

**Fill in this information to identify the case:**

Debtor 1 Gold's St. Louis, LLC

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of Texas, Amarillo Division

Case number 20-31333-hdh11

E-Filed on 07/15/2020  
Claim # 166

## Official Form 410

## Proof of Claim

**04/19**

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

**Part 1: Identify the Claim**

<b>1. Who is the current creditor?</b>	<u>Four Store Partners, L.L.C.</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b>  <u>David A. Sosne</u> Name  <u>8909 Ladue Road</u> Number Street  <u>St. Louis</u> <u>MO</u> City State ZIP Code  Contact phone <u>(314) 991-4999</u> Contact email <u>dsosne@scw.law</u>	<b>Where should payments to the creditor be sent? (if different)</b>  <u>Four Store Partners, L.L.C.</u> Name  <u>9645 Clayton Road, Suite 200</u> Number Street  <u>St. Louis</u> <u>MO</u> <u>63124</u> City State ZIP Code  Contact phone <u>(314) 991-1119</u> Contact email <u>tcrowley@netleaseholdings.com</u>
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2:** Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 1,410,231.83. Does this amount include interest or other charges?  
☐ No  
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
  
Lease: Real Property

9. Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.
- Nature of property:**  
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
☐ Motor vehicle  
☐ Other. Describe: \_\_\_\_\_
- Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
- Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)
- Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_
- Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
☐ Fixed  
☐ Variable

10. Is this claim based on a lease? ☐ No  
☒ Yes. Amount necessary to cure any default as of the date of the petition. \$ 0.00

11. Is this claim subject to a right of setoff? ☒ No  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check one:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$3,025\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$13,650\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ 0.00

\$ 0.00

\$ 0.00

\$ 0.00

\$ 0.00

\$ 0.00

\* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 07/15/2020  
MM / DD / YYYY

Timothy G. Crowley  
Signature

Print the name of the person who is completing and signing this claim:

Name Timothy G. Crowley  
First name Middle name Last name

Title President of Crowley Financial Corporation, Manager

Company Four Store Partners, L.L.C.  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address  
Number Street

City State ZIP Code

Contact phone Email

Attachment 1 - (Four Store\_Golds Gym) Summary of Claim(2520246.1).pdf

Description - Exhibits to Claim

**EXHIBIT 1**  
**SUMMARY OF PROOF OF CLAIM**  
**FOUR STORE PARTNERS, L.L.C.**  
**GOLD'S ST. LOUIS, LLC**  
**CASE NO. 20-31333**

**BACKGROUND:**

In November 30, 2016, Four Store Partners, L.L.C., a Missouri limited liability company, as landlord, entered into a lease with Debtor Gold's St. Louis, LLC, as tenant, with regard to certain premises located at 14885 Clayton Road, Chesterfield, Missouri 63017 (the "Premises"). The lease and any amendments and modifications are referred to as the "Four Store Lease". See attached Lease and First Amendment to Lease.

**LANDLORD:**

Four Store Partners, L.L.C., a Missouri limited liability company ("Landlord").

**AMOUNT CLAIMED:**

\$1,410,231.83. See attached spreadsheet with calculations of same.

**RESERVATIONS AND EXPLANATIONS**

Landlord continues to sustain damages. The damages incurred exceed the cap set forth in §502(b)(6) of the Bankruptcy Code.

Landlord reserves the right to amend this claim as circumstances warrant. Further, the Four Store Lease was guaranteed by *Gold's Gym International, Inc.* As a result, Landlord is also filing a proof of claim in the Gold's Gym International, Inc., Case Number 20-31319.

Debtor - Gold's St. Louis, LLC

Current Execution - Amendment to Lease -December 13, 2019

Current Commencement - November 30, 2016

Current Expiration -March 31, 2029

Petition Date -May 4, 2020

Surrender Date - May 4,2020

Rejection Date - May 4, 2020

**Pre-Petition**

Description of Charge

Unpaid April Rent Charges, including tax, insurance, utilities, CAM	\$	43,849.00
Pro-rated May 2020 Rent Charges, including tax, insurance, utilities CAM	\$	5,657.92

**PRE-PETITION TOTAL** \$ 49,506.92

Lease Components Subject to 502(b)(6) Caps - One Year Cap Applied

**Rents**

<u>Effective Date</u>	<u>Ending Date</u>	<u>Monthly Rent</u>	<u>Total</u>	<u>Comment</u>
5/5/2020	11/30/2020	\$ 38,770.00	\$ 265,967.42	Includes only amounts due for year after Petition Date (pro rated)
12/1/2020	5/4/2021	\$ 40,311.67	\$ 205,459.49	
<b>Total Rents</b>			\$ 471,426.91	

**Additional Rent Pursuant to Lease**

**CAM and Taxes**

<u>Effective Date</u>	<u>Ending Date</u>	<u>Monthly CAM</u>	<u>Total</u>	<u>Comment</u>
5/5/2020	5/4/2020	\$ 5,079.00	\$ 60,948.00	Includes only amounts due after Petition Date (pro rated for stub period)
<b>Total CAM</b>			\$ 60,948.00	

**Capped Component of Lease Rejection Claim** \$ 532,374.91

Lease Components Not Subject to Caps

Attorneys' Fees and Court Costs	\$ 5,000.00	Estimated
Costs of Reletting*	\$ 721,500.00	Estimated (not yet liquidated)
Rekeying Premises	\$ 100.00	Estimated (not yet liquidated)
Costs to Remove Signage	\$ 1,750.00	Estimated (not fully liquidated as of claim date)
Damages to Premises (charges to repair/clean/remove items)	\$ 100,000.00	Estimated (not fully liquidated as of claim date)
Waste	Unknown	
<b>TOTAL</b>	<b>\$ 1,360,724.91</b>	
Balances Due Pre-petition	<b>\$ 49,506.92</b>	Does not include service charges, interest, or adjustments due to reconciliation

**TOTAL CLAIM** \$ 1,410,231.83 Subject to adjustment pending full liquidation of claim amounts and damages

\* 37,000 square feet at \$15.00 plus 6% lease commission

# SHOPPING CENTER LEASE

Dated as of November 30, 2016

by and between

**FOUR STORE PARTNERS, L.L.C.**

as Landlord

and

**GOLD'S ST. LOUIS, LLC**

as Tenant

# Table of Contents

Page

ARTICLE I -- DEFINITIONS.....	1
ARTICLE II -- GRANT AND TERM.....	2
Section 2.01    Grant.....	2
ARTICLE III -- CONSTRUCTION OF IMPROVEMENTS.....	3
Section 3.01    Acceptance of Premises.....	3
Section 3.02    Tenant's Plans and Specifications.....	3
Section 3.03    Construction of Tenant's Improvements.....	3
Section 3.04    Alterations.....	3
Section 3.05    Landlord Representations.....	3
ARTICLE IV -- RENT.....	3
Section 4.01    Base Rent.....	3
Section 4.02    Stipulation of Size.....	4
Section 4.03    Late Payments.....	4
ARTICLE V -- CONDUCT OF BUSINESS BY TENANT.....	4
Section 5.01    Use of Premises.....	4
Section 5.02    Continuous Operations.....	4
Section 5.03    Compliance with Laws and Regulations.....	4
Section 5.04    Exclusive Rights.....	5
ARTICLE VI -- UTILITIES.....	5
Section 6.01    Cost of Utilities.....	5
Section 6.02    Landlord's Right to Provide Utilities.....	5
Section 6.03    Limitation on Liability.....	5
ARTICLE VII -- TAXES AND REAL ESTATE CHARGES.....	5
Section 7.01    Personal Property Taxes.....	5
Section 7.02    Real Estate Taxes.....	5
ARTICLE VIII -- REA CHARGES.....	6
Section 8.01    REA Charges.....	6
Section 8.02    Parking.....	7
Section 8.03    Roof Rights.....	7
Section 8.04    REA Expenses Statement.....	7
ARTICLE IX -- MAINTENANCE AND REPAIR OF THE PREMISES.....	8
Section 9.01    Maintenance by Landlord.....	8
Section 9.02    Maintenance by Tenant.....	8
ARTICLE X -- INSURANCE AND INDEMNITY.....	8
Section 10.01    Tenant's Insurance.....	8
Section 10.02    Indemnification.....	9
ARTICLE XI -- DAMAGE BY CASUALTY.....	9
Section 11.01    Restoration.....	9
Section 11.02    Landlord's Obligations to Rebuild.....	10
Section 11.03    Continued Operations.....	10
ARTICLE XII -- CONDEMNATION.....	10
Section 12.01    Partial Taking.....	10
Section 12.02    Total Taking.....	10
Section 12.03    Application of Award.....	10
ARTICLE XIII -- ASSIGNMENT AND SUBLETTING.....	10
Section 13.01    Consent Required.....	10
Section 13.02    Permitted Transfer.....	10
Section 13.03    Tenant to Remain Liable.....	11
Section 13.04    Void Transfer.....	11
Section 13.05    Transfer by Landlord.....	11
Section 13.06    No Mortgage.....	11



