



B-T AQUATICS *at* BROWNELL TALBOT

AUTHORIZED PROVIDER AGREEMENT



This Authorized Provider Agreement ("Agreement") effective as of _____ ("Effective Date") is between

Brownell-Talbot School Aquatics
(B-T Aquatics)
and

("Authorized Provider" or "AP")

B-T Aquatics is a department of Brownell-Talbot School, a not-for-profit corporation, the principal place of business of which is located at **400 N. Happy Hollow Blvd., Omaha, NE 68132**. B-T Aquatics, among other things, provides swimming lessons, instructor certifications courses, aquatics events, water safety education, facility rentals, and other aquatics-related activities.

The principle place of business of the AP is located at: _____.

Jeanie Neal is the Aquatics Director for B-T Aquatics at Brownell-Talbot School, and the creator of the Face-Up First® swimming curriculum.

The intent of B-T Aquatics is to work with the AP to provide programs and services using Jeanie Neal's curriculum, structure and method at the facility designated in Section 4 of this agreement. The AP is to operate independently with the authority to conduct Face-Up First® courses and certification programs under the direct supervision of a certified Face-Up First® Program Supervisor, and subject to Face-Up First® quality assurance and administrative standards.

In consideration of the statements, terms and conditions contained within this Agreement, B-T Aquatics and the AP (the "Parties"), intend to be bound by this Agreement and agree to the following:

1.0 Responsibilities of B-T Aquatics:

B-T Aquatics shall:

- 1.1 Provide training for Program Supervisors and Program Coaches at the fees set forth in Appendix A. ("Face-Up First® Programs & Services"). Fees in Appendix A may change pursuant to Section 3.0. Candidates shall be authorized as Program Supervisors and Program Coaches upon successful completion of the Training and upon signing an agreement to provide instruction in accordance with the Face-Up First® quality assurance guidelines. A list of the AP's certified Program Supervisors and Program Coaches is set forth in appendix B, ("Authorized Face-Up First® Program Supervisors & Coaches") which shall be unilaterally modified by B-T Aquatics in the event that Program Supervisors and/or Program Coaches are added or deleted from the B-T Aquatics' roster of certified individuals.
- 1.2 Provide invoices to the Authorized Provider within **10** days unless otherwise specified in Appendix A, for the fees related to training, course materials, additional services, certification fees, Authorized Provider fees and renewals, and other products and services as set forth in Appendix A.
- 1.3 Maintain Program Supervisor and Program Coach training records, certifications, and evaluations. Verify Program Supervisor and Program Coach certifications. Notify the AP in the event a Program Supervisor or Program Coach is no longer authorized to coach Face-Up First® programs.
- 1.4 Throughout the Term of this Agreement (as defined in Paragraph 5.1), maintain a close and ongoing supportive relationship with the AP and its Program Supervisors and Program Coaches by contacting the AP a minimum of **12** times per year, and by providing technical support via telephone and email as requested.
- 1.5 If during any phase of evaluation by B-T Aquatics, the training conducted by an AP's Supervisor or Coach is found to be below minimum Face-Up First® standards, the B-T Aquatics' evaluator has the discretion to stop the course in progress to provide immediate constructive feedback to the Supervisor or Coach prior to any re-

start of the class. If, at the discretion of the evaluator, constructive feedback is insufficient, the class will not be resumed. B-T Aquatics reserves the right to suspend or withdraw the authorization of a Program Supervisor or Program Coach for due cause at any time. Due cause means that the coach does not or will not abide by the standards, policies, or procedures of Face-Up First® or in some way abuses the position of a certified Face-Up First® Supervisor or Coach.

- 1.6 Designate **Jeanie Neal** as a representative of B-T Aquatics to act as a point of contact to the AP at the address and telephone number set forth in Section 7 below ("B-T Aquatics Representative") and notify the AP within **5** days if that individual changes.
- 1.7 As needed and upon request, provide the AP with limited Face-Up First® trademark license for promotional materials to be used by the AP in promoting the Courses.

