3 above without the need to follow phase 1 or phase 2 above.

SECTION 3 - CONFIDENTIALITY

The Parties intend and agree that, with the exception of an emergency application in court, the dispute resolution process shall be confidential. Thus, neither Party shall verbally or in writing discuss, publish, or otherwise disseminate statements or information about the claims, allegations, merits, evidence, positions, pleadings, testimony, rulings, awards, orders, issues, or any other aspect of any claim or dispute brought hereunder to any third party, including but not limited to disclosure on the internet or on any social media or blog platform, prior to, during, or after any phase of the dispute resolution process set forth in this Agreement.

SECTION 4 - LIQUIDATED DAMAGES FOR BREACH OF CONFIDENTIALITY

If a Party violates its confidentiality obligations under this Dispute Resolution Agreement, the non-breaching Party shall incur significant damages to its reputation and goodwill that shall not be readily calculable. Therefore, if a Party, its attorneys, agents, or a proxy of a Party breaches the confidentiality provision of this Agreement:

- a. The non-breaching Party shall be entitled to liquidated damages in the amount of \$10,000. per violation, or \$25,000 per violation if the disclosure is published on the internet, including but not limited to disclosure on any website or on any social media forum. Every disclosure of each claim, allegation, pleading, or other prohibited disclosure shall constitute a separate violation. Notwithstanding this confidentiality and liquidated damages provision, nothing herein shall limit the right or ability of a Party to disclose evidence, claims or allegations relating to the dispute to any individual who is, or who may be, a bona fide witness to the dispute provided, however, that such bona fide witness be notified of, and agree to abide by, the confidentiality requirements set forth herein. The Parties agree that this liquidated damages amount is reasonable and waive all claims and defenses that it constitutes a penalty; and
- b. Breach of the confidentiality provision by disseminating or publishing information described in Section 3 above through any form of mass media (including but not limited to posting on the Internet or on any social media platform) by a Party, a Party's agent, or a Party's proxy shall constitute an act of gross bad faith, and shall constitute a waiver of the breaching Party's right to pursue its claim(s) and/or defense(s) against the non-breaching Party, and shall entitle the non-breaching Party to a default judgment against the breaching Party.

SECTION 5 - ADDITIONAL RULES AND OBLIGATIONS RELATING TO ALL CLAIMS

- a. **Trademark and Copyright Infringement Claims.** Notwithstanding anything to the contrary contained herein, the Parties acknowledge and agree that any claim solely alleging infringement of a Party's trademark or copyright is not subject to the three-step dispute resolution process (including specifically arbitration) and that any such action may be brought before any United States District Court properly vested with jurisdiction.
- b. **Disciplinary Sanctions.** The Company shall not be required to engage in the three-step dispute resolution process prior to imposing disciplinary sanctions against a Coach, as set forth in the Policies, for any violation of the Coach Agreement.

- c. **Governing Law and Jurisdiction.** Except for trademark and copyright claims referenced above, this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to its principles of conflicts of laws, subject to application of the Federal Arbitration Act, as set forth above. Any action that is permitted to be brought in court pursuant to this Agreement shall only be brought in the federal or state courts located in the city and county in which the Company has its principal place of business. The Parties agree that they are each subject to jurisdiction in such courts and waive the defense of forum non-conveniens.
- d. **Damages Waiver.** In any action that relates to, concerns, or otherwise arises from the Coach Agreement or this Agreement, **OPTAVIA's** business, the relationship of the Parties, or any other Covered Dispute, the Parties waive all claims for incidental and/or consequential damages, even if the other Party has been apprised of the likelihood of such damages. The Parties further waive all claims to exemplary and punitive damages. Nothing in this Agreement shall restrict or limit a Party's right to recover liquidated damages as set forth herein.
- e. **Louisiana Residents.** If you are a resident of Louisiana, all aspects of this Agreement shall apply to you, except that you may bring an Arbitration under this Agreement against the Company in Louisiana pursuant to Louisiana law.

