

**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

E-13

MEMORANDUM

TO: Richard Dionisio, Supervisor
Members of the Town Board

FROM: Andrea C. Rendo, Deputy Village Attorney *ACR*

DATE: June 8, 2022

RE: **Harrison Meadows Country Club Property License Agreements**

Authorization is hereby requested for the Supervisor/Mayor to execute the attached Agreements with Jill Valente d/b/a "Soul Much Jill" and Jennifer Celata, for the use of defined space for fitness class instruction at Harrison Meadows Country Club.

Further request that said authorization be subject to receipt by the Town/Village of Harrison of the required insurance certificates by the Licensees.

ACR:ld

PROPERTY LICENSE AGREEMENT

This PROPERTY LICENSE AGREEMENT (this "**License Agreement**"), made as of the ___ day of May, 2022, is between THE TOWN/VILLAGE OF HARRISON, NEW YORK, a municipality organized under the laws of the State of New York, having an address at 1 Heineman Place, New York ("**Town/Village**"), and Jennifer Celata, an individual having an address at 16 Indian Trail, Harrison, New York, 10528 ("**Licensee**").

RECITALS:

A. Town/Village is the owner of Harrison Meadows Country Club, the certain golf club facility which includes an 18-hole golf course located at 123 North St, Harrison, New York 10528 (the "**Property**");

B. Harrison Golf Management, LLC, a Virginia limited liability company and single purpose entity formed by Indigo Sports, LLC ("**Manager**") is the manager of the Property;

C. Licensee is a certified fitness instructor and personal trainer who has experience in personal training and teaching group fitness classes;

D. Licensee desires to use certain space(s) at the Property to offer group fitness classes to Property members and guests; and

E. Town/Village desires to engage Licensee to teach the classes and desires to license space at the Property to Licensee for that limited purpose in exchange for a fee and according to the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. License.

(a) Town/Village hereby grants to Licensee, and Licensee hereby accepts, a license (the "**License**") to use and occupy the licensed area as more particularly described in Exhibit "A", attached hereto and made a part hereof (the "**Licensed Area**"), for the purposes hereafter provided for the License Period (as defined in Section 2). Licensee and its employees, agents and invitees are, except as otherwise specifically provided in this License Agreement, authorized to use (to the extent necessary) all other areas in and about the Property which are used in common with others, such as lobbies, hallways, elevators, stairways, restrooms, delivery areas, and parking areas (collectively, the "**Common Areas**"), subject to the Property's rules and regulations. The parties do not intend to create a lease or any other interest in real property for Licensee through this License Agreement, and the parties only intend to create a license that is revocable at-will by either Licensee or Town/Village as provided herein.

(b) Without additional charge, during the License Period, Licensee shall have the right to use Town/Village's furniture, fixtures and furnishings as may be located in the Licensed Area ("**Town/Village's Personal Property**"), to be returned to Town/Village on the Expiration Date (as defined in Section 2) or earlier termination of the License Period pursuant to the terms and

conditions of this License Agreement. Throughout the License Period, Licensee shall take good care of the Licensed Area and the Town/Village's Personal Property.

(c) Licensee has inspected the Licensed Area and agrees to accept the Licensed Area and Town/Village's Personal Property "AS-IS", "WHERE-IS" and "WITH ALL FAULTS" on the date hereof. THE PARTIES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS LICENSE AGREEMENT, THE LICENSED AREA, THE TOWN/VILLAGE'S PERSONAL PROPERTY, OR THE PROPERTY OR THE REAL PROPERTY OR PROPERTY INTERESTS, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2. License Period. The "**License Period**" for the Licensed Area shall commence on May __, 2022 (the "**Commencement Date**"), and subject to sooner termination as hereafter provided, shall expire on July 1, 2022 (the "**Expiration Date**"). During the License Period, the License shall only be extended to Licensee on Tuesday and Thursday of each week, unless otherwise mutually agreed by the parties. The parties shall collaborate to confirm the precise time of day that each Fitness Class will occur during the License Period and the License hereunder shall only be extended for the time period necessary for Licensee to teach the Fitness Class. Notwithstanding the foregoing, this License Agreement shall be revocable by either party at any time during the License Period; provided that the terminating party delivers to the non-terminating party seven (7) days' prior written notice of its election to terminate. The termination notice shall state the date of termination and shall be sent in accordance with the notice requirements of this License Agreement. Either party's termination right is subject to no default by the terminating party existing under this License Agreement at the time the termination notice is sent and on the actual termination date.

3. License Fee.

(a) As consideration for the grant of this License, Licensee shall pay a license fee (the "**License Fee**") in the amounts set forth on Exhibit "B", attached hereto and made a part hereof. Notwithstanding the foregoing, Town/Village reserves the right to modify the License Fee at any time, in its sole discretion, upon prior written notice to Licensee. The License Fee shall be payable by Licensee to Town/Village at the end of each calendar week during the License Period, and shall be made payable to Town/Village in United States dollars and delivered to Town/Village at the address specified herein or such other address as Town/Village may designate by written notice from time to time.