ARTICLE XIV -- DEFAULT.....	11
Section 14.01    Events of Default .....	11
Section 14.02    Remedies.....	12
Section 14.03    Landlord's Default .....	13
ARTICLE XV -- HOLDING OVER .....	13
ARTICLE XVI -- ACCESS BY LANDLORD .....	13
ARTICLE XVII -- QUIET POSSESSION .....	14
ARTICLE XVIII -- BANKRUPTCY-INSOLVENCY .....	14
ARTICLE XIX -- TITLE TO IMPROVEMENTS; SURRENDER .....	14
ARTICLE XX -- MECHANICS' LIENS.....	14
ARTICLE XXI -- PRESENT CONDITION OF PREMISES .....	15
ARTICLE XXII -- HAZARDOUS MATERIALS .....	15
Section 22.01    Prohibition of Hazardous Materials .....	15
Section 22.02    Tenant Indemnity.....	15
Section 22.03    Landlord Indemnity .....	16
Section 22.04    Remediation.....	16
ARTICLE XXIII -- SPECIAL PROVISIONS.....	16
Section 23.01    Landlord's Entry.....	16
Section 23.02    Independent Obligations .....	16
ARTICLE XXIV -- SUBROGATION .....	16
ARTICLE XXV -- SIGNAGE.....	17
ARTICLE XXVI -- MISCELLANEOUS PROVISIONS .....	17
Section 26.01    Relationship of Parties .....	17
Section 26.02    Construction.....	17
Section 26.03    Parties Bound.....	17
Section 26.04    Entire Agreement.....	17
Section 26.05    Brokers.....	17
Section 26.06    Savings and Governing Law .....	17
Section 26.07    Force Majeure.....	17
Section 26.08    Recording of Lease .....	18
Section 26.09    No Option .....	18
Section 26.10    Notices .....	18
Section 26.11    Estoppel Certificates .....	18
Section 26.12    Subordination.....	19
Section 26.13    Replacement of Existing Lease.....	19
Section 26.14    Financial Statements .....	19

#### Exhibits

"A"	Property
"B"	Site Plan
"C"	Construction Procedures

## SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE (the "Lease") is made and entered into as of the date first written above (the "Effective Date") by and between **FOUR STORE PARTNERS, L.L.C.**, a Missouri limited liability company ("Landlord"), and **GOLD'S ST. LOUIS, LLC**, a Delaware limited liability company ("Tenant").

### ARTICLE I --DEFINITIONS

"Additional Rent" means any and all payments that Tenant is obligated to make to Landlord under the terms of this Lease other than Base Rent.

"Event of Default" is defined in Section 14.01 of this Lease.

"Expiration Date" is defined in Section 2.01(a) of this Lease.

"Floor Area" means the aggregate floor area of any space within the Shopping Center measured to the outside faces of exterior walls and to the center of any interior walls.

"Hazardous Material" means any hazardous, radioactive or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes (whether or not mixed, commingled or otherwise combined with other substances, materials or wastes) listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. Section 172.101) or by the Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302 and amendments thereto), or substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) a petroleum product, crude oil or any fraction thereof, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, or listed pursuant to Section 307 of the Clean Water Act, (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

"Permitted Use" means a health and fitness center offering such fitness programs and recreational facilities as Tenant may determine from time to time, which may include, but shall not be limited to, a jogging track, gymnasiums, running track, whirlpools, swimming pool, saunas, aerobics and/or floor exercise, group exercise classes, spin, yoga, pilates and similar meditative or holistic exercise, martial arts or similar pursuits, basketball and racquetball courts, free weights, exercise machinery and equipment, personal fitness training, child nursery facilities, massage, physical and rehabilitative therapy, gym-related retail sales activities including but not limited to, vitamins, nutritional supplements, equipment, and apparel, personal enhancement amenities such as hair and nail cutting and care, restaurant and/or juice/snack bar/smoothie facility and other usual amenities from time to time found in a modern fitness, nutrition, sports medicine, and health club facility, including any commercial office space which may be ancillary to its business, as permitted by any governmental authority (it being understood that (a) the foregoing list of specific programs, facilities and services is illustrative, and not exhaustive, (b) Tenant shall not be obligated to offer each item on such list to its customers or members, and (c) such items are subject to technological advancement), and any other retail use permitted by applicable law and not otherwise prohibited by this Lease.

"Premises" means that certain 37,000 square foot (approximately) retail space within the Shopping Center as shown on the Site Plan.

"Prime Rate" means, at any time, the rate of interest most recently published as the "Prime Rate" in the Money Rates section of The Wall Street Journal.

"Property" means the certain real property described on Exhibit "A" attached hereto and incorporated herein which is owned by Landlord.

"REA" shall mean that agreement dated July 20, 1982, by and between National Super Markets, Inc. and Richard D. Gilroy, recorded in the Real Property Records of St. Louis County, Missouri in Book 7419, Page 1585.

"Rent" as used herein, shall mean collectively Base Rent and Additional Rent.

"Rent Commencement Date" shall mean the Effective Date of this Lease.

"Shopping Center" means the Property and all improvements constructed thereon.

"Site Plan" means that certain Site Plan of the Shopping Center attached hereto as Exhibit "B".

"Tenant Parties" shall mean Tenant's agents, employees, contractors or invitees.

"Tenant Protected Parking" means that portion of the parking area identified on the Site Plan.

"Tenant's Proportionate Share": 100% of the Property and 100% of Landlord's 57% under the REA.

"Term" and "Term of this Lease" are defined in Section 2.01(a) of this Lease.

## ARTICLE II -- GRANT AND TERM

Section 2.01 Grant. Landlord does hereby demise and lease the Premises to Tenant, and Tenant does lease and take the Premises from Landlord. Landlord further grants to Tenant during the Term the non-exclusive right, privilege and easement in common with all other tenants of the Shopping Center, for Tenant and its licensees, employees, agents, customers and invitees, to use all access roads and parking spaces within the Shopping Center as shown on the Site Plan for pedestrian and vehicular ingress and egress to and from the Premises without payment of any fee or other charge being made therefor except as may be specifically set forth in this Lease. The foregoing grants and the leasehold estate created thereby include any rights contained in, and are subject to, any covenants, restrictions and easements of record (including the REA, as may be amended from time-to-time, but subject to Tenant's approval rights as more particularly set forth herein), the terms and provisions of certain reciprocal easement and/or operating agreements now or hereinafter entered into by Landlord with the owners or lessees of the Property and/or adjacent properties, if any, and any restrictions otherwise set forth in this Lease. Landlord represents that it has authority to enter into this Lease and that such covenants, restrictions and easements of record and the terms and provisions of any such reciprocal easement and/or operating agreements shall not materially interfere with Tenant's use of the Premises generally for the Permitted Use or materially increase Tenant's obligations or materially decrease Tenant's rights, as stated in this Lease. Landlord further represents that it shall not enter into any amendments or modifications to the REA or any other reciprocal easements and/or operating agreements that would interfere with Tenant's use of the Premises generally for the Permitted Use or increase Tenant's obligations or decrease Tenant's rights, as stated in the Lease, without the prior written consent of Tenant, which shall not be unreasonably withheld.

(a) Initial Term. The term of this Lease (the "Term" or the "Term of this Lease") shall commence on December 1<sup>st</sup>, 2016 and shall expire on March 31<sup>st</sup>, 2029 ("Expiration Date"), except as it may be extended as provided in Section 2.01(b) hereof or sooner terminated in accordance with the terms hereof. As used herein, "Term" and "Term of this Lease" refer to such "Initial Term" and to any extension thereof. If the Rent Commencement Date is on a date other than the first day of a calendar month (i) Base Rent for the month containing the Rent Commencement Date shall be prorated based upon the ratio that the number of days in the Term within such month bears to the total number of days in such month, and (ii) the initial monthly rental period shall cover the month containing the Rent Commencement Date and the following month (unless the Rent Commencement Date is the first day of the month, in which event the initial monthly rental period shall cover only the month containing the Rent Commencement Date).

(b) Options to Extend. Landlord grants to Tenant four (4) options to extend the Term for periods of five (5) years each. Each option can be exercised by Tenant giving Landlord notice of such exercise not less than three hundred sixty (360) days before the expiration of the then-existing Term;

provided, however, that no such exercise shall be effective if Tenant is in default under this Lease beyond applicable notice and cure periods at the time such notice is given or at the time such extended Term would commence.

### ARTICLE III --CONSTRUCTION OF IMPROVEMENTS

Section 3.01 Acceptance of Premises. Subject to the representations and warranties set forth in this Lease, Tenant accepts the Premises in their "As-Is" condition.

Section 3.02 Tenant's Plans and Specifications. Tenant shall submit to Landlord for approval, which approval shall not be unreasonably withheld, conditioned or delayed, plans for construction and improvements Tenant plans to make to the Premises ("Tenant's Improvements") in "permit ready" form (the "Plans"). If Landlord does not approve or object to the Plans within fourteen (14) days of receipt thereof, the Plans shall be deemed to be approved. If Landlord provides its objections to the Plans within the foregoing fourteen (14) day time period, then the parties shall work in good faith to agree on the Plans within thirty (30) days thereafter. Notwithstanding anything to the contrary contained in this Lease, Landlord's consent for Tenant's Improvements shall only be required if applicable laws require Tenant to obtain a permit for Tenant's Improvements; thus, if no permit is required, no Landlord consent shall be required.

Section 3.03 Construction of Tenant's Improvements. Tenant shall construct all Tenant's Improvements in accordance with the Construction Procedures attached as Exhibit "C" attached hereto.

Section 3.04 Alterations. Except as expressly permitted herein, Tenant shall not construct any improvements or make any structural alterations to the Premises without first obtaining the written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed; provided that, Tenant may make non-structural alterations or improvements which cost less than Fifty Thousand Dollars (\$50,000.00), without obtaining Landlord's consent.

Section 3.05 Landlord Representations. Landlord represents and warrants to Tenant that: (i) Landlord owns the Property, subject to the REA and matters of record, (ii) to the best of Landlord's actual knowledge, the Permitted Use is permitted by applicable zoning laws, (iii) to the best of Landlord's actual knowledge, the Property is free of any Hazardous Materials, (iv) to the best of Landlord's actual knowledge, the Premises complies, in all material respects, with the ADA, all building, fire safety, health, land use, and other laws, ordinance, codes, rules, and regulations, and (v) to the best of Landlord's actual knowledge, no party has any rights with respect to construction on the Property or the use of the Premises, except as disclosed to Tenant in writing.

### ARTICLE IV --RENT

Section 4.01 Base Rent. Except as otherwise specifically set forth in this Lease, Tenant shall pay to Landlord without any prior demand therefor and without any deduction or setoff whatsoever beginning as of the Rent Commencement Date, Base Rent ("Base Rent") as follows:

<u>Period</u>	<u>Monthly Base Rent</u>
(i) 12/1/16 - 11/30/17	\$19,116.67
(ii) 12/1/17 - 11/30/18	\$21,429.17
(iii) 12/1/18 - 3/31/19	\$22,970.83
(iv) 4/1/19 - 11/30/19	\$35,458.33
(v) 12/1/19 - 11/30/20	\$37,000.00
(vi) 12/1/20 - 11/30/21	\$38,541.67
(vii) 12/1/21 - 11/30/26	\$39,004.17
(viii) 12/1/26 - 3/31/29	\$42,905.58



(ix) First option period	\$42,904.58
(x) Second option period	\$47,175.00
(xi) Third option period	\$51,914.08
(xii) Fourth option period	\$57,103.33

Base Rent for each month during the Term shall be due and payable monthly in advance on or before the first (1<sup>st</sup>) day of such month.

Section 4.02 Stipulation of Size. Regardless of the actual size of the Premises, the Floor Area of the Premises is deemed to be 37,000 square feet.

Section 4.03 Late Payments. In the event any payment of Base Rent, Additional Rent, and other sums due Landlord under this Lease is not received within five (5) days after it is due for any reason whatsoever, then in addition to the sums due Tenant shall pay interest thereon from the due date until paid by Tenant, at the rate of two percent (2%) above the Prime Rate, not to exceed the maximum rate of interest allowed by law in the state where the Shopping Center is located and a late fee of Five Hundred Dollars (\$500.00) to compensate Landlord for its administrative expenses in connection with such late payment. The interest and late fee shall be deemed to be Additional Rent.

#### ARTICLE V --CONDUCT OF BUSINESS BY TENANT

Section 5.01 Use of Premises. The Premises shall be used and occupied solely for the Permitted Use, and for no other use or purpose whatsoever without Landlord's prior written consent, such consent shall not be unreasonably withheld, conditioned or delayed provided that the proposed change of use does violate any then-existing restricted or exclusive uses affecting the Shopping Center.

Section 5.02 Continuous Operations. Provided that Tenant continues to pay Rent and perform its other obligations hereunder, Tenant may cease its operations at the Premises at any time. If Tenant ceases operations in the Premises for a period in excess of sixty (60) days (not including cessations of operations due to repairs, remodeling or refixturing of the Premises, none of which shall exceed ninety (90) days), or restoration following damage or destruction to the Premises, or a reasonable time (not to exceed sixty (60) days) in connection with a sublease of the Premises approved or deemed approved by Landlord, then Landlord shall have the right to recapture the Premises by terminating this Lease as hereinafter provided. If Landlord elects to exercise its aforesaid right to recapture, it may do so by giving Tenant written notice thereof ("Landlord's Recapture Notice"). The effective date of such recapture and termination of this Lease shall be the date specified in Landlord's Recapture Notice, but in no event earlier than thirty (30) days after the date of Landlord's Recapture Notice. If Tenant reopens to the public for the Permitted Use in the entire Premises fully fixtured, fully stocked, and adequately staffed with the good-faith intention to remain open prior to the date that is thirty (30) days after Landlord's Recapture Notice, then this shall render Landlord's Recapture Notice null and void and of no further force or effect. If this Lease is terminated by Landlord as aforesaid, neither party shall have further liability or obligation under this Lease for any matter thereafter arising, except with respect to the provisions hereof that expressly survive the termination of this Lease.

Section 5.03 Compliance with Laws and Regulations. Tenant shall comply with all laws, ordinances, codes, orders and regulations applicable to the Premises or to Tenant's activities or business relating to the Premises. Tenant shall not, without Landlord's prior written consent, keep anything within the Premises or use the Premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Premises or other parts of the Shopping Center. All property kept, stored or maintained within the Premises by Tenant shall be at Tenant's sole risk. Also, Tenant shall be responsible for compliance with the Americans with Disabilities Act as amended from time to time (the "ADA"), and related state and municipal laws

and regulations, in all matters regarding both the interior configuration of the Premises and Tenant's business operations at the Premises.

Section 5.04 Exclusive Rights. Landlord (or any person or entity which controls, is controlled by, or is under common control with Landlord) shall neither (i) enter into any lease or other occupancy agreement covering Landlord's Property with any person or entity whose permitted use of Landlord's Property includes a health and fitness center offering any one or more of the following fitness programs and/or recreational facilities: a jogging track, gymnasiums, running track, whirlpools, swimming pool, saunas, aerobics and/or floor exercise, group exercise classes, spin, yoga, pilates and similar meditative or holistic exercise, martial arts or similar pursuits, basketball and racquetball courts, free weights, exercise machinery and equipment, personal fitness training, child nursery facilities, massage, physical and rehabilitative therapy, or a facility whose primary use includes the retail sale of nutritional supplements, juices or smoothies; nor (ii) itself use Landlord's Property for any of the uses set forth in this Section 5.04. As used herein, "Landlord's Property" means any real property owned or leased by Landlord, or any person or entity which controls, is controlled by, or is under common control with Landlord, located within three (3) miles of the Premises boundaries, including the remaining leasable space within the Shopping Center. The foregoing exclusive use prohibition shall not be deemed to apply to nutritional counseling, physical therapy, therapeutic massage, sports medicine and/or weight loss advice centers and/or senior living facility. In the event of a breach of this covenant by Landlord, if Landlord fails to cure such default within five (5) days after notice from Tenant, Rent shall abate by fifty percent (50%) until Landlord cures such default. Tenant shall also have all rights and remedies available to it at law or in equity (including, without limitation, the right of injunction).

#### ARTICLE VI --UTILITIES

Section 6.01 Cost of Utilities. Tenant shall be solely responsible for and promptly pay all charges for heat, water (including sewage charges and/or taxes or other charges based on water consumption), gas, electricity or any other utility used or consumed in the Premises. Tenant shall pay the cost for all heating, air conditioning and ventilation ("HVAC") service provided to the Premises, including the cost of maintenance, repair and replacement of same as may be further described in Article IX of this Lease.

Section 6.02 Landlord's Right to Provide Utilities. Landlord may, if it so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay within thirty (30) days of demand as Additional Rent the rates established therefore by Landlord which shall not exceed the rates which would be charged for the same services furnished directly by the local public utility companies. Landlord may at any time discontinue furnishing any such service without obligation to Tenant other than to connect the Premises to the public utility, if any, furnishing such service.

Section 6.03 Limitation on Liability. LANDLORD SHALL NOT BE LIABLE TO TENANT FOR DAMAGES IF THE FURNISHING OF ANY UTILITY SERVICE, TELEPHONE SERVICE OR OTHER SERVICE TO THE PREMISES SHALL BE INTERRUPTED, REDUCED, CURTAILED OR IMPAIRED (A "UTILITY SERVICE INTERRUPTION") PROVIDED THAT IF SUCH UTILITY SERVICE INTERRUPTION IS CAUSED BY LANDLORD, ITS AGENTS, EMPLOYEES OR CONTRACTORS, THEN, AS THE SOLE AND EXCLUSIVE REMEDY FOR SUCH UTILITY SERVICE INTERRUPTION, THE RENT DUE FROM TENANT UNDER THIS LEASE SHALL ABATE FROM THE SECOND DAY FOLLOWING WRITTEN NOTICE FROM TENANT TO LANDLORD THAT THE UTILITY SERVICE INTERRUPTION HAS CAUSED TENANT TO CLOSE THE PREMISES TO THE PUBLIC UNTIL THE EARLIER TO OCCUR OF: (I) SUCH UTILITY INTERRUPTION IS CURED; OR (II) TENANT REOPENS THE PREMISES TO THE PUBLIC.

#### ARTICLE VII --TAXES AND REAL ESTATE CHARGES

Section 7.01 Personal Property Taxes. Tenant shall be liable for all taxes levied against personal property and trade fixtures and improvements placed by Tenant in the Premises.

Section 7.02 Real Estate Taxes. Tenant shall also be liable for Tenant's Proportionate Share of all Real Estate Charges (as defined below) related to the Shopping Center or Landlord's ownership of the Shopping Center. Tenant shall pay the Real Estate Charges directly to the applicable taxing authority prior to the

due date thereof, and shall provide Landlord with evidence of such payment within thirty (30) days following Landlord's written request. Tenant's obligations under this Section 7.02 shall be prorated during any partial year (i.e., the first year and the last year of the Term). "Real Estate Charges" shall include ad valorem taxes, general and special assessments, parking surcharges, any tax or excise on rents, any tax or charge for governmental services (such as street maintenance or police or fire protection) assessed against the Property or any improvements thereon and/or on the income of Landlord derived from the Shopping Center and any state or federal tax or charge which replaces or is substituted for or is in addition to or is levied, in whole or in part, in lieu of, in substitution for, or in addition to any of such above-described Real Estate Charges: provided, however, that Real Estate Charges shall not be deemed to include any franchise, estate, inheritance or other general income tax, except for any state or federal tax or charge which replaces or is substituted for or is levied, in whole or in part, in lieu of, in substitution for, or in addition to any of such above-described Real Estate Charges. Landlord shall provide copies of any notices or correspondence related to the Real Estate Charges related to the Shopping Center promptly following receipt thereof. Tenant may protest the Real Estate Charges imposed upon the Center in accordance with applicable statutory procedures and provided that Tenant shall not take any action: (a) which shall cause or allow the institution of foreclosure proceedings against the Shopping Center, (b) which shall result in the imposition of fines, penalties, or fees in addition to such Real Estate Charges, or (c) which shall subject Landlord to the risk of any civil or criminal liability. Any refund of Real Estate Charges shall reduce the Real Estate Charges.

#### ARTICLE VIII --REA CHARGES

##### Section 8.01 REA Charges.

(a) In addition to the Rent and other charges prescribed in this Lease, Tenant shall pay to Landlord (or the appropriate party under the REA), Tenant's Proportionate Share of all common area maintenance costs that are payable by Landlord pursuant to the REA (the "REA Charges"). In no event shall Tenant be responsible for any other operating and/or common area maintenance costs under the REA other than those that are payable by Landlord pursuant to the REA. Each such payment shall be due and payable within thirty (30) days after Tenant's receipt of the REA Expense Statement (as hereinafter defined).

(b) Notwithstanding anything to the contrary contained in this Lease, the following shall be excluded from the REA Charges: (a) interest, amortization or other costs associated with any mortgage, loan or refinancing of all or any part of the Shopping Center or the sale of all or any portion of the Shopping Center; (b) ground rents paid by Landlord for the property on which the Shopping Center is located; (c) legal or other fees associated with the enforcement of leases against other tenants; (d) leasing commissions, attorney's fees and other expenses incurred in connection with the development or leasing of the Shopping Center; (e) improvements, repairs or alterations to interior of spaces leased to other tenants; (f) the cost of providing any service directly to any other tenant; (g) the cost of any items to the extent Landlord is to receive reimbursement from a third party; (h) any reserves for future expenditures or liabilities which would be incurred subsequent to the then current accounting year; (i) costs in connection with the cleanup or removal of Hazardous Substances not caused by Tenant; (j) any bad debt loss, rent loss or reserve for bad debt or rent loss; (k) any administrative fee or similar fees or charges which exceed five percent (5%) of the total of all other REA Charges; (l) any salaries or payroll expenses of Landlord's employees; (m) security services; (n) advertising or promotional fees; (o) costs incurred by Landlord (or any tenant) due to the violation of any applicable law, code, regulation, ordinance or the like, which costs would not have been incurred but for such violation; (p) costs incurred by Landlord pursuant to Section 9.01 of this Lease; (q) depreciation; (r) costs incurred to obtain or upgrade a LEED certification or similar rating for the Premises and/or Shopping Center; (s) political or charitable contributions; (t) costs incurred to comply with any applicable law, code, regulation, ordinance or the like which was in effect on the Effective Date of this Lease; (u) costs of correcting any defects in the construction of the Shopping Center; and (v) any expenditure that is properly categorized as capital under generally accepted accounting principles, including, without limitation: the original investment in capital improvements, any replacements of capital items or other equipment, and structural additions to the Shopping Center; provided, however, that the following capital expenditures may be included in REA Charges (to the extent they are passed through to Landlord pursuant to the REA: (i) capital expenditures required by laws enacted after the Effective Date of this Lease; and (ii) capital expenditures that reduce the REA Charges payable on the

Shopping Center (to the extent of such reduction). In the event that capital expenditures may be passed through to Tenant pursuant to the immediately preceding sentence, such expenditures shall be amortized over their useful life and Tenant shall only be responsible for Tenant's Proportionate Share thereof. There shall be no duplication of charges and at no time shall Tenant pay a proportionate share of an amount that exceeds Landlord's cost for any particular expense.

Section 8.02      Parking. In no event will the Tenant Protected Parking be modified in a way that materially or adversely affects the Premises or Tenant's Permitted Use therein without Tenant's prior written consent, which will not be unreasonably withheld or delayed except for those matters listed in this paragraph below that are specifically subject to Tenant's approval in Tenant's sole discretion. Landlord shall not construct any buildings for occupancy within the Tenant Protected Parking, nor otherwise make any improvements to the Tenant Protected Parking which materially or adversely affects visibility to the Premises, without Tenant's consent which may be withheld in its sole discretion. Landlord shall not reconfigure, restripe, or restrict the parking spaces contained in the Tenant Protected Parking in any manner that reduces the number or size of parking spaces available for parking by Tenant's invitees in the Tenant Protected Parking, without Tenant's consent, which may be withheld in its sole discretion.

Section 8.03      Roof Rights.

(a)      Subject to the provisions of Section 8.03(b), Tenant shall be permitted to: (i) utilize the roof for roof-mounted antenna or satellite dishes for its sole use and not for sublease to third parties; and (ii) access the roof to install, maintain, repair, and replace such antenna or satellite dish.

(b)      Notwithstanding the provision of Section 8.03(a), Tenant agrees that: (i) Tenant, and its employees, contractors and agents, shall not access the roof, modify the roof or its structural support, penetrate the roof or put any antennae, satellite dish or other equipment on the roof without Landlord's prior written consent, not to be unreasonably withheld; (ii) Tenant, and its employees, contractors and agents, shall comply with all requirements of the then effective roof guaranty and will not violate or void the then effective roof guaranty; (iii) any work performed by Tenant including any antenna or satellite dish installed by Tenant shall comply with all applicable laws; and (iv) Tenant, at Tenant's sole cost and expense, shall remove any antenna, satellite dish or other equipment or modification installed by Tenant on the Premises at the expiration or earlier termination of this Lease, and shall repair any damages resulting from such removal to Landlord's reasonable satisfaction.

Section 8.04      REA Expenses Statement.

(a)      To the extent of Landlord's right to do so under the REA, Tenant shall have the right, at Tenant's expense, to audit expenses under the REA for any calendar year (or partial calendar year occurring during the Term of the Lease) for a period of ninety (90) days following the receipt of the REA expenses statement for any calendar year period or partial calendar year period. Landlord shall provide reasonable access to all books and records relating to the expenses under the REA upon notice to Landlord at least two days in advance, during ordinary business hours. Landlord shall retain copies of all records related to expenses under the REA for four (4) years. The audit shall be conducted only by reputable independent certified public accountants employed by Tenant on an hourly or fixed fee basis, and not on a contingency fee basis. The nature and content of any audit are confidential, and Tenant, for itself and on behalf of its representatives, shall not disclose the information obtained from the audit to any other tenant in the Center or any other parties, except for its attorneys, accountants, and other persons assisting Tenant with evaluation of the expenses under the REA. If as a result of its audit, Tenant determines that the actual expenses under the REA for the period covered by any statement are less than the amount shown on the statement of expenses under the REA, Tenant shall promptly notify Landlord of such determination, which notice shall be accompanied by a copy of the results of Tenant's audit.

(b)      Upon receipt of such notice and accompanying information, Landlord shall assist Tenant with protesting the amount of the expenses under the REA so as to reduce Tenant's obligation to pay Landlord's portion of the amount of the expenses under the REA.



## ARTICLE IX --MAINTENANCE AND REPAIR OF THE PREMISES

Section 9.01      Maintenance by Landlord.      Landlord shall keep the foundation, the exterior walls (except plate glass; windows, doors and other exterior openings), the utility lines serving the Premises up to the Premises (but not within the Premises), and the roof of the Premises in good repair. The costs and expenses incurred by Landlord in connection with the foregoing sentence shall not be included in common area maintenance charges to Tenant. In the event that the Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give written notice thereof to Landlord and Landlord shall have a reasonable time after receipt by Landlord of such written notice in which to make such repairs, but in no event shall such period of time exceed thirty (30) days. If Landlord fails to make such repairs within a reasonable period of time (not to exceed thirty (30) days), then Tenant may perform such repairs and charge the cost thereof to Landlord. If Landlord fails to pay such charge within thirty (30) days of demand from Tenant, then Tenant may offset such amount against Rent due during each month until Tenant has been credited with the full amount due to Tenant. Notwithstanding the foregoing, in the case of a default which cannot, with due diligence, be cured within a period of thirty (30) days, Landlord shall have such additional time to cure such default as may reasonably be necessary, provided Landlord proceeds promptly and with due diligence to cure such default within thirty (30) days after receipt of said notice.

Section 9.02      Maintenance by Tenant.      Except for those repairs to the Premises which Landlord has expressly agreed to make pursuant to this Lease, Tenant shall make all other necessary repairs, replacements and maintenance to the Premises or the improvements thereon. Without limiting the coverage of the previous sentence, it is understood that Tenant's responsibilities therein include the repair, replacement and maintenance of all lighting, heating, air conditioning, plumbing, and other electrical, mechanical and electromotive installation, equipment and fixtures. Tenant shall keep the Premises and Tenant's Improvements in first class condition order and repair, clean, sanitary and safe. In addition to the foregoing, Tenant shall maintain a preventative maintenance contract on the HVAC serving the Premises, which contract shall provide for periodic maintenance in accordance with the manufacturer's specifications. In the event Tenant fails to maintain such preventative maintenance contract, Landlord, at its option, may arrange for such a preventative maintenance contract for the HVAC units; provided, however, Landlord has notified Tenant, in writing of this failure of Tenant to comply with the maintenance requirements set forth herein and Tenant has failed to cure such noncompliance within thirty (30) days from receipt by Tenant of Landlord's notice, in which event the cost of such preventative HVAC maintenance shall be billed directly to Tenant and shall be paid within ten (10) days of receipt of invoice therefore. Notwithstanding anything to the contrary contained herein, in no event shall Tenant be required to replace the HVAC during the last twenty-four (24) months of the Initial Term or any renewal Term of the Lease.