SECTION 6 - LIMITATIONS PERIOD APPLICABLE TO ALL CLAIMS

All claims or disputes that relate to, concern, or otherwise arise from the Coach Agreement, this Agreement, **OPTAVIA's** business, the relationship between the Parties, or any other Covered Dispute, must be brought within one (1) year from the date on which the act or omission giving rise to the claim occurred (the "Limitations Period"). If a Coach or the Company does not file for formal mediation or commence an action in court (except in connection with a copyright or trademark dispute) within such Limitations Period, they or it will forfeit the right to make use of the dispute resolution procedures set forth in this Agreement and will be foreclosed from bringing any action in court or arbitration based on any such claims or disputes.

SECTION 7 - CLASS ACTION WAIVER

All claims or disputes, whether pursued through arbitration or before the courts, that relate to, concern, or otherwise arise from the Coach Agreement, this Agreement, **OPTAVIA's** business, the relationship between the Parties, or any other Covered Dispute, shall be brought and proceed on an individual basis. The Parties waive their rights to pursue any action against the other Party and/or their respective owners, officers, directors, and agents, on a class, collective, representative, or consolidated basis. The Coach may opt out of this class action waiver if he/she wishes by submitting written notice to the Company of the Coach's desire to opt-out within thirty (30) days from the date on which he/she enrolled as a Coach. The Coach must submit written opt-out notice to the Company at dispute@OPTAVIA.com.

SECTION 8 - ENTIRE AGREEMENT AND AMENDMENTS

This Agreement represents the entire agreement between the Parties with respect to the subject matter covered by this Agreement and supersedes any and all prior agreements or understandings, oral or written, between the Parties pertaining to the subject matter covered by this Agreement. If there is any conflict between the terms of this Agreement and the JAMS Rules, the terms of this Agreement will prevail. This Agreement may only be amended in writing, and shall only be effective after publication of the amended provisions in the Coaches' BackOffices or **OPTAVIA's** corporate sites and upon the Coach's Acceptance of such amendments in the same manner as it provided its acceptance of this Agreement, defined above. Any amendments shall only apply prospectively and not retroactively.

SECTION 9 - SEVERABILITY

If any provision of this Agreement is determined to be invalid, unenforceable, or void, such provision will be severed and all other provisions of this Agreement will remain effective and enforceable to the fullest extent permitted by law. The Parties expressly acknowledge and agree that the inclusion or exclusion of any provision or provisions in this Agreement is not intended to interfere with or negate the arbitration, or class action waiver provisions contained herein, and this Agreement is to be modified in scope and application in every instance needed to permit the enforceability of these provisions to the maximum extent permitted by law.

SECTION 10 - MISCELLANEOUS

Nothing herein shall be construed to, or have the effect of, modifying any Coach's status as an independent contractor, as set forth in the Coach Agreement, nor shall it affect or modify the Company's right to determine and modify the terms and conditions of your Coach Agreement as separately set forth therein. The continuation of your **OPTAVIA** business, or your acceptance of bonuses or commissions after accepting this Agreement constitutes valid consideration in support of this Agreement as it may be amended from time to time pursuant to the provisions hereof.

YOU ACKNOWLEDGE THAT YOU HAVE CAREFULLY READ THIS AGREEMENT, UNDERSTAND THE TERMS OF THIS AGREEMENT, AND YOU ARE ACCEPTING THIS AGREEMENT VOLUNTARILY. IN ENTERING INTO THIS AGREEMENT, YOU ARE NOT RELYING ON ANY PROMISES OR REPRESENTATIONS BY THE COMPANY EXCEPT THOSE CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties have executed this Agreement by (i) acceptance through the **OPTAVIA** website, as recorded by the Company, or (ii) via signature below as of the last Date

Signature: _____

Date: _____

Print Name: _____

Coach ID

Number: _____