

BEAT II, Inc.

Pre-Commitment Agreement

For good and valuable consideration received, BEAT II, Inc., an Ohio corporation whose principal place of business is located at 4783 Red Bank Road, Cincinnati, Ohio, 45227, and _____ ("Applicant"), whose business address is _____, hereby enter into this Pre-Commitment Agreement ("Agreement") dated _____, _____, the terms and conditions of which are as follows:

1. Recitals.

1.1 Applicant has submitted an application to BEAT II, Inc. for a BEAT personal training franchise ("BEAT" and/or the "Franchised Business").

1.2 BEAT has given Applicant preliminary, nonbinding approval of his application.

1.3. Before a franchise agreement can be entered into between BEAT and Applicant, a site for the Franchised Business must be selected, a Unit Market Area must be determined (As such term is defined in the sample Franchise Agreement, a copy of which as been delivered to Applicant as part of the Franchise Offering circular), and additional information concerning Applicant must be submitted to BEAT as BEAT may request.

2. Site Selection.

Applicant and BEAT will diligently search for a site for the Franchised Business. In selecting a site, applicant and BEAT will consider such factors as traffic volume, accessibility, cost of land, potential sales volume and population density. If no site is finally located within six months after the date of this Agreement, then this Agreement shall terminate without further liability to either party. Approval of a site shall be in the sole discretion of BEAT

3. Unit Market Area.

If BEAT approves a site for the Franchised Business pursuant to Section 2, then BEAT shall assign an exclusive Unit Market Area to that site. BEAT will use population density as the primary factor in determining Unit Market Area. If Applicant does not agree with the boundaries of the Unit Market Area assigned by BEAT, Applicant may terminate this Agreement within seven days after receiving written notice of the boundaries of such Unit Market Area. Such termination notice must be in writing.

4. Additional Information.

During the term of this Pre-Commitment Agreement, Applicant shall supply such additional information of whatever nature to BEAT as BEAT may request.

5. **Approval Notice and Franchise Agreement.**

5.1 After (a) approval by BEAT of a site for the Franchised business (if such approval is given), (b) BEAT assigns a Unit Market Area to the site, and (c) Applicant has submitted such additional information to BEAT as BEAT may request, then BEAT shall issue to Applicant a notice approving Applicant as a franchisee, approving the site, and designating the Unit Market Area (the "Approval Notice").

5.2 Within 14 days after BEAT gives the Approval Notice to Applicant, Applicant must (a) execute the Franchise Agreement (with such personal guarantees as BEAT may request) in the form contained in the Franchise Offering Circular, and (b) execute a binding commitment to purchase or lease the site. If Applicant will lease the site, then the Lease Agreement must receive the prior approval of BEAT as to all of its terms including, but not limited to, terms relating to parking, insurance, condemnation, casualty, signage, the duration of the lease, and assignability to BEAT or BEAT's designated franchisee. The base term of the lease plus all renewal options must be equal to or greater than the duration of the Franchise Agreement.

6. **Fees.**

Upon execution of this Agreement, Applicant has paid to BEAT a fee of Fifteen thousand dollars (\$15,000.00). Applicant acknowledges that such fee is fully earned by BEAT for its services in investigating a site location, determining a Unit Market Area, and investigating Applicant's application for franchise. This fee is separate and apart from the fee paid should Applicant enter into a Franchise Agreement with BEAT.

7. **Return of Documents.**

If this agreement shall terminate without an Approval Notice being given, or if an Approval Notice is given and the Franchise Agreement and a binding commitment to lease or purchase the site are not executed according to Section 5, then Applicant shall return the Franchise Offering Circular and all other materials received from BEAT and shall not keep a copy of any such documents. Applicant agrees to keep confidential the contents of all such documents and the substance of any negotiations and conversations with BEAT or any information received from BEAT.

8. **Assignability.**

This Agreement may not be assigned by Applicant.

9. **Binding Effect.**

Except as otherwise expressed in Section 8, this Agreement shall be binding upon Applicant and BEAT, their respective heirs, personal representatives, legatees, successors and permitted assigns.

10. **Entire Agreement.**

This Agreement contains the entire agreement between the parties and supercedes any prior or contemporaneous agreement or understanding between them, whether oral or written.

11. **No Joint Venture.**

This Agreement does not create a joint venture between the parties and neither party shall represent to any other person that any such joint venture exists.

12. **Notices.**

Any notice sent by one party to the other shall be in writing and sent by certified mail, return receipt requested, to the address of the party mentioned in the opening paragraph of this Agreement. Any such notice shall be deemed given one day after deposit in the United States Mail.

IN WITNESS WHEREOF, the parties have set their hands as of the date first mentioned above.

BEAT _____

By: _____

Title: _____

APPLICANT:

