

## FITNESS CENTER AGREEMENT

This Fitness Center Agreement (the “Agreement”) dated as of \_\_\_\_\_, 20\_21 (the “Effective Date”) is entered into by and between Cousins 3<sup>rd</sup> & Colorado LLC (the “Owner”), whose address is 303 Colorado Street, Austin, TX 78701 the address of the building commonly known as Colorado Tower, and the undersigned (the “Permittee”) for the right or privilege to use the exercise facility, including the exercise equipment, improvements, furnishings, and fixtures therein situated, at 303 Colorado Street, Austin TX, 78701 (collectively, the “Fitness Center” or the “Facility”).

1. Term. Subject to and upon the terms herein set forth, and the rules and regulations promulgated by Owner from time to time, Permittee shall have the right to use the Fitness Center. Owner may revoke the Permittee’s right to use the Fitness Center at any time with or without cause, in Owner’s sole discretion. In addition, this Agreement shall automatically terminate at such time as Permittee is no longer a tenant or an employee of a tenant of Owner. The term of this Agreement shall commence on the Effective Date and shall continue month to month, unless this Agreement is sooner terminated by Owner, or otherwise terminated in accordance with the terms set forth herein or otherwise extended by a written agreement by and between the Permittee and Owner.
  
2. Use of Fitness Center
  - a. Fitness Center Rules. Permittee shall use the Fitness Center in accordance with the rules and regulations promulgated by Owner (the “Rules”) and posted at the Fitness Center. Any and all persons who participate in or use the Fitness Center or its services must be a Permittee in good standing. Any unauthorized persons discovered by Owner within the Facility will be deemed a trespasser and requested to leave the Fitness Center. Owner further reserves the right to close the Fitness Center during legal holidays. Permittee acknowledges that he or she has received a copy of the current Rules prior to entering into this Agreement and that he or she has read, understands, and agrees to the Rules which may from time to time be adopted by Owner, including but not limited to, the provisions of the Rules which may govern or affect the terms of this Agreement such as renewal or termination of Permittee. Permittee’s failure to observe the rules and regulations shall, at Owner’s election, result in the termination of Permittee’s right to use the Fitness Center.
  
  - b. Permittee’s Responsibilities. Permittee understands that the Fitness Center is not staffed, and Permittee assumes all risk and liability for the use of the Facility. The Fitness Center may be equipped from time to time with free weights, weightlifting machines, stationary bicycles, stair climbers, treadmills and other exercise equipment, lockers, and showers. In addition to the other responsibilities of the Permittee set forth herein or in the Rules, Permittee is responsible for becoming fully informed as to the function and operation of all exercise equipment, machines, apparatus, furnishings and fixtures within the Fitness Center prior to using the Fitness Center, and will exercise ordinary and reasonable care in his or her operation and use of the Fitness Center. In the event Permittee is not fully informed as to the function and operation of all exercise equipment, machines, apparatus, furnishing, and fixtures (the “Fitness Center Equipment”) within the Fitness Center, Permittee shall be responsible for reviewing the equipment instruction brochures on file with Owner regarding the safe and appropriate use and operation of all Fitness Center Equipment prior to Permittee’s use of the Fitness Center. In the event Permittee requires additional explanation regarding the use of the Fitness Center Equipment, Permittee, with Owner’s prior written consent and at Permittee’s sole cost and expense, may use a personal trainer who is certified by the National Academy of Sports Medicine or other similar association reasonably acceptable to Owner to explain the safe and appropriate use and operation of all Fitness Center Equipment prior to Permittee’s use of the Fitness Center. Permittee agrees to use the Fitness Center Equipment for the purposes to which such equipment is intended and apparently designed to be used. Permittee agrees that Permittee’s uses of the Fitness Center at all times will be within Permittee’s own physical capabilities and limitation. Where instructions from the manufacturer, any independent instruction, or notices concerning use of the exercise equipment within the Fitness Center have been made available, Permittee agrees to follow such instructions in utilizing the Fitness Center. Permittee agrees and understands that using the Fitness Center involves dangers of personal injuries such as

