



MEMO

To: Kansas Affiliate (“Resident”)
From: Total Gym Fitness, LLC (“Retailer”)
Re: Collection of Sales Tax in Kansas

Effective July 1, 2013, the Kansas Department of Revenue (“KDR”) passed a Tax Law to require the collection of sales tax by certain out-of-state retailers selling to Kansas residents. The new law enacted by the Kansas Legislature (S.B. 83; Notice 13-05 KDR) provides these retailers create a “nexus” to Kansas thereby giving Kansas the right to collect and remit sales tax in the state.

According to the new law, an out-of-state retailer is presumed to be doing business in Kansas if they:

- enter into an agreement with a one or more Kansas residents under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet Web site or otherwise, to the retailer; and
- the out-of-state retailer’s cumulative gross receipts from sales by the retailer to purchasers in Kansas, who are referred to the retailer by all residents under this type of agreement, exceed \$10,000 during the preceding 12 months.

A Retailer may rebut the presumption by submitting proof that the Residents with whom the Retailer has an agreement did not engage in any activity within Kansas that was significantly associated with the Retailer’s ability to establish or maintain its market in Kansas during the preceding 12 months. The Retailer may prove this by submitting written statements from all of the Residents with whom the Retailer has an agreement that they did not engage in any solicitation in Kansas on behalf of the Retailer during the preceding year.

Resident hereby certifies law, that effective October 1, 2013, it will not engage in any solicitation activities in Kansas, including but not limited to, distributing flyers, coupons, vouchers, newsletters and other promotional materials or their electronic equivalents; verbal solicitation, phone solicitation and e-mail solicitation, and Resident will certify annually, under penalty of perjury, that it has not engaged in any prohibited solicitation activities on Retailer’s behalf in Kansas at any time during the previous year. Resident acknowledges that this certification, and any information submitted herein, is subject to verification by audit by the KDR. For the avoidance of doubt, Resident will continue to maintain Internet links to Retailer’s website in exchange for commissions on sales generated through such links.

This Memo is intended to represent an agreement between Resident and Retailer satisfying the compliance provisions set forth in the KDR. Resident has been afforded the opportunity to consult with an attorney prior to signing below.

Agreed to by: _____
(Print Name of Resident)

By: _____
Name:
Title:

Dated: _____

Address: _____