2.0 Responsibilities of the AP:

The AP shall:

- 2.1 Identify qualified instructor candidates to be trained and certified as Program Supervisors and Program Coaches.
- 2.2 Conduct Face-Up First® programs only under the direct supervision of the designated certified Face-Up First® Program Supervisor.
- 2.3 Designate _____, as the AP's Certified Face-Up First® Program Supervisor authorized to assure that Face-Up First® programs are conducted according to Face-Up First® standard specifications at the address and telephone number set forth in Section 7 below, and notify B-T Aquatics within **15** days if that individual changes.
- 2.4 Support each Program Supervisor and Program Coach compliance with B-T Aquatics policies and procedures by ensuring that such Program Supervisors and Program Coaches: (a) are available to participate in periodic training, retraining or other related events throughout the Term to gain and maintain sufficient levels of skill, knowledge and understanding to conduct Face-Up First® programs; (c) provide visual identification of the Face-Up First® name and logo during the programs using materials provided or approved by B-T Aquatics; d) conduct Face-Up First® programs only under the direct supervision of the designated certified Face-Up First® Program Supervisor; and (e) conduct Face-Up First® programs according to standard specifications.
- 2.5 Notify all participants that they will be participating in Face-Up First® programs in accordance with B-T Aquatics Face-Up First® standards.
- 2.6 Provide to B-T Aquatics the names of any previously certified Face-Up First® coaches or supervisors that are new to the AP at least ten (10) days before the supervisor or coach conducts a class in order for B-T Aquatics to ensure that such coach or supervisor is currently certified to conduct Face-Up First® programs.
- 2.7 Refrain from revising, editing, or duplicating any materials provided by B-T Aquatics, in whole or in part unless specifically approved in writing by the B-T Aquatics. Requests for any modifications to the provided materials and those for new literature or materials using the name and/or emblem of Face-Up First® are to be sent to B-T Aquatics. The AP understands and agrees that all promotional and course materials must be provided by B-T Aquatics, or approved by B-T Aquatics in advance of publication.
- 2.8 Be responsible for all claims and liabilities of any nature whatsoever that arise out of an AP offered Face-Up First® course. B-T Aquatics insurance does not extend to the AP and its employees or contractors. Therefore, it is the responsibility of the AP to obtain adequate insurance to cover its operations and course instruction.
- 2.9 Designate _____ a representative of the AP to act as a point of contact to B-T Aquatics at the address and telephone number set forth in Section 7 below and notify the Chapter within **15** days if that individual changes.
- 2.10 Provide facilities that are safe and conducive to learning. The AP shall allow the B-T Aquatics representative or a designee to inspect the AP's real and personal property used to teach the Face-Up First® programs and to perform random observations during the provision of programs.

3.0 B-T Aquatics Fees:

- 3.1 B-T Aquatics reserves the right to change the fees contained in Appendix A at its sole discretion. B-T Aquatics will notify the AP a minimum of **90** days prior to the effective date of any such fee changes. As part of this notice, B-T Aquatics will provide the AP with a new Appendix A. If the AP does not agree to the fee changes, it has the right to terminate the Agreement pursuant to Section 5. Changes to Appendix A will not effect any

other provisions contained within this Agreement.

4.0 Jurisdiction of Agreement:

This Agreement is limited to the location designated below:

Facility Name	
Address	
City, State Zip	
Telephone	
Contact	
E-mail Address:	

5.0 Term and Termination:

- 5.1 This Agreement shall commence on the Effective Date with automatic one-year renewals thereafter on January 1 of each year, unless either party gives written notice to the other of its desire not to renew at least 30 days prior to the commencement of any renewal period, or unless otherwise terminated sooner in accordance with Paragraph 5.2 of this Agreement (the "Term").
- 5.2 At any time, either Party may terminate this Agreement with thirty (30) days written notice to the non-terminating Party. Authorized Provider License fees are non-refundable.
- 5.3 Upon termination of this Agreement, the obligations of both Parties, including, but not limited to the provision of payment, shall remain in effect until all scheduled programs are completed.
- 5.4 In the event of any termination of this Agreement, the Parties are still obligated and committed to follow the provisions of Sections 6, 7, 8, 12 and this Paragraph 5.4 indefinitely.

6.0 Limitation of Liability:

Notwithstanding anything in this Agreement to the contrary, neither Party shall be liable to the other for any loss or damage arising as a result of breach, non-performance or partial performance of its obligations under this Agreement due to any cause beyond that Party's reasonable control and without its fault or negligence.

7.0 Notices:

All notices to include appendices that each Party is required to give to the other Party, e.g., notice of termination of this Agreement, shall be given to each of the Parties in writing and delivered by certified U.S. first-class mail, return receipt requested, to the names and addressees as follows:

If to the B-T Aquatics:

B-T Aquatics: **B-T Aquatics**
Address: **400 N. Happy Hollow Blvd.**
Attn: **Jeanie Neal**
Phone Number: **402.556.1205**
E-mail Address: **aquatics@brownell.edu**

If to the AP:

AP Name:	
Address:	
Attn:	
Phone Number:	
E-mail Address:	

If to the Program Supervisor:

AP Name:	
Address:	
Attn:	
Phone Number:	
E-mail Address:	

8.0 Confidentiality and Trade Names:

- 8.1 Except as otherwise provided herein, each Party shall maintain the confidentiality of all provisions of this Agreement. Without the prior written consent of the other Party, neither Party shall make any press release or other public announcement of, or otherwise disclose, this Agreement or any of its provisions to any third party except for such disclosures as may be required by applicable law or regulation, in which case the disclosing Party shall provide the other Party with prompt advance notice of such disclosure so the other Party has the opportunity, if it so desires, to seek a protective order or other appropriate remedy.
- 8.2 Each Party recognizes that the name, logo and marks of the other Party represent valuable assets of that Party and that substantial recognition and goodwill are associated with such assets. Each Party hereby agrees that neither it nor any of its affiliates shall use the other Party's name, logo or marks without prior written authorization from such other Party.
- 8.3 This Agreement grants no rights in any of the B-T Aquatics courses or materials or other intellectual property to the AP.

9.0 Entire Agreement and Amendments:

- 9.1 Concerning the subject matter hereof, this Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and undertakings, both written and oral, between the Parties.
- 9.2 This Agreement shall not be amended or otherwise modified unless both of the Parties affirmatively and unanimously agree to such amendment and/or modification in writing.

10.0 Severability:

In the event any provision of this Agreement is held invalid, illegal or unenforceable (any such provision, an "Invalid Provision") in any jurisdiction, the Parties shall promptly negotiate in good faith a lawful, valid and enforceable provision. This new provision must be as similar in terms to the Invalid Provision as may be possible in order to keep with the intention of the original Agreement.

11.0 Independent Contractors:

Each of the Parties shall be furnishing its services hereunder as an independent contractor, and nothing herein shall create any association, partnership or joint venture between the Parties or an employer-employee relationship. No agent, employee or servant of either Party shall be, or shall be deemed to be, the employee, agent or servant of the other Party, and each Party shall be solely and entirely responsible for its acts and the acts of its agents, employees and servants.

13.0 Assignment and Subcontracting:

This Agreement shall not be assigned in whole or in part and no Party shall delegate or subcontract all or part of its duties under this Agreement without the prior written consent of the other Party.

IN WITNESS WHEREOF, the Parties hereto, acting through their duly authorized officers, have executed this Agreement as of the Effective Date.

B-T Aquatics Representative

Authorized Provider Representative

Signature: _____

Signature: _____

Printed Name: Jeanie Neal

Printed Name: _____

Title: Aquatics Director

Title: _____

Date: _____

Date: _____



B-T AQUATICS at BROWNELL TALBOT

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APPENDIX A: Face-Up First® Programs & Services (12/30/09)

LICENSE FEES

Initial Face-Up First Authorized Provider License \$500.00

Face-Up First Authorized Provider Annual Renewal \$250.00

Limited Face-Up First Trademark License

For brochures advertising Face-Up First Programs at AP facility (included in AP license) \$ 0.00

For any other use (caps, t-shirts, publications, website) Contact B-T Aquatics for quote

ALL usage of the Face-Up First logo must be approved by B-T Aquatics prior to use. The Face-Up First® logo is available in a variety of electronic formats.

TRAINING & CERTIFICATION FEES

Program Supervisor Training Course at B-T Aquatics pool \$250.00

Program Coach Training Course at B-T Aquatics pool

Children & Adult Coach (CAC) \$200.00

Infant & Toddler Coach Add-on to CAC \$ 50.00

Competitive Program Coach Add on to CAC \$ 50.00

Training Fees include all materials and supplies.

On-site training at AP pool is available. Contact B-T Aquatics for quote.

Upgrade Courses for experienced aquatics professionals are available at half the list price. Contact B-T Aquatics to discuss credentials required to qualify for an upgrade course.

Program Supervisor Annual Certification Renewal \$ 50.00

Program Coach (regardless of number of add-ons) \$ 50.00

Recertification requires a satisfactory evaluation and a minimum of 12 teaching hours during the year in addition to the renewal fee.

CURRICULUM MATERIALS

Face-Up First® Curriculum Materials & Updates \$ 0.00

Curriculum materials and updates will be provided through the designated Program Supervisor.