muscle strain, as well as other dangers and injuries that cannot be foreseen, and that injury or death could result from his or her use of the Fitness Center. Use of the Fitness Center means that the Permittee has knowledge of and appreciates the risks involved with such use, including potential injuries, which may arise therefrom. Permittee shall be responsible for undertaking all reasonable steps to guard against injury to his or her self and to other persons or property within the Fitness Center or the premises of Colorado Tower, and to prevent damage to the Fitness Center or any other property within Colorado Tower. Permittee shall promptly notify Manager of any defective exercise equipment, as well as any damage to any Fitness Center Equipment. Permittee is responsible for safeguarding all valuables prior to entry, or while within the Fitness Center, and agrees that the lockers provided within the Fitness Center are designed for clothing and gym bags and that valuables are not secure in the Fitness Center. Owner is not responsible for lost or stolen items.

- c. Assumption of Risk. Permittee has personally conducted an inspection of the Fitness Center and hereby acknowledges that no security personnel, exercise consultant or other attendant shall be present in the Fitness Center. Permittee shall be solely responsible for his or her own safety and shall determine his or her own physical capabilities and limitation in using utilizing the Fitness Center. Permittee agrees that upon any use of, or presence within, the Fitness Center, Permittee is making an informed choice to use or be present within the Fitness Center and expressly assumes the risk of such use or presence. Permittee acknowledges that the American College of Sports Medicine advises that each Permittee, especially those 35 years of age and older, should consult his or her physician and follow such physician's recommendation before using the Facility or otherwise beginning any exercise program at the Fitness Center. Furthermore, if Permittee has a history of heart disease, Permittee should consult a physician before using the Fitness Center.

**NOTWITHSTANDING THE RISKS ASSOCIATED WITH THE USE OF THE FITENSS CENTER EQUIPMENT AND THE FITNESS CENTER, BY EXECUTION OF THIS AGREEMENT, PERMITTEE, ON BEHALF OF HIMSELF OR HERSELF, AND ANY AND ALL OF HIS OR HER FAMILY MEMBERS, MINOR CHILDREN, HEIRS, SUCCESSORS, ASSIGNS AND PERSONAL REPRESENTATIVES AND EACH OF THEM, (a) ACKNOWLEDGES THAT HE OR SHE IS VOLUNTARILY ENTERING THE FACILITY OR FITNESS CENTER TO ENGAGE IN USE THEREOF WITH KNOWLEDGE OF THE RISKS INVOLVED, AND (b) AGREES TO ACCEPT AND ASSUME ALL RISKS OF PERSONAL INJURY, DISABILITY, DEATH OR PROPERTY DAMAGE RELATED TO COVID-19, ARISING FROM PERMITTEE'S PRESENCE IN OR USE OF THE FACILITY OR THE FITNESS CENTER, WHETHER CAUSED BY THE ORDINARY NEGLIGENCE OF OWNER OR OTHERWISE.**

- d. Covid-19 Rider. Permittee acknowledges that this Agreement includes the Covid-19 Rider attached hereto and incorporated herein.
3. No Waiver. Permittee does hereby acknowledge that failure of Owner to enforce any Rules, or any conditions of Permittee's use of the Fitness Center or any of the Owner's rights under this Agreement or under law shall not be deemed or construed to be a waiver by Owner of its rights thereafter to insist upon the Permittee's compliance with all Rules adopted by Owner, from time to time, and with all terms and conditions of this Agreement.
4. Release. In consideration of the use of the Fitness Center Equipment and all other exercise and recreational facilities at the Fitness Center, Permittee, on behalf of himself or herself, and any and all of his or her family members, minor children, heirs, successors, assigns and personal representatives,, does hereby agree to release Cousins 3<sup>rd</sup> & Colorado LLC, Cousins Properties Incorporated, Cousins Properties LP, Cousins Realty Services, LLC, CPI Services LLC and any successor owner or manager of the building wherein the Fitness Center is located and their respective subsidiaries and affiliates, employees, officers, agents, contractors, contract managers, successors and assigns (collectively hereinafter, the "Released Parties") from liability for all injuries sustained by Permittee, any loss or damages of any nature or kind and/or cost of liability resulting from any act or omission, including