## ARTICLE X --INSURANCE AND INDEMNITY

### Section 10.01      Tenant's Insurance.

(a)      At all times during the Term of this Lease, Tenant shall:

(i)      maintain a policy or policies of insurance causing the Premises and all improvements thereon to be insured under standard fire and extended coverage insurance for their actual replacement cost (such insurance shall name Landlord as loss payee, include an "agreed amount" endorsement, and eliminate any coinsurance requirement). At all times during construction of Tenant's Improvements or any approved alterations to the Premises, Tenant shall also maintain and keep in effect Builder's Risk Insurance with completed operations coverage, in insurance companies reasonably satisfactory to Landlord.

(ii)      effect and maintain commercial general liability insurance, on an occurrence basis, for the benefit of Landlord and Tenant for limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Five Million Dollars (\$5,000,000.00) annual aggregate for personal injury including bodily injury and death or property damage liability and shall contain a contractual liability endorsement (such amounts may be met through a combination of primary and excess/umbrella insurance policies). Tenant shall name Landlord as an additional insured on Tenant's commercial general liability insurance; and

(iii) effect and maintain workers' compensation insurance in statutory amounts.

(b) Evidence of insurance must be on file with Landlord before Tenant receives the Premises and must be kept current at all times.

(c) All policies of insurance required to be procured herein shall be issued by insurance companies with general policyholder's rating of not less than A and a financial rating of Class VII as rated in the most current available "Best's Insurance Reports", and licensed to do business in the state where the Premises is located and authorized to issue such policy or policies. All such policies shall contain a provision that the coverage shall be primary and non-contributing with respect to any policy carried by the other party, and that any policy carried by the other party shall be excess insurance.

(d) All policies procured by either party shall contain an endorsement containing an express waiver of any right of subrogation (as more specifically addressed in Article XXIV of this Lease) by the insurance company against the other party (whether named as an insured or not).

Section 10.02 Indemnification.

(a) Indemnification by Tenant. SUBJECT TO THE PROVISIONS OF ARTICLE XXIV OF THIS LEASE, TENANT SHALL INDEMNIFY, DEFEND AND HOLD LANDLORD HARMLESS FROM ANY AND ALL LOSSES, DAMAGES, CLAIMS, SUITS OR ACTIONS, JUDGMENTS AND COSTS, WHICH MAY ARISE OR GROW OUT OF THE FAILURE OF TENANT TO PERFORM ITS OBLIGATIONS PURSUANT TO THIS LEASE, OR ANY CLAIMS FOR LIABILITY OF ANY NATURE WHATEVER ARISING FROM CIRCUMSTANCES WITHIN THE PREMISES, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR ITS EMPLOYEES, PARTNERS, AGENTS, CONTRACTORS OR REPRESENTATIVES.

(b) Indemnification by Landlord. SUBJECT TO THE PROVISIONS OF ARTICLE XXIV OF THIS LEASE, LANDLORD SHALL INDEMNIFY, DEFEND AND HOLD TENANT HARMLESS FROM ANY AND ALL LOSSES, DAMAGES, CLAIMS, SUITS OR ACTIONS, JUDGMENTS AND COSTS, WHICH MAY ARISE OR GROW OUT OF THE FAILURE OF LANDLORD TO PERFORM ITS OBLIGATIONS PURSUANT TO THIS LEASE, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF TENANT OR ITS EMPLOYEES, PARTNERS, AGENTS, CONTRACTORS OR REPRESENTATIVES.

ARTICLE XI --DAMAGE BY CASUALTY

Section 11.01 Restoration. Except as otherwise provided in Section 11.02 hereof, if the Premises (except moveable trade fixtures, furniture and furnishings on the Premises) should at any time during the Term be damaged or destroyed by fire or otherwise, and Landlord does not elect to terminate this Lease as hereinafter provided, Landlord shall, to the extent insurance proceeds are made available to Landlord by Tenant, restore and rebuild the same as nearly as possible to the condition they were in immediately before such damage or destruction, and such restoration and rebuilding, prosecuted with due diligence, shall be completed as soon as reasonably possible. Landlord shall give written notice to Tenant of such election (to the extent such election is available to Landlord) within thirty (30) days after receipt of written notice from Tenant of the occurrence of such casualty and, if it elects to rebuild and repair, shall proceed to do so with reasonable diligence and at its sole cost and expense. In the event of a termination of this Lease pursuant to this Article, Base Rent shall be apportioned on a per diem basis and paid to the date of such casualty. Notwithstanding the foregoing, if the Premises is totally or partially destroyed or damaged during the last thirty six (36) months of the Term or any renewal thereof, either Landlord or Tenant may terminate this Lease as of the date of the occurrence of such damage or destruction by giving written notice thereof to the other party within thirty (30) days after the date of the casualty; provided, however, that if Landlord elects to terminate this Lease in accordance with the foregoing provision, then Tenant may nullify such termination by exercising its renewal option (if any) within thirty (30) days of Landlord's election to terminate.

Section 11.02 Landlord's Obligations to Rebuild. Landlord's obligation to rebuild and repair under this Article XI shall in any event be limited to restoring the Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, exhibits, Tenant's Improvements, fixtures and equipment installed by Tenant. Tenant agrees that promptly after completion of such work by Landlord, to the extent insurance proceeds are available to Tenant (or would have been available to Tenant had Tenant maintained the insurance required by this Lease), Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, Tenant's Improvements, fixtures, signs and equipment installed by Tenant, as the case may be.

Section 11.03 Continued Operations. Tenant agrees that during any period of reconstruction or repair of the Premises, it will continue the operation of its business within the Premises to the extent practicable and Tenant's Base Rent shall be abated in proportion to the area damaged during such time of restoration.

#### ARTICLE XII --CONDEMNATION

Section 12.01 Partial Taking. If less than twenty-five percent (25%) of the Floor Area of the Premises or less than forty percent (40%) of Tenant's Protected Parking should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof (a "Partial Condemnation"), and Landlord's lender consents to the restoration of the Premises, this Lease shall not terminate; however, the Base Rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority. Following such Condemnation, and Landlord's receipt of any condemnation award, Landlord shall make all necessary repairs or alterations to the remaining premises required to make the remaining portions of this Premises and Common Area an architectural whole.

Section 12.02 Total Taking. If more than twenty-five (25%) of the Floor Area of the Premises or more than forty percent (40%) of Tenant's Protected Parking shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof (a "Total Condemnation") then Tenant shall have the right to terminate this Lease as of the date possession shall be taken by such authority within thirty (30) days following the Total Condemnation and the Base Rent shall be abated during the unexpired portion of this Lease.

Section 12.03 Application of Award. In the event of a Total Condemnation, or a Partial Condemnation, the awards and other payments which Landlord and Tenant shall be entitled to have and receive, shall be paid to Landlord. Notwithstanding the foregoing, Tenant shall have the right to prove in any condemnation proceedings and to receive any separate award which may be made for damages to or condemnation of Tenant's movable trade fixtures and equipment and for moving expenses; provided, however, Tenant shall in no event have any right to receive any award for its interest in this Lease or for loss of leasehold, and any such award shall not reduce amounts that would otherwise be available to Landlord.

#### ARTICLE XIII --ASSIGNMENT AND SUBLETTING

Section 13.01 Consent Required. Tenant shall not, directly or indirectly, transfer, assign, sublet, enter into license or concession agreements, change ownership, hypothecate, or pledge this Lease or Tenant's interest in and to the Premises in whole or in part, or otherwise permit occupancy of all or any part of the Premises by anyone with, through or under it, without first procuring the written consent of Landlord, which consent will not be unreasonably withheld, conditioned or delayed. The transfer of a direct or indirect controlling interest in Tenant shall be deemed to be a transfer requiring Landlord's consent if Tenant is not a publicly traded corporation. The general prohibition contained herein against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. No assignment or sublease shall be effective until the assignee executes a written agreement, in form reasonably satisfactory to Landlord, assuming the obligations of Tenant contained in this Lease.

