



## **WAIVER OF LIABILITY AND MEMBERSHIP AGREEMENT**

1. I expressly agree that my use (“membership”) of any fitness facility (individually and collectively, the “Fitness Facility”) at a property managed by Accesso Services, LLC (“ACCESSO”) shall be at my own risk; I understand that serious personal injuries could occur, and I assume full responsibility for any risks, injuries, or property damage, which might result not only from my actions but also from the actions, inactions, or negligence of others, the condition of the facilities or equipment, and/or this type of activity, even if such risks are not known to me or not reasonably foreseeable. 2. I hereby acknowledge that ACCESSO urges me to obtain a physical examination prior to starting a fitness regime, and to ask my physician to review my fitness program. I agree not to use the Fitness Facility if I am under a physicians’ care, without express approval of my physician. 3. I hereby knowingly RELEASE, WAIVE, DISCHARGE AND AGREE NOT TO SUE ACCESSO and/or the owner of any property at which an ACCESSO Fitness Facility is located (individually and collectively, the “Owner”), and/or their respective parent companies, affiliates, subsidiaries, agents, associates, officers, directors, employees, stockholders, partners, members, any other parties acting at the request or with the permission of ACCESSO, and successors and/or assigns (collectively “Releasees”), and further INDEMNIFY, DEFEND, AND HOLD HARMLESS THE RELEASEES, for any and all liability, including any and all claims, demands, causes of action (known or unknown), suits, or judgments of any and every kind (including attorney’s fees), arising from any personal injury, damage or death that I may suffer as a result of my membership or use of the Fitness Facility, REGARDLESS OF WHETHER THE INJURY, DAMAGE OR DEATH IS CAUSED IN WHOLE OR IN PART BY THE RELEASEES (INCLUDING, WITHOUT LIMITATION, THE ORDINARY NEGLIGENCE OF THE RELEASEES) OR ANY OTHER PARTY’S ACTIONS, INACTIONS OR OTHERWISE, UNLESS THE INJURY, DAMAGE OR DEATH IS CAUSED BY THE RELEASEES’ GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT (BUT IN NO EVENT SHALL THE



RELEASEES BE LIABLE FOR CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES). The provisions of this Waiver of Liability and Membership Agreement (the "Agreement") shall also apply to any contest, game, function, exercise, competition or other activity operated or sponsored by ACCESSO or the Owner, either on or off the Owner's premises, in which I participate. 4. I understand that membership is restricted to tenants, or employees of tenants, in a building managed by ACCESSO; accordingly, if my tenancy, or employment with a tenant, at an ACCESSO managed building discontinues for any reason, I will immediately notify ACCESSO so that my membership may be terminated. 5. ACCESSO and the Owner reserve the right to post in a conspicuous place rules, regulations and restrictions in the use of all or any part of the Fitness Facility as they may deem necessary or appropriate in their sole discretion. I agree that I will abide by such rules, regulations and restrictions, and I acknowledge that my failure to do so shall be grounds for suspension and/or termination of my membership privileges. 6. I agree that my ability to access a Fitness Facility may be limited as follows: (a) ACCESSO or the Owner may alter the Fitness Facility in any way it deems desirable, in its sole discretion, (b) ACCESSO or the Owner may restrict use of the Fitness Facility to permit maintenance, repair, construction or for such other purposes as ACCESSO or the Owner deems appropriate, in their sole discretion, (c) ACCESSO or the Owner reserves the right to change the hours of, or close, or relocate, all or any portion of the Fitness Facility for any period of time (including permanently) in its sole discretion, and (d) ACCESSO or the Owner reserves the right to remove any Fitness Facility from the list of fitness facilities available to all members. 7. (a) With respect to the Fitness Facility located at Innovation Park, I agree that my use of the Fitness Facility shall be conditioned upon the payment of membership dues, in accordance with the terms of the ACCESSO Fitness Payment Agreement agreed to concurrently with this Agreement, the terms of which are hereby incorporated by reference. (b) With respect to any Fitness Facility other than the Fitness Facility located at Innovation Park, I agree that upon notice by ACCESSO, my use of the Fitness Facility from the date of



such notice may be subject to the payment of membership dues, as determined by ACCESSO in its sole discretion. 8. I agree that my membership is for my individual use only and is non-transferrable and non-assignable, except as otherwise specifically provided by ACCESSO or the Owner in writing. I agree not to accommodate others, by loaning my Access Card, bringing guests, or opening the door for others. Use of the Fitness Facility by unauthorized persons through my conduct shall be grounds for suspension and/or termination of my membership privileges. 9. I agree to be responsible for the cost of any property damage to the equipment or to the Fitness Facility and/or personal injury caused by me, and if I fail to pay for such damage, I agree to remain responsible for the costs of enforcement of this provision, whether or not suit is filed. I further acknowledge that ACCESSO shall have the right to charge a nominal fee for lost, misplaced, or other replacement Access Cards. 10. I understand and acknowledge that ACCESSO and/or the Owner have may make arrangements to have personal trainers available at a Fitness Facility for the convenience of members. I hereby acknowledge that ACCESSO and the Owner make no representations or warranties with respect to the services provided by such trainers, and accordingly, any relationship that I may enter into with a trainer shall not involve ACCESSO and/or the Owner. I further understand that no member of ACCESSO's or the Owner's staff has had any training that would qualify them to dispense medical advice or prescribe treatment, and I acknowledge that no such representations have been made to, or relied upon by, me. 11. I understand that I may use lockers or cubbies in the Fitness Facility, if any, on a daily basis while I am using the facility, and I acknowledge that lockers left locked overnight may be unlocked, and ACCESSO and the Owner shall not be responsible for the contents of the cubbies, locker or my lock. I hereby acknowledge that ACCESSO and the Owner shall not be responsible for articles lost or stolen at the Fitness Facility or in lockers or cubbies (if any), or for loss or damages to automobiles and their contents. 12. I agree that (i) the terms of this Agreement shall be binding upon, and shall inure to the benefit of, my and ACCESSO and the Owner's heirs, executors,



personal representatives, administrators, agents, successors and assigns (subject to the limitations of item 8 above), and are freely assignable by ACCESSO; (ii) should any part of this Agreement be found by a court of law to be against public policy or in violation of any state statute or case precedence, then the remainder of this Agreement shall remain in full force; (iii) this Agreement sets forth the final and entire agreement between ACCESSO, the Owner, and myself with respect to the subject matter hereof; accordingly, any promises, representations or understandings, whether oral or written, pertaining directly or indirectly to this subject matter which are not contained herein are hereby waived; (iv) no further waiver or modification of any of the terms of this Agreement shall be valid unless the same is in writing and signed by the party against which it is sought to be enforced; (v) no failure of ACCESSO or Owner to exercise any power given to them hereunder, or to insist upon strict compliance by me with my obligations hereof, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of ACCESSO's or Owner's right to demand exact compliance with the terms hereof; (vi) all rights and remedies given herein and/or by law to ACCESSO or Owner are separate, distinct and cumulative, and no one of them, whether exercised or not, shall be deemed to be in exclusion of any others; (vii) this Agreement shall be governed in accordance with the laws of the State of North Carolina, without regard to the conflict of laws principles thereof; (viii) in any action to enforce or interpret this Agreement, I consent to personal and subject matter jurisdiction in the state or federal Courts of North Carolina; and (ix) all statements, representations, indemnities and obligations contained herein shall survive the termination of this Agreement. 13. TO THE EXTENT PERMITTED BY LAW, I, ALONG WITH ACCESSO AND OWNER, HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF US AGAINST THE OTHER IN RESPECT OF ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT.

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