

WAIVER & RELEASE
(Fitness Center)

Access Card Number

I, _____, in consideration of being provided access to the Fitness Center (as defined below), hereby state, acknowledge and agree to the following on this _____ day of _____ 20____:

1. I am at least 18 years of age.
2. I am an on-site employee of _____, which company leases office space in that certain office project known as Capital Plaza located at 10301 & 10401 Deerwood Park Boulevard in Jacksonville, Florida (the "Project").
3. I desire to use the fitness center located on the 1st floor of Building 2 I the Project (the "Fitness Center").
4. I understand that the Fitness Center shall be available on a first-come, first-serve basis each day and will be unmanned and unsupervised. I further understand that any and all employees or agents of the owner of the Project (the "Project Owner") who may be present at any time in the Fitness Center are not trained or authorized to provide health, fitness or medical assistance or advice of any kind. Additionally, to the extent the Project Owner permits classes (exercise or otherwise) to be taught or provided in the Fitness Center, I understand that the instructor is an independent contractor and not an employee or agent of the Project Owner, and therefore, I hereby agree that the Project Owner is not responsible or liable in any manner for the acts or omissions of the instructor.
5. I understand that the Fitness Center may contain various exercise equipment and machinery and that the Project Owner does not represent or warrant in any manner the good working condition of such equipment and machinery. I further understand that exercise and the use of the Fitness Center (including without limitation participation in any exercise classes) are potentially hazardous activities that could result in personal injury as well as death, and as such, I acknowledge that my use of the Fitness Center is purely voluntary on my part and I hereby expressly assume any and all risk of injury or death.
6. I will not permit the use of the Fitness Center by any person not authorized to use the Fitness Center, and I will abide by the rules and regulations for the use of the Fitness Center that are in effect from time to time.
7. I am responsible for paying the Project Owner's standard charge for any access card issued to me in order to gain access to the Fitness Center as well as the Project Owner's standard charge for issuing any replacement cards. I further agree to return any access card to the Project Owner upon the earlier to occur of the end of my employment with my current employer or upon notice from the Project Owner that my access to the Fitness Center is being terminated (which the Owner may do at any time for any reason).
8. **I, FOR MYSELF, MY HEIRS AND REPRESENTATIVES, HEREBY RELEASE, DISCHARGE, WAIVE AND HOLD HARMLESS THE PROJECT OWNER AND ITS AGENTS (INCLUDING WITHOUT LIMITATION SPI TCM CAPITAL PLAZA LLC, SOMERSET PROPERTIES, INC. AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, SUCCESSORS, ASSIGNS AND HEIRS (COLLECTIVELY, THE "INDEMNIFIED PARTIES")), FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES OR LIABILITIES OF ANY KIND (INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES) ARISING FROM OR IN ANY WAY RELATED TO: (I) ANY INJURY TO ME (INCLUDING DEATH), (II) DAMAGE TO, LOSS OF, OR THEFT OF MY**

PROPERTY OR (III) ANY OTHER INJURY, LOSS OR DAMAGE, OCCURRING IN THE FITNESS CENTER OR RESULTING IN ANY MANNER FROM MY PRESENCE IN OR MY USE OF THE FITNESS CENTER. All releases, discharges, waivers and hold harmless obligations contained in this paragraph will be enforced to the fullest extent permitted by applicable law for the benefit of the Indemnified Parties, even if the applicable claim is caused by the active or passive negligence or sole, joint, concurrent or comparative negligence of any of such Indemnified Parties, and regardless of whether liability without fault or strict liability is imposed upon or alleged against any such Indemnified Parties, but the provisions of this paragraph will not be enforced for the benefit of any particular Indemnified Party to the extent that a court of competent jurisdiction holds in a final non-appealable judgment that the claim in question was caused solely by the willful misconduct or gross negligence of the Indemnified Party seeking the protections of this paragraph.

Signature:

Printed Name:

Address:

Date:

Access Card Number:

Note: Please make check or money order out to:

SPI TCM Capital Plaza LLC, Somerset Properties, Inc.