Section 13.02 Permitted Transfer. Notwithstanding the foregoing, Tenant may, with written notice to Landlord at least 30 days prior to such sublease or assignment, sublet a portion of the Premises to a subtenant as permitted below or assign this Lease to a transferee as permitted below only if the subtenant expressly



agrees the sublease is subordinate to the terms and conditions of this Lease or the transferee expressly agrees in writing to be bound by each and every duty and obligation set forth in this Lease, and Tenant is not in default under the terms and conditions of this Lease at the time of the assignment or sublease: (a) a parent, subsidiary, affiliate, division, or other entity, controlling, controlled by, or under common control with Tenant or Gold's Gym International Inc., a Delaware corporation ("Gold's Gym"); (b) any franchisee of Gold's Gym; (c) any entity which acquires all or substantially all of the stock and/or assets of Tenant whether through a merger, consolidation or otherwise; or (d) a subtenant pursuant to a sublease of a maximum of ten thousand 10,000 square feet of the Premises whose proposed use (i) will be consistent with the character and reputation of the Center, in Landlord's reasonable judgment, (ii) is included in, or complementary to, the Permitted Use, (iii) is not prohibited by this Lease, and (iv) will not cause a violation of any exclusive agreements executed by Landlord that Landlord has delivered to Tenant, and Tenant may choose to share its pylon signage and/or storefront signage with such subtenant, subject to compliance with the terms and conditions of this Lease.

Section 13.03 Tenant to Remain Liable. Notwithstanding any transfer, Tenant shall at all times remain fully liable for the performance of all of Tenant's obligations under this Lease (notwithstanding future transfers and regardless of whether or not Tenant's approval has been obtained for such future transfers). The transferee shall agree in a form reasonably satisfactory to Landlord to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease to the extent of the space transfer, and Tenant shall deliver to Landlord promptly after execution an executed copy of each such transfer and an agreement of compliance by each such transferee.

Section 13.04 Void Transfer. Any sale, mortgage or transfer of this Lease which is not in compliance with the provisions of this Article XIII shall be of no effect and void.

Section 13.05 Transfer by Landlord. In the event of the transfer and assignment by Landlord of its interest in this Lease, Landlord shall thereby be released from any further obligations hereunder accruing after the date of such transfer or assignment, and Tenant agrees to look solely to such successor in interest of Landlord for performance of such future obligations. Any security given by Tenant to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest, and Landlord shall thereafter be discharged of any further obligation relating thereto upon the written acknowledgement of receipt thereof from such successor in interest.

Section 13.06 No Mortgage. Tenant shall not mortgage, pledge or otherwise encumber its interest in this Lease or in the Premises without Landlord's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

#### ARTICLE XIV --DEFAULT

Section 14.01 Events of Default. The following events shall be deemed to be "Events of Default" by Tenant under this Lease:

(a) Tenant shall have failed to pay any installment of Base Rent, Additional Rent or any other charge provided herein, or any portion thereof when the same shall be due and payable, and the same shall remain unpaid for a period of fifteen (15) days after written notice from Landlord; or

(b) Tenant shall have failed to comply with any other provision of this Lease, if the failure continues for thirty (30) days after written notice to Tenant; provided, however, that in the case of a default which cannot, with due diligence, be cured within a period of thirty (30) days, Tenant shall have such additional time to cure such default as may reasonably be necessary, provided Tenant proceeds promptly and with due diligence to cure such default within thirty (30) days after receipt of said notice; or

(c) The making by Tenant of a general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless a petition filed against Tenant is dismissed within ninety (90) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease if possession is not restored to

Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises, or of Tenant's interest in this Lease, if the seizure is not discharged within thirty (30) days; or

(d) Tenant shall have failed to comply with the Letter Agreement between Gold's St. Louis LLC and Four Store Partners, L.L.C. concerning the Property Improvement Agreement dated September 27, 2012 between Four Store Partners, L.L.C., Schnuck Markets, Inc. and 24 Hour Fitness USA, Inc., if the failure continues for thirty (30) days after written notice to Tenant.

Section 14.02 Remedies. Upon the occurrence of any Event of Default, Landlord may pursue any one or more of the following remedies without any notice or demand whatsoever:

(a) Termination of Right of Possession. Landlord may terminate Tenant's right of possession of the Premises without terminating the Term of this Lease. Upon such termination, Landlord may, at Landlord's option, enter into the Premises and take and hold possession thereof, without such entry into possession terminating the Term of this Lease or releasing Tenant in whole or in part from Tenant's obligation to pay Base Rent and Additional Rent for the full Term. Upon such re-entry, Landlord may remove all persons and property from the Premises, and store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby. Landlord may make repairs to the Premises to the extent necessary to return the Premises to the condition in which Tenant is required to surrender it to Landlord pursuant to this Lease, and Tenant shall, upon demand, pay the actual and verifiable costs thereof, together with Landlord's reasonable expense of reletting. The amount, if any, by which cash consideration actually received by Landlord upon any such reletting, exceeds Landlord's expenses incident thereto, including reasonable brokerage fees and legal expenses, shall be credited to Tenant's rental obligations hereunder. Landlord may cancel and terminate the Term of this Lease by serving five (5) days' written notice on Tenant of such further election and to pursue any remedy at law or in equity that may be available to Landlord. Landlord shall use commercially reasonable efforts to mitigate its damages.

(b) Termination of Term of Lease. Landlord may terminate the Term of this Lease. Upon such termination, Landlord shall have the right to recover from Tenant:

(i) the worth at the time of the award of any unpaid Rent which has been earned at the time of such termination; and

(ii) the worth at the time of the award of the amount by which Base Rent and Additional Rent that would have been earned after such termination until the time of award exceeds the fair market rental value of the Premises over the same period of time; and

(iii) the worth at the time of award of the amount by which Base Rent and Additional Rent for the balance of the Term after the time of award exceeds the fair market rental value of the Premises over the same period of time; and

(iv) any other amount necessary to compensate Landlord for the detriment proximately caused by Tenant's failure to perform its obligations (including the costs and expenses of recovering the Premises and reasonable attorneys' fees); and

(v) all other amounts permitted by applicable law; provided, however, that, except as otherwise specifically set forth in this Lease, in no event shall Landlord be entitled to seek and Landlord hereby waives any right to any consequential, special or punitive damages against Tenant for Tenant's default or breach of this Lease.

(c) Other Remedies. Pursuit of any of the foregoing remedies by Landlord shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law (all

such remedies being cumulative), nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any Rent or other payments due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. No act or thing done by Landlord or its agents during the Term of this Lease shall be deemed a termination of the Term of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate the Term of this Lease or accept a surrender of the Premises shall be valid unless in writing signed by Landlord. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Landlord's acceptance of the payment of Rent or other payments hereunder after the occurrence of a default shall not be construed as a waiver of such default, unless Landlord so notifies Tenant in writing. Forbearance by Landlord in enforcing one or more of the remedies herein provided upon a default shall not be deemed or construed to constitute a waiver of such default or of Landlord's right to enforce any such remedies with respect to such default or any subsequent default.

(d) Jury Trial. The parties waive trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other with respect to matters arising under this Lease.