(b) Town/Village shall have the right to examine the books and records of Licensee to the extent related to the collection Fitness Class fees and the disbursement of the License Fee, upon reasonable advance notice to Licensee, in order to verify payments are being charged and remitted in accordance with the terms of this License Agreement.

4. Town/Village's Services. Town/Village shall solely be responsible for providing the Licensed Area to Licensee during the Licensed Period, in condition suitable for Licensee to teach the Fitness Classes.

5. Use and Restrictions.

(a) Licensee shall use the Licensed Area solely for the purpose of teaching group fitness classes (each a “**Fitness Class**” and collectively, the “**Fitness Classes**”) and for no other purpose except as may be approved by Town/Village in writing. Licensee’s use of the Property shall not unreasonably interfere with the work, activities, and enjoyment of Town/Village, its employees, agents, or members of the Property. As between Town/Village and Licensee, Licensee shall be responsible to provide and maintain all equipment necessary for the provision of its services.

(b) Licensee shall not administer the Fitness Classes without first obtaining each prospective attendee’s consent and signature on a release/waiver form which has been pre-approved by Manager and complies with all applicable laws and regulations. For clarity and the avoidance of doubt, Licensee shall not use the Licensed Area for any illegal purpose, or in violation of any regulation or governmental authority, or in any manner to create a nuisance or trespass, or in any manner to vitiate the insurance or increase the rate of premiums of insurance carried by the Town/Village or the Property.

6. Compliance with Laws and Regulations. Licensee shall promptly comply with all present and future:

(a) rules and regulations published by the Town/Village (if any) including, without limitation, regulations applicable to use, storage and disposal of hazardous substances and waste and other environmental matters, security policies and procedures, which have been published from time to time with respect to the use of and access to the Licensed Area; and

(b) applicable laws and regulations of all state, federal, municipal and local governments, departments, commissions and boards and any direction of any public officer pursuant to law (collectively, “**Laws**”) having jurisdiction which shall impose any obligation or duty upon Licensee or Town/Village with respect to the Licensed Area. In addition, Licensee shall comply with all laws, regulations and licensing requirements in order to render the Fitness Classes in the Licensed Area. Town/Village agrees to reasonably cooperate with Licensee to enable Licensee to comply with Laws.

7. Access. Town/Village, its employees, contractors and agents shall have the right of access to the Licensed Area and Common Areas twenty-four (24) hours per day, seven (7) days per week. Licensee, its employees, contractors and agents shall only have access to the Licensed Area during the days set forth in Section 2 during the Licensed Period, no consent of the Town/Village being required for any such access at such time.

8. Repairs. Throughout the License Period, Town/Village shall take good care of the Licensed Area and the furniture, furnishings, fixtures, and appurtenances therein. Town/Village shall also be responsible for the cost to repair any damage to the Licensed Area other than damage from the elements, fire, or other casualty to the Property, or from the negligence or misconduct of Licensee, or its agents or employees. The repair obligations outlined herein shall survive any cancellation, expiration, or termination, for any reason, of this License Agreement.

9. Damage and Destruction. Neither Licensee nor Town/Village shall have any responsibility to the other or their respective agents, contractors, tenants, or other invitees in the event of any damage to or theft or loss of any equipment or property of the other party and the party incurring such damage, theft,

or loss shall look to its own insurance coverage (and to any self-insured portion of the damage, theft, or loss), if any, for recovery in the event of any such damage, theft, or loss.

10. Insurance. Licensee shall, at its own cost and expense, maintain and keep in force at all times during the License Period adequate insurance for general liability, Errors and Omissions including personal injury, as well as any damage to or loss of equipment, furniture, or other personal property brought into the Licensed Area by Licensee, its employees, agents, or invitees for not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in aggregate. In addition, in the event Licensee is employing any person(s) in performing the services hereunder, Licensee shall procure and maintain throughout the Term adequate workers' compensation insurance with respect to any employees of Licensee. At or prior to the commencement of the License Period, Licensee shall make Town/Village a certificate holder and shall provide Town/Village with a Certificate of Insurance setting forth such insurance coverage, naming Town/Village and Troon Golf, L.L.C., as additional insureds as their interests may appear. Thereafter, so long as the License remains in effect, Licensee shall provide Town/Village and Troon with an updated Certificate of Insurance each time Licensee's insurance policy is renewed. Licensee shall attach its then-current Certificate(s) of Insurance to this Agreement as Exhibit "C".

11. Mutual Indemnification. Each party (an (or the) "**Indemnifying Party**") shall indemnify, defend, save and hold harmless the other party, and its officers, directors, members, partners, employees, agents, affiliates, successors, and permitted assigns (collectively, the "**Indemnified Parties**") against all claims made or judicial or administrative actions filed which allege that any of the Indemnified Parties is liable to the claimant by reason of:

(a) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about any part of the Property, or in any manner growing out of, resulting from or connected with the use, condition or occupancy of the Licensed Area if caused by any negligent or wrongful act or omission of the Indemnifying Party or its agents, partners, contractors, employees, permitted assigns, Town/Villages, sublessees, invitees, or any other person or entity for whose conduct the Indemnifying Party is legally responsible;

(b) violation by the Indemnifying Party of any contract or agreement to which the Indemnifying Party is a party in each case affecting any part of the Licensed Area or the occupancy or use thereof by the Indemnifying Party; and

(c) violation of or failure to observe or perform any condition, provision, or obligation of or under this License Agreement on the Indemnifying Party's part to be observed or performed hereunder. The indemnity obligations outlined herein shall survive any cancellation, expiration, or termination, for any reason, of this License Agreement.

12. Assignment or Sublicensing. The license granted hereby is personal to Licensee and shall not be assigned, nor shall Licensee sublicense or otherwise permit or suffer the occupancy of the Licensed Area by any third party without the prior written consent of Town/Village, which consent may be withheld in Town/Village's sole and absolute discretion. Notwithstanding anything to the contrary contained herein, Town/Village shall have the right to assign or sublicense this License Agreement to any affiliate of Town/Village, notice of which shall promptly be given to Licensee. As used herein, the term affiliate

means any legal entity which controls, is controlled by or is under common control with Town/Village or in which Town/Village owns more than a fifty percent (50%) interest.

13. Alteration; Restoration. Licensee may not make any structural alterations, installations, additions, or improvements in or to the Licensed Area without the prior written consent of Town/Village, which consent may be withheld or conditioned in Licensee's sole and absolute discretion. Any signage to be used by Licensee with respect to the Licensed Area must be approved in writing by Town/Village, which approval may be withheld or conditioned in Town/Village's sole but reasonable discretion. If alterations, installations, additions or improvements are made or signage posted following Licensee's receipt of Town/Village's consent, Town/Village shall simultaneously notify Licensee if any alteration must be removed and the affected Licensed Area restored, at Licensee's sole cost and expense, before the Expiration Date or the sooner termination of the License Period. In the absence of any such notice, any permitted alteration must be removed, and the affected Licensed Area restored, at Licensee's sole cost and expense, when this License Agreement terminates.

14. Default. If either party defaults in the performance of any of its obligations hereunder, and such default continues for more than fifteen (15) days after receipt of written notice from the non-defaulting party, the non-defaulting party shall have the right to terminate this License Agreement and pursue any other remedies available at law or in equity, except as limited in Section 15 hereof.

15. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LICENSE AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES WHATSOEVER, INCLUDING LOSS OF GOODWILL OR LOSS OF PROFITS.

16. Notices.

(a) Any notice, demand, request, or other communication hereunder shall be in writing. Communications may be delivered and shall be deemed to have been given by the delivering party and received by the receiving party: (i) when delivered by hand; (ii) one day after deposit with a nationally recognized overnight courier or delivery service if sent priority overnight delivery; or (iii) on the third day after the date mailed by certified or registered mail (in each case, return receipt requested and postage prepaid).

(b) Any notice, demand, request, or communication by Licensee to Town/Village shall be addressed to Town/Village at its address stated in the preamble hereto, and shall be directed to the attention of the General Manager, unless otherwise directed in writing by Town/Village by notice similarly given. A copy of any notices to Town/Village shall be sent simultaneously to Indigo Sports, LLC at the following address: Indigo Sports, L.L.C., 15044 North Scottsdale Road, Suite 300, Scottsdale, Arizona 85254, Attn: Jeff Hansen, EVP & General Counsel; E-mail. jhansen@troon.com.

(c) Any notice, demand, request, or communication by Town/Village to Licensee shall be addressed to Licensee at its address stated in the preamble hereto, unless otherwise directed in writing by Licensee by notice similarly given.

(d) Rejection or other refusal to accept, or the inability to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice, demand, request, or communication sent.

17. Surrender. On or before the Expiration Date or sooner termination of the License Period for the Licensed Area and on each day which Licensee teaches a Fitness Class, Licensee shall: (a) vacate and surrender full and complete possession of the Licensed Area to Town/Village, vacant and broom clean, in its "as-is" condition and state of repair, subject only to: (i) Section 13 hereof; (ii) reasonable wear and tear; (iii) damage by the elements, fire, or other casualty (unless such damage is caused by the acts or omissions of Town/Village, its employees or agents); and (iv) damage caused by the negligence or wrongful act of Licensee, its employees or agents; (b) remove all furniture, electronic equipment, computers, and other personal property and furnishings from the Licensed Area which are owned or leased by Licensee; and (c) leave in place all of Town/Village's Personal Property in its substantially similar condition as on the Commencement Date (reasonable wear and tear excepted). The surrender obligations outlined herein shall survive any cancellation, expiration, or termination, for any reason, of this License Agreement

18. Subordination. This License Agreement and the license granted herein are subject and subordinate to all ground and underlying leases affecting the Property or the real property, and to all mortgages which may now or hereafter affect such leases, the Property, or the real property.

19. Warranties. EXCEPT AS SET FORTH IN THIS LICENSE AGREEMENT, THE PARTIES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS LICENSE AGREEMENT, THE LICENSED AREA, OR THE REAL OR PERSONAL PROPERTY OR PROPERTY INTERESTS, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

20. Force Majeure.

(a) "**Force Majeure Event**" means any of the following events: (i) acts of God; (ii) floods, fires, earthquakes, explosions, or other natural disasters; (iii) war, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots or other civil unrest; (iv) governmental authority, proclamations, orders, laws, actions, or requests; (v) embargoes or blockades in effect on or after the date of this License Agreement; (vi) epidemics, pandemics, or other national or regional emergencies; (vii) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (viii) other similar events beyond the control of the parties.

(b) Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this License Agreement, for any failure or delay in fulfilling or performing any obligation under this License Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by a Force Majeure Event. The failure or inability of either party to perform its obligations in this License Agreement due to a Force Majeure Event shall be excused for the duration of the Force Majeure Event and extended for a period equivalent to the period of such delay.

(c) Either party (the "**Noticing Party**") shall give the other party notice within ten (10) days of the commencement of the Force Majeure Event, explaining the nature or cause of the delay

and stating the period of time the delay is expected to continue. The Noticing Party shall use reasonable efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Noticing Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the failure or delay remains uncured for a period of sixty (60) consecutive days following written notice given by the Noticing Party under this Section, either party may thereafter terminate this License Agreement upon ten (10) days' written notice.

21. Right to Relocate.

(a) During the License Period, Town/Village may elect to relocate Licensee from the Licensed Area to other space (the "**Substitute Licensed Area**") within the Property, or to another building located within a reasonable distance from the Property and owned by Town/Village, without the consent of Licensee, by giving Licensee at least five (5) days' prior notice (the "**Relocation Notice**"). The Relocation Notice shall specify: (i) the effective date of the relocation (as same may be changed only by mutual agreement of the parties, the "**Relocation Date**"); and (ii) the Substitute Licensed Area.

(b) On or before the Relocation Date, Licensee shall surrender the Licensed Area in accordance with the provisions of Section 17.

(c) After the Relocation Date, all references to the Licensed Area shall be deemed to mean the Substitute Licensed Area, and all of the terms, covenants, and conditions hereof (including the License Fee) shall apply to the Substitute Licensed Area.

22. No Obligation to Refer. Notwithstanding the fact that Licensee will occupy the Licensed Area, the Parties acknowledge that Town/Village is under no obligation to refer members or guests of the Property to Licensee for fitness or related services, and neither does Licensee have an obligation to refer individuals to Town/Village for any of its offered services or amenities.

23. Miscellaneous.

(a) **Counterparts.** This License Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

(b) **Governing Law.** This License Agreement shall be governed by and construed in accordance with the laws of the state where the Licensed Area is located.

(c) **Section Headings.** The section titles herein are for convenience only and do not define, limit, or construe the contents of such sections.

(d) **Attachment and Exhibits.** All attachments and exhibits to this License Agreement are hereby made a part hereof as if fully set out herein.

(e) **Severability.** If any provision or provisions in this License Agreement is/are found to be in violation of any law or otherwise unenforceable, all other provisions remain unaffected in full force and effect.

(f) **Binding Effect.** This License Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and shall not be modified except by an express written agreement signed by a duly authorized representative of both parties.

(g) **Time of the Essence.** Time shall be of the essence of each provision of this License Agreement in which time is a factor.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this License Agreement to be effective as of the date first above written.

LICENSEE:

Name: Jennifer Celata

TOWN/VILLAGE:

THE TOWN/VILLAGE OF HARRISON, NEW
YORK, a New York municipality

By _____

Name:

Title:

EXHIBIT A

Description of the LICENSED AREA

“Licensed Area” will include 1 of the 2 spaces described below as determined by Town/Village on a day-to-day basis:

- LOCATION 1: COVERED PATIO (APPROX. 3100 SQ FEET) LOCATED AT THE FACILITY.
- LOCATION 2: PRIVATE INDOOR SPACE LOCATED NEAR LADIES LOCKER ROOM (APPROX 500 SQ FEET) AT THE FACILITY.

EXHIBIT B

FEE STRUCTURE:

- For each Fitness Class taught at the Property by Licensee, fees will be determined and split as follows:
 - Fee charged to each student: \$25
 - Fees for the first four (4) students in each Fitness Class will be retained by Licensee
 - The fees for the fifth (5th) student and any students thereafter, shall be split between Town/Village and Licensee as follows:
 - 60% to Licensee
 - 40% to Town/Village
 - Example: if there are 8 students in a class, Licensee would retain 100% the fees charged to four (4) students (i.e., $\$25 \times 4 = \100). The fees for the remaining four students would be split 60% to licensee and 40% to Town/Village (i.e., $\$25 \times 4 = 100$. Split = \$60 to licensee and \$40 to Town/Village).
 - \$160 to Licensee
 - \$40 to Town/Village

EXHIBIT C

Certificate of Insurance

PROPERTY LICENSE AGREEMENT

This PROPERTY LICENSE AGREEMENT (this "**License Agreement**"), made as of the ___ day of May, 2022, is between THE TOWN/VILLAGE OF HARRISON, NEW YORK, a municipality organized under the laws of the State of New York, having an address at 1 Heineman Place, New York ("**Town/Village**"), and Jill Valente d/b/a "Soul Much Jill", an individual having an address at 17 Iroquois Trail, Harrison, New York 10528 ("**Licensee**").

RECITALS:

A. Town/Village is the owner of Harrison Meadows Country Club, the certain golf club facility which includes an 18-hole golf course located at 123 North St, Harrison, New York 10528 (the "**Property**");

B. Harrison Golf Management, LLC, a Virginia limited liability company and single purpose entity formed by Indigo Sports, LLC ("**Manager**") is the manager of the Property;

C. Licensee is a certified fitness instructor and personal trainer who has experience in personal training and teaching group fitness classes;

D. Licensee desires to use certain space(s) at the Property to offer group fitness classes to Property members and guests; and

E. Town/Village desires to engage Licensee to teach the classes and desires to license space at the Property to Licensee for that limited purpose in exchange for a fee and according to the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. License.

(a) Town/Village hereby grants to Licensee, and Licensee hereby accepts, a license (the "**License**") to use and occupy the licensed area as more particularly described in Exhibit "A", attached hereto and made a part hereof (the "**Licensed Area**"), for the purposes hereafter provided for the License Period (as defined in Section 2). Licensee and its employees, agents and invitees are, except as otherwise specifically provided in this License Agreement, authorized to use (to the extent necessary) all other areas in and about the Property which are used in common with others, such as lobbies, hallways, elevators, stairways, restrooms, delivery areas, and parking areas (collectively, the "**Common Areas**"), subject to the Property's rules and regulations. The parties do not intend to create a lease or any other interest in real property for Licensee through this License Agreement, and the parties only intend to create a license that is revocable at-will by either Licensee or Town/Village as provided herein.

(b) Without additional charge, during the License Period, Licensee shall have the right to use Town/Village's furniture, fixtures and furnishings as may be located in the Licensed Area ("**Town/Village's Personal Property**"), to be returned to Town/Village on the Expiration Date (as defined in Section 2) or earlier termination of the License Period pursuant to the terms and

conditions of this License Agreement. Throughout the License Period, Licensee shall take good care of the Licensed Area and the Town/Village's Personal Property.

(c) Licensee has inspected the Licensed Area and agrees to accept the Licensed Area and Town/Village's Personal Property "AS-IS", "WHERE-IS" and "WITH ALL FAULTS" on the date hereof. THE PARTIES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS LICENSE AGREEMENT, THE LICENSED AREA, THE TOWN/VILLAGE'S PERSONAL PROPERTY, OR THE PROPERTY OR THE REAL PROPERTY OR PROPERTY INTERESTS, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2. License Period. The "**License Period**" for the Licensed Area shall commence on May __, 2022 (the "**Commencement Date**"), and subject to sooner termination as hereafter provided, shall expire on July 1, 2022 (the "**Expiration Date**"). During the License Period, the License shall only be extended to Licensee on Wednesday and Saturday of each week, unless otherwise mutually agreed by the parties. The parties shall collaborate to confirm the precise time of day that each Fitness Class will occur during the License Period and the License hereunder shall only be extended for the time period necessary for Licensee to teach the Fitness Class. Notwithstanding the foregoing, this License Agreement shall be revocable by either party at any time during the License Period; provided that the terminating party delivers to the non-terminating party seven (7) days' prior written notice of its election to terminate. The termination notice shall state the date of termination and shall be sent in accordance with the notice requirements of this License Agreement. Either party's termination right is subject to no default by the terminating party existing under this License Agreement at the time the termination notice is sent and on the actual termination date.

3. License Fee.

(a) As consideration for the grant of this License, Licensee shall pay a license fee (the "**License Fee**") in the amounts set forth on Exhibit "B", attached hereto and made a part hereof. Notwithstanding the foregoing, Town/Village reserves the right to modify the License Fee at any time, in its sole discretion, upon prior written notice to Licensee. The License Fee shall be payable by Licensee to Town/Village at the end of each calendar week during the License Period, and shall be made payable to Town/Village in United States dollars and delivered to Town/Village at the address specified herein or such other address as Town/Village may designate by written notice from time to time.

(b) Town/Village shall have the right to examine the books and records of Licensee to the extent related to the collection Fitness Class fees and the disbursement of the License Fee, upon reasonable advance notice to Licensee, in order to verify payments are being charged and remitted in accordance with the terms of this License Agreement.

4. Town/Village's Services. Town/Village shall solely be responsible for providing the Licensed Area to Licensee during the Licensed Period, in condition suitable for Licensee to teach the Fitness Classes.

5. Use and Restrictions.

(a) Licensee shall use the Licensed Area solely for the purpose of teaching group fitness classes (each a “**Fitness Class**” and collectively, the “**Fitness Classes**”) and for no other purpose except as may be approved by Town/Village in writing. Licensee’s use of the Property shall not unreasonably interfere with the work, activities, and enjoyment of Town/Village, its employees, agents, or members of the Property. As between Town/Village and Licensee, Licensee shall be responsible to provide and maintain all equipment necessary for the provision of its services.

(b) Licensee shall not administer the Fitness Classes without first obtaining each prospective attendee’s consent and signature on a release/waiver form which has been pre-approved by Manager and complies with all applicable laws and regulations. For clarity and the avoidance of doubt, Licensee shall not use the Licensed Area for any illegal purpose, or in violation of any regulation or governmental authority, or in any manner to create a nuisance or trespass, or in any manner to vitiate the insurance or increase the rate of premiums of insurance carried by the Town/Village or the Property.

6. Compliance with Laws and Regulations. Licensee shall promptly comply with all present and future:

(a) rules and regulations published by the Town/Village (if any) including, without limitation, regulations applicable to use, storage and disposal of hazardous substances and waste and other environmental matters, security policies and procedures, which have been published from time to time with respect to the use of and access to the Licensed Area; and

(b) applicable laws and regulations of all state, federal, municipal and local governments, departments, commissions and boards and any direction of any public officer pursuant to law (collectively, “**Laws**”) having jurisdiction which shall impose any obligation or duty upon Licensee or Town/Village with respect to the Licensed Area. In addition, Licensee shall comply with all laws, regulations and licensing requirements in order to render the Fitness Classes in the Licensed Area. Town/Village agrees to reasonably cooperate with Licensee to enable Licensee to comply with Laws.

7. Access. Town/Village, its employees, contractors and agents shall have the right of access to the Licensed Area and Common Areas twenty-four (24) hours per day, seven (7) days per week. Licensee, its employees, contractors and agents shall only have access to the Licensed Area during the days set forth in Section 2 during the Licensed Period, no consent of the Town/Village being required for any such access at such time.

8. Repairs. Throughout the License Period, Town/Village shall take good care of the Licensed Area and the furniture, furnishings, fixtures, and appurtenances therein. Town/Village shall also be responsible for the cost to repair any damage to the Licensed Area other than damage from the elements, fire, or other casualty to the Property, or from the negligence or misconduct of Licensee, or its agents or employees. The repair obligations outlined herein shall survive any cancellation, expiration, or termination, for any reason, of this License Agreement.

9. Damage and Destruction. Neither Licensee nor Town/Village shall have any responsibility to the other or their respective agents, contractors, tenants, or other invitees in the event of any damage to or theft or loss of any equipment or property of the other party and the party incurring such damage, theft,

or loss shall look to its own insurance coverage (and to any self-insured portion of the damage, theft, or loss), if any, for recovery in the event of any such damage, theft, or loss.

10. Insurance. Licensee shall, at its own cost and expense, maintain and keep in force at all times during the License Period adequate insurance for general liability, Errors and Omissions including personal injury, as well as any damage to or loss of equipment, furniture, or other personal property brought into the Licensed Area by Licensee, its employees, agents, or invitees for not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in aggregate. In addition, in the event Licensee is employing any person(s) in performing the services hereunder, Licensee shall procure and maintain throughout the Term adequate workers' compensation insurance with respect to any employees of Licensee. At or prior to the commencement of the License Period, Licensee shall make Town/Village a certificate holder and shall provide Town/Village with a Certificate of Insurance setting forth such insurance coverage, naming Town/Village and Troon Golf, L.L.C., as additional insureds as their interests may appear. Thereafter, so long as the License remains in effect, Licensee shall provide Town/Village and Troon with an updated Certificate of Insurance each time Licensee's insurance policy is renewed. Licensee shall attach its then-current Certificate(s) of Insurance to this Agreement as Exhibit "C".

11. Mutual Indemnification. Each party (an (or the) "**Indemnifying Party**") shall indemnify, defend, save and hold harmless the other party, and its officers, directors, members, partners, employees, agents, affiliates, successors, and permitted assigns (collectively, the "**Indemnified Parties**") against all claims made or judicial or administrative actions filed which allege that any of the Indemnified Parties is liable to the claimant by reason of:

(a) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about any part of the Property, or in any manner growing out of, resulting from or connected with the use, condition or occupancy of the Licensed Area if caused by any negligent or wrongful act or omission of the Indemnifying Party or its agents, partners, contractors, employees, permitted assigns, Town/Villages, sublessees, invitees, or any other person or entity for whose conduct the Indemnifying Party is legally responsible;

(b) violation by the Indemnifying Party of any contract or agreement to which the Indemnifying Party is a party in each case affecting any part of the Licensed Area or the occupancy or use thereof by the Indemnifying Party; and

(c) violation of or failure to observe or perform any condition, provision, or obligation of or under this License Agreement on the Indemnifying Party's part to be observed or performed hereunder. The indemnity obligations outlined herein shall survive any cancellation, expiration, or termination, for any reason, of this License Agreement.

12. Assignment or Sublicensing. The license granted hereby is personal to Licensee and shall not be assigned, nor shall Licensee sublicense or otherwise permit or suffer the occupancy of the Licensed Area by any third party without the prior written consent of Town/Village, which consent may be withheld in Town/Village's sole and absolute discretion. Notwithstanding anything to the contrary contained herein, Town/Village shall have the right to assign or sublicense this License Agreement to any affiliate of Town/Village, notice of which shall promptly be given to Licensee. As used herein, the term affiliate

means any legal entity which controls, is controlled by or is under common control with Town/Village or in which Town/Village owns more than a fifty percent (50%) interest.

13. Alteration; Restoration. Licensee may not make any structural alterations, installations, additions, or improvements in or to the Licensed Area without the prior written consent of Town/Village, which consent may be withheld or conditioned in Licensee's sole and absolute discretion. Any signage to be used by Licensee with respect to the Licensed Area must be approved in writing by Town/Village, which approval may be withheld or conditioned in Town/Village's sole but reasonable discretion. If alterations, installations, additions or improvements are made or signage posted following Licensee's receipt of Town/Village's consent, Town/Village shall simultaneously notify Licensee if any alteration must be removed and the affected Licensed Area restored, at Licensee's sole cost and expense, before the Expiration Date or the sooner termination of the License Period. In the absence of any such notice, any permitted alteration must be removed, and the affected Licensed Area restored, at Licensee's sole cost and expense, when this License Agreement terminates.

14. Default. If either party defaults in the performance of any of its obligations hereunder, and such default continues for more than fifteen (15) days after receipt of written notice from the non-defaulting party, the non-defaulting party shall have the right to terminate this License Agreement and pursue any other remedies available at law or in equity, except as limited in Section 15 hereof.

15. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LICENSE AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES WHATSOEVER, INCLUDING LOSS OF GOODWILL OR LOSS OF PROFITS.

16. Notices.

(a) Any notice, demand, request, or other communication hereunder shall be in writing. Communications may be delivered and shall be deemed to have been given by the delivering party and received by the receiving party: (i) when delivered by hand; (ii) one day after deposit with a nationally recognized overnight courier or delivery service if sent priority overnight delivery; or (iii) on the third day after the date mailed by certified or registered mail (in each case, return receipt requested and postage prepaid).

(b) Any notice, demand, request, or communication by Licensee to Town/Village shall be addressed to Town/Village at its address stated in the preamble hereto, and shall be directed to the attention of the General Manager, unless otherwise directed in writing by Town/Village by notice similarly given. A copy of any notices to Town/Village shall be sent simultaneously to Indigo Sports, LLC at the following address: Indigo Sports, L.L.C., 15044 North Scottsdale Road, Suite 300, Scottsdale, Arizona 85254, Attn: Jeff Hansen, EVP & General Counsel; E-mail. jhansen@troon.com.

(c) Any notice, demand, request, or communication by Town/Village to Licensee shall be addressed to Licensee at its address stated in the preamble hereto, unless otherwise directed in writing by Licensee by notice similarly given.

(d) Rejection or other refusal to accept, or the inability to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice, demand, request, or communication sent.

17. Surrender. On or before the Expiration Date or sooner termination of the License Period for the Licensed Area and on each day which Licensee teaches a Fitness Class, Licensee shall: (a) vacate and surrender full and complete possession of the Licensed Area to Town/Village, vacant and broom clean, in its "as-is" condition and state of repair, subject only to: (i) Section 13 hereof; (ii) reasonable wear and tear; (iii) damage by the elements, fire, or other casualty (unless such damage is caused by the acts or omissions of Town/Village, its employees or agents); and (iv) damage caused by the negligence or wrongful act of Licensee, its employees or agents; (b) remove all furniture, electronic equipment, computers, and other personal property and furnishings from the Licensed Area which are owned or leased by Licensee; and (c) leave in place all of Town/Village's Personal Property in its substantially similar condition as on the Commencement Date (reasonable wear and tear excepted). The surrender obligations outlined herein shall survive any cancellation, expiration, or termination, for any reason, of this License Agreement

18. Subordination. This License Agreement and the license granted herein are subject and subordinate to all ground and underlying leases affecting the Property or the real property, and to all mortgages which may now or hereafter affect such leases, the Property, or the real property.

19. Warranties. EXCEPT AS SET FORTH IN THIS LICENSE AGREEMENT, THE PARTIES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS LICENSE AGREEMENT, THE LICENSED AREA, OR THE REAL OR PERSONAL PROPERTY OR PROPERTY INTERESTS, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

20. Force Majeure.

(a) **"Force Majeure Event"** means any of the following events: (i) acts of God; (ii) floods, fires, earthquakes, explosions, or other natural disasters; (iii) war, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots or other civil unrest; (iv) governmental authority, proclamations, orders, laws, actions, or requests; (v) embargoes or blockades in effect on or after the date of this License Agreement; (vi) epidemics, pandemics, or other national or regional emergencies; (vii) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (viii) other similar events beyond the control of the parties.

(b) Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this License Agreement, for any failure or delay in fulfilling or performing any obligation under this License Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by a Force Majeure Event. The failure or inability of either party to perform its obligations in this License Agreement due to a Force Majeure Event shall be excused for the duration of the Force Majeure Event and extended for a period equivalent to the period of such delay.

(c) Either party (the **"Noticing Party"**) shall give the other party notice within ten (10) days of the commencement of the Force Majeure Event, explaining the nature or cause of the delay

and stating the period of time the delay is expected to continue. The Noticing Party shall use reasonable efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Noticing Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the failure or delay remains uncured for a period of sixty (60) consecutive days following written notice given by the Noticing Party under this Section, either party may thereafter terminate this License Agreement upon ten (10) days' written notice.

21. Right to Relocate.

(a) During the License Period, Town/Village may elect to relocate Licensee from the Licensed Area to other space (the "**Substitute Licensed Area**") within the Property, or to another building located within a reasonable distance from the Property and owned by Town/Village, without the consent of Licensee, by giving Licensee at least five (5) days' prior notice (the "**Relocation Notice**"). The Relocation Notice shall specify: (i) the effective date of the relocation (as same may be changed only by mutual agreement of the parties, the "**Relocation Date**"); and (ii) the Substitute Licensed Area.

(b) On or before the Relocation Date, Licensee shall surrender the Licensed Area in accordance with the provisions of Section 17.

(c) After the Relocation Date, all references to the Licensed Area shall be deemed to mean the Substitute Licensed Area, and all of the terms, covenants, and conditions hereof (including the License Fee) shall apply to the Substitute Licensed Area.

22. No Obligation to Refer. Notwithstanding the fact that Licensee will occupy the Licensed Area, the Parties acknowledge that Town/Village is under no obligation to refer members or guests of the Property to Licensee for fitness or related services, and neither does Licensee have an obligation to refer individuals to Town/Village for any of its offered services or amenities.

23. Miscellaneous.

(a) **Counterparts.** This License Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

(b) **Governing Law.** This License Agreement shall be governed by and construed in accordance with the laws of the state where the Licensed Area is located.

(c) **Section Headings.** The section titles herein are for convenience only and do not define, limit, or construe the contents of such sections.

(d) **Attachment and Exhibits.** All attachments and exhibits to this License Agreement are hereby made a part hereof as if fully set out herein.

(e) **Severability.** If any provision or provisions in this License Agreement is/are found to be in violation of any law or otherwise unenforceable, all other provisions remain unaffected in full force and effect.

(f) **Binding Effect.** This License Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and shall not be modified except by an express written agreement signed by a duly authorized representative of both parties.

(g) **Time of the Essence.** Time shall be of the essence of each provision of this License Agreement in which time is a factor.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this License Agreement to be effective as of the date first above written.

LICENSEE:

Name: Jill Valente d/b/a "Soul Much Jill"

TOWN/VILLAGE:

THE TOWN/VILLAGE OF HARRISON, NEW
YORK, a New York municipality

By _____

Name:

Title:

EXHIBIT A

Description of the LICENSED AREA

“Licensed Area” will include 1 of the 2 spaces described below as determined by Town/Village on a day-to-day basis:

- LOCATION 1: COVERED PATIO (APPROX. 3100 SQ FEET) LOCATED AT THE FACILITY.
- LOCATION 2: PRIVATE INDOOR SPACE LOCATED NEAR LADIES LOCKER ROOM (APPROX 500 SQ FEET) AT THE FACILITY.

EXHIBIT B

FEE STRUCTURE:

- For each Fitness Class taught at the Property by Licensee, fees will be determined and split as follows:
 - Fee charged to each student: \$25
 - Fees for the first four (4) students in each Fitness Class will retained by Licensee
 - The fees for the fifth (5th) student and any students thereafter, shall be split between Town/Village and Licensee as follows:
 - 60% to Licensee
 - 40% to Town/Village
 - Example: if there are 8 students in a class, Licensee would retain 100% the fees charged to four (4) students (i.e., $\$25 \times 4 = \100). The fees for the remaining four students would be split 60% to licensee and 40% to Town/Village (i.e., $\$25 \times 4 = 100$. Split = \$60 to licensee and \$40 to Town/Village).
 - \$160 to Licensee
 - \$40 to Town/Village

EXHIBIT C

Certificate of Insurance