negligence of the Released Parties, in connection with the use of the Fitness Center by Permittee or others, including but not limited to injuries, loss, damages and/or liability arising out of or attributable to being exposed to or contracting Covid-19 or other infectious disease. Permittee agrees to indemnify and hold harmless the Released Parties from any loss, liability, damage or cost that they may incur from Permittee's presence at the Fitness Center or use of the Fitness Center, including but not limited to any liability or loss the Released Parties may be held responsible for because of any torts committed by the Permittee or any guest of Permittee, against the Permittee or against any other persons present at the Fitness Center or present within the premises of Colorado Tower and Permittee further agrees to reimburse the Released Parties for any damage that he or she may cause, or any guest of the Permittee may cause, to the Fitness Center or the asset or property of the Released Parties. It is intended that this release shall constitute a good sufficient and complete defense against any actions which might be brought by the Permittee or anyone acting on the Permittee's behalf or claiming by or through the Permittee alleging injury, loss or damage arising out of use of or presence within the Fitness Center. The execution and delivery of this release and indemnity is a material inducement for the rights granted to Permittee hereunder, and Permittee acknowledges that Owner is relying on this release and indemnity and that Owner would not grant rights to Permittee as provided herein in the absence of this release and indemnity. Permittee has signed this release and indemnity of his or her own free will and agrees with all terms and conditions.

5. Miscellaneous. By signing this Agreement, Permittee acknowledges that he or she has read this entire Agreement and fully understands and agrees to all terms and conditions of this Agreement and the Rules as amended from time to time. This Agreement shall inure to be the benefit of Owner, and the Released Parties and their respective successors and assigns. In consideration for being allowed to use the Fitness Center, Permittee hereby releases Cousins 3<sup>rd</sup> & Colorado LLC, Cousins Properties Incorporated, Cousins Properties LP, Cousins Realty Services, LLC, CPI Services LLC, their subsidiary and affiliate companies, as well as the employees, officers, directors and agents of such companies and any other designees of owner from any liability for claims concerning injuries, damages, or any other causes of action arising from the use of the Facility.
6. Limitation of Liability. **PERMITTEE'S SOLE AND EXCLUSIVE METHOD OF COLLECTING ON ANY JUDGMENT THAT PERMITTEE MAY OBTAIN AGAINST OWNER OR ANY OF THE RELEASED PARTIES, OR ANY OTHER AWARD MADE TO USER IN ANY JUDICIAL PROCESS REQUIRING THE PAYMENT OF MONEY BY OWNER OR ANY OF THE RELEASED PARTIES, SHALL BE TO PROCEED AGAINST THE INTERESTS OF OWNER IN AND TO THE BUILDING. NEITHER OWNER NOR ANY OF THE RELEASED PARTIES, NOR THEIR RESPECTIVE EMPLOYEES, AGENTS OR CONTRACTORS, SHALL HAVE ANY PERSONAL LIABILITY OF ANY KIND WHETHER UNDER THIS AGREEMENT OR OTHERWISE.**

PERMITTEE:  
(Please click on the text boxes to enter, except signature)

Signed: \_\_\_\_\_

Name:   
(Typed)

Employer:

Suite Address:

Office Telephone Number:

Do you currently have an Access Card? (Y/N):

Gender for Locker Room Access (M/F):

Email Address:

Date:

In the event of an emergency, please contact:

Relationship and telephone number:

COVID-19 RIDER  
to FITNESS CENTER AGREEMENT

The novel coronavirus, COVID-19, has been declared a worldwide pandemic by the World Health Organization. COVID-19 is reported to be extremely contagious. The United States Center for Disease Control and Prevention (CDC), the State of Texas and local county health departments have recommended social distancing measures of at least six feet between people and have encouraged vulnerable people or persons with compromised immunities to avoid public gatherings and spaces. The medical knowledge and resulting restrictions and recommendations continue to evolve, but the virus is believed to spread from person-to-person contact and/or by contact with contaminated surfaces and objects, and even possibly in the air. People reportedly can be infected and show no symptoms and therefore spread the disease. The exact methods of spreading the disease and contraction are unknown, and there is no known treatment or cure for COVID-19. Evidence has shown that COVID-19 can cause serious and potentially life-threatening illness and even death. Owner (as defined in the within and foregoing Agreement) cannot prevent Permittee from becoming exposed to, contracting, or spreading COVID-19 while entering into the Facility or utilizing the Fitness Center. It is not possible to prevent the presence of the disease or the possibility that Permittee may be exposed to COVID-19 while at the Facility or the Fitness Center. Therefore, if Permittee chooses to enter into the Facility and utilize the Fitness Center, Permittee may be exposed to and/or increasing his or her risk of contracting or spreading Covid-19.