Section 14.03 Landlord's Default. Landlord shall, in no event, be charged with default in the performance of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within a reasonable period of time after written notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation; provided, however, that in the case of a default which cannot, with due diligence, be cured within a period of thirty (30) days, Landlord shall have such additional time to cure such default as may reasonably be necessary, provided Landlord proceeds promptly and with due diligence to cure such default within thirty (30) days after receipt of said notice. Except as otherwise specifically set forth in this Lease, in no event shall Tenant be entitled to seek and Tenant hereby waives any right to any special, punitive or consequential damages against Landlord for Landlord's default or breach of this Lease. If Landlord is in default, Tenant may perform such obligation and charge the cost thereof to Landlord. If Landlord fails to pay such charge within 30 days of demand from Tenant, then Tenant may offset such amount against up to, but not to exceed, seventy-five percent (75%) of Rent due during each month until Tenant has been credited with the full amount due to Tenant.

#### ARTICLE XV --HOLDING OVER

If Tenant, without Landlord's consent, remains in possession of the Premises after the expiration of the Term and without the execution of a new lease, it shall be deemed to be occupying the Premises on a month-to-month basis at a rental equal to one hundred fifty percent (150%) of the Base Rent plus one hundred percent (100%) of Additional Rent herein provided for the period immediately before the expiration of the Term and otherwise subject to all the conditions, provisions and obligations of this Lease. The exercise of Landlord's rights shall not be interpreted to allow Tenant to continue in possession, nor shall it be deemed an election to extend the Term.

#### ARTICLE XVI --ACCESS BY LANDLORD

Landlord or Landlord's agents shall have the right to enter the Premises during Tenant's business hours and upon at least 24 hours prior notice (except in the event of an emergency) to examine the same, and to show them to prospective purchasers or lessees of the building. During the twelve (12) months before the expiration of the Term of this Lease or any renewal Term, and provided Tenant has not previously exercised an option to extend the Term, Landlord may place upon the Premises the usual notice "For Lease" or "For Sale", which notices Tenant shall permit to remain thereon. If Tenant shall not be personally present to open and permit an entry into the Premises at any time when for any reason an entry therein shall be necessary to protect the Premises from damage, Landlord or Landlord's agents may enter the same, without rendering Landlord or such agents liable therefor and without, in any manner, affecting the obligations and covenants of this Lease. Landlord shall repair any damage caused by its entry. Nothing herein contained, however, shall be deemed or construed to impose upon Landlord any additional obligation, responsibility or liability whatsoever, for the care, maintenance or repair of the building or any part thereof, except as otherwise herein specifically provided.

#### ARTICLE XVII --QUIET POSSESSION

Landlord covenants that Tenant, on paying the Rents reserved herein and performing the covenants and agreements hereof, shall peaceably and quietly have, hold and enjoy the Premises and all rights, easements, appurtenances and privileges thereunto belonging or in any ways appertaining, during the Term hereof.

#### ARTICLE XVIII --BANKRUPTCY-INSOLVENCY

The parties acknowledge that in order to protect the mix of tenants within the Shopping Center, the purpose for which Tenant may use the Premises have been specifically limited by the provisions of Article V hereof, and that the economics of this Lease, particularly with respect to the agreed upon Base Rent and Additional Rent, were established on the basis of Tenant's expected business operations for the Permitted Use. Anything in this Lease to the contrary notwithstanding, if Tenant becomes subject to voluntary or involuntary proceedings under the United States Bankruptcy Code (the "Bankruptcy Code") and Tenant or any trustee, receiver or other custodian of Tenant or of its assets or properties shall assign this Lease, any and all amounts paid or to be paid by or for the account of the assignee in consideration of such assignment shall be and remain the property of Landlord, and any and all such amounts received by Tenant or such trustee, receiver or custodian shall be held in trust for Landlord and remitted to Landlord promptly after receipt thereof.

#### ARTICLE XIX --TITLE TO IMPROVEMENTS; SURRENDER

Tenant covenants and agrees that its interest in Tenant's Improvements (other than Tenant's moveable trade fixtures, machinery, equipment and personal property) to be constructed on the Premises shall become subject to the terms and conditions of this Lease and that any grantees or assignees of its interest in Tenant's Improvements or this Lease shall take subject to and be bound by the terms and conditions of this Lease, expressly including the following provisions:

(a) Upon expiration or termination of the Term of this Lease, Landlord shall be the sole and absolute owner of Tenant's Improvements, free of any right, title, interest or estate of Tenant therein without the execution of any further instrument and without payment of any money or other consideration thereof. Tenant shall execute such further assurances of title as may be requisite. Tenant hereby grants, releases, transfers, sets over, assigns and conveys to Landlord all of its right, title and interest in and to Tenant's Improvements upon the termination of the Term of this Lease.

(b) Tenant shall, upon such termination, surrender and deliver the Premises and deliver Tenant's Improvements, other than Tenant's moveable trade fixtures, machinery, equipment and personal property (without any payment or allowance whatever to Tenant on account of, or for, the improvements or any part thereof) to the possession and use of Landlord, without delay and in good order, condition and repair, ordinary wear and tear and casualty and condemnation excepted.

(c) Landlord, upon termination of the Term of this Lease for any reason, may, without notice (any notice to quit or intention to re-enter required by law being expressly waived by Tenant), re-enter upon the Premises and possess itself thereof by summary proceedings, ejectment, or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the Premises. Any personal property of Tenant remaining on the Premises after termination or expiration of this Lease shall be deemed abandoned by it and be retained by Landlord as its sole property or be disposed of, without liability or accountability, as Landlord sees fit and Tenant shall reimburse Landlord within thirty (30) days of written request for any cost or expense incurred by Landlord in connection with any personal property of Tenant remaining on the Premises after termination or expiration of this Lease.

#### ARTICLE XX --MECHANICS' LIENS

Notice is hereby given that Landlord shall not be liable for any work performed or to be performed on the Premises, or any improvement thereon, or in connection with any appurtenance thereto, for Tenant or any subtenant, or for any materials furnished or to be furnished at the Premises for Tenant or any subtenant, and that no mechanic's



or other lien for such work or materials shall attach to the reversionary or other interest of Landlord. If, in connection with any work being performed by Tenant or any subtenant or in connection with any materials being furnished to Tenant or any subtenant, any mechanic's lien or other lien or charge shall be filed or made against the Premises or any part thereof or any buildings or improvements now or hereafter erected and maintained thereon or on any appurtenances thereto, or if any such lien or charge shall be filed or made against Landlord as owner, then Tenant, at Tenant's cost and expense, within sixty (60) days after Tenant receives notice of such lien or charge, shall cause the same to be canceled and discharged of record by payment thereof, filing of a bond or providing an indemnity or otherwise, and shall also defend, at Tenant's cost and expense, any action, suit or proceeding which may be brought for the enforcement of such lien or charge, and shall pay any actual damages suffered or incurred therein by Landlord and shall satisfy and discharge any judgment entered therein. In the event of the failure of Tenant to cure within the above-mentioned sixty (60) day period any mechanic's lien or other lien or charge herein required to be cured by Tenant, Landlord may pay such items or discharge such liability by payment or bond, or both, and Tenant will repay to Landlord within thirty (30) days of demand any and all amounts paid by Landlord therefor, or by reason of any liability on any cash bond, and also any and all incidental expenses, including counsel fees in reasonable amount, incurred by Landlord in connection therewith; provided, however, Tenant shall have the right to contest any such mechanic's lien or other lien following notice to Landlord, provided, that Tenant (i) diligently continues such contest in good faith, and (ii) deposits or delivers to Landlord satisfactory indemnification or other security reasonably satisfactory to Landlord.

#### ARTICLE XXI --PRESENT CONDITION OF PREMISES

Except as specifically provided otherwise in this Lease, Tenant accepts the Premises, without recourse to Landlord, in the condition or state in which they or any of them now are or are as of the Effective Date, without representation or warranty, express or implied, in fact or by law, as to the nature, condition or usability thereof or as to the