

This **Assumption of Risk; Release, Waiver of Liability, and Covenant Not to Sue** ("Agreement") is made by and between Midtown and the undersigned as of the date indicated below ("Date") and is effective from the Date and will include all future dates. As used herein, the following terms have their respective meanings:

- A. **"Midtown"** means TR Midtown Plaza LLC, and TR Midtown Plaza LLC, their affiliated entities, and their respective officers, agents, employees, successors or assigns;
- B. **"I", "me", or "my"** refers to the undersigned;
- C. **"Building"** means One Midtown Plaza, Atlanta, GA 30309; and
- D. **"Facility"** means the exercise facility located in the Building.

I (for myself, my heirs, executors, administrators, and assigns), for the sole consideration of the enrichment I expect to derive from the use of the Facility and any exercise or recreational program at the Facility and for the consideration of Midtown Plaza allowing me to use the Facility and participate in the exercise or recreational programs at the Facility, acknowledge and/or agree as follows:

**1. Assumption of Risk**

I hereby acknowledge that I intend to utilize the exercise Facility at the Building and/or equipment at the Facility in an exercise or recreational program which use includes, but is not limited to, weight lifting, running, aerobic activities, exercise or recreational classes, and sporting activities ("Activities"). **I understand that physical activity, by its very nature, carries with it certain inherent risks** that cannot be eliminated regardless of the care taken to avoid injuries. Some of these risks involve strenuous exertions of strength using various muscle groups, some involve quick movements involving speed and change of direction, and others involve sustained physical activity which places stress on the cardiovascular system. The specific risks vary from one activity to another, but the possible risks range from (1) minor injuries such as scratches, bruises, sprains, and tendonitis, (2) major injuries such as eye injury or loss of sight, joint or back injuries, heart attacks, abnormal heart beats, abnormal blood pressure, stroke, heat stroke or exhaustion, broken bones, torn muscles, and torn ligaments, and (3) catastrophic injuries, including brain or spinal cord injuries or other conditions or injuries, which may result in temporary or permanent paralysis, loss of bodily functions, disability or even death. Any or all of these risks may also include pain and suffering, lost income, and medical expenses.

**I am also aware of the level of exertion required to participate** in the Activities, and, I certify that I have the requisite skills and fitness level to participate in the Activities without causing harm to myself or to others. I have verified with my physician or other medical professional that I have no past or current physical or psychological condition that might affect my participation in the Activities.

**I also acknowledge that the risks listed herein may be caused by my own actions or inactions, the actions or inactions of others using the Facility and/or participating in the Activities, the conditions under which the Activities take place, or the negligence of Midtown.** I am voluntarily using the Facility and/or participating in the Activities at the Facility. I am aware of the risks associated with this use and participation. I further acknowledge that these risks may also include negligent emergency or medical care. **Nonetheless, I assume all risks, whether known or unknown to me, of using the Facility and/or participating in Activities at the Facility, including negligence.** I understand that I can stop using the Facility or participating in the Activities at any time.

In the event that I am injured at the Facility, I authorize Midtown to obtain or provide emergency hospitalization, surgical or other medical treatment for me and that I will be financially responsible for any injury, damage or cost which might arise out of or in connection with such authorized emergency medical

treatment. **I acknowledge that I am solely responsible for any hospital or other costs** arising out of any bodily injury or property damage sustained through my use of the Facility or participation in the Activities at the Facility.

**2. Release, Waiver of Liability, and Covenant Note to Sue**

**I agree to release, waive, hold harmless, and forever discharge Midtown** from any and all claims, demands, rights, causes of action, judgments, costs, and expenses or other liability of whatsoever kind or nature:

- (a) resulting from my participation in or growing out of or in any way connected with the Facility or the Activities, including, but not limited to, any and all, known and unknown, foreseen and unforeseen, bodily and personal injuries, including death, damage to property; and
- (b) caused or alleged to be caused in whole or in part by: (1) defective or dangerous equipment or the Facility premises or (2) the negligence, if any, of Midtown related to instruction, supervision, failure to warn, medical treatment or the maintenance of the equipment, premises or Facility, and also including negligent rescue operations and emergency medical treatment.

I further covenant and agree that for the sole consideration stated above, **I will not sue Midtown** for any claim for damages arising or growing out of the matters recited in (a) or (b) above and acknowledge that Midtown is relying upon all of the representations, covenants, acknowledgements and agreements contained in this Agreement for its decision to permit me to use the Facility. I further agree that if I or anyone on my behalf makes a claim or files suit against Midtown, I will indemnify, save, and hold harmless Midtown from any litigation expenses, attorney's fees, loss, liability, damages, or costs that are incurred as the result of such claims.

I acknowledge the existence of certain rules and procedures concerning my participation in the Activities and the use of the Facility and the equipment at the Facility and I agree to abide by those rules and procedures. I agree to inspect the Facility and equipment prior to participating, and to immediately report any unsafe conditions to Midtown. I agree that if at any time I believe the conditions of the Facility or equipment to be unsafe, I will immediately discontinue use of such Facility or equipment and notify Midtown.

I am 18 years old or older. I have read this Agreement and **my decision to sign this Agreement is purely voluntary.** I understand the legal consequences of signing this document, including my (a) assumption of all risks of using the Facility, participating in the Activities, and the negligence of others at the Facility, (b) release of all liability, and (c) waiver of my right to sue. I understand that this Agreement shall be governed by the laws of the State of Georgia.

I understand that this document has been written to be as broad and inclusive as legally permitted. I agree that if any portion is held invalid or unenforceable, I will continue to be bound by the remaining terms.

**I have read, understand and accept the terms and conditions stated herein and acknowledge that this Agreement shall be effective and binding upon myself, my heirs, assigns, personal representative and estate and all members of my family.**

<b>Signature:</b>	
<b>Name (Printed):</b>	
<b>Building/Suite:</b>	
<b>Company:</b>	
<b>Date:</b>	

**Card #:** \_\_\_\_\_