**ASSUMPTION OF RISK.** Permittee understands, and does hereby acknowledge, that he or she is aware of the contagious nature of the 2019 novel coronavirus disease commonly known as Covid-19 and other infectious diseases, and the risk that he or she may be exposed to or contract Covid-19 or other infectious diseases by being in the Fitness Center and engaging in use of the Facility. Permittee understands, and does hereby acknowledge, such exposure or infection may result in serious illness, personal injury, permanent disability, death or property damage. Permittee understands, and does hereby acknowledge, that this risk may result from or be compounded by the actions, omissions, or negligence of others, including employees, agents and contractors of Owner. Permittee understands that Owner cannot guarantee that Permittee will not become infected with Covid-19 or other infectious disease while in the Facility or Fitness Center, and that being in the Facility or Fitness Center may increase the risk of Permittee's contracting Covid-19 or other infectious diseases. Permittee understands, and does hereby acknowledge, that the use of the Fitness Center and the Facility is of such value to Permittee that he or she accepts the risk of exposure to, contracting and/or spreading Covid-19 in order to utilize the Fitness Center and the Facility.

**NOTWITHSTANDING THE RISKS ASSOCIATED WITH COVID-19, BY EXECUTION OF THIS AGREEMENT, PERMITTEE, ON BEHALF OF HIMSELF OR HERSELF, AND ANY AND ALL OF HIS OR HER FAMILY MEMBERS, MINOR CHILDREN, HEIRS, SUCCESSORS, ASSIGNS AND PERSONAL REPRESENTATIVES AND EACH OF THEM, (a) ACKNOWLEDGES THAT HE OR SHE IS VOLUNTARILY ENTERING THE FACILITY OR FITNESS CENTER TO ENGAGE IN USE THEREOF WITH KNOWLEDGE OF THE DANGER INVOLVED, (b) AGREES TO ACCEPT AND ASSUME ALL RISKS OF PERSONAL INJURY, DISABILITY, DEATH OR PROPERTY DAMAGE RELATED TO COVID-19, ARISING FROM PERMITTEE'S PRESENCE IN OR USE OF THE FACILITY OR THE FITNESS CENTER, WHETHER CAUSED BY THE ORDINARY NEGLIGENCE OF OWNER OR OTHERWISE.**

**REPRESENTATIONS OF ENTRY:** Permittee, by execution of this Agreement, acknowledges and agrees that Permittee shall be deemed to have made the following representations upon each and every entry into the Fitness Center or the Facility:

- Permittee is not then experiencing any symptoms of illness identified by the CDC as potential symptoms of Covid-19. Permittee does not have a fever or cough and is not experiencing any shortness of breath.
- Permittee does not have a suspected (regardless of whether testing has been sought) case of Covid-19.
- Permittee is not advised to quarantine in accordance with the CDC guidance (14 days following exposure to a confirmed case of Covid-19).
- Permittee has not been diagnosed with Covid-19 within the prior 10 days, and Permittee has not experienced any fever within the prior 24 hours.

- Permittee is not advised to isolate in accordance with the CDC guidance.
- Permittee will follow the recommended CDC guidelines within the facility, including practicing social distancing and wearing a face covering.
- Permittee will notify Owner immediately upon being diagnosed with Covid-19 or instructed to isolate, if Permittee has been within the Fitness Center during the prior fourteen (14) day period.

At any time that any of the foregoing representations would be untrue, Permittee acknowledges and agrees that he or she will not enter the Fitness Center or use the Facility.

PERMITTEE:

(Please click on the text boxes to enter, except signature)

Signed: \_\_\_\_\_

Name:   
(Typed)

Employer:

Suite Address:

Cell Telephone Number:

Email Address:

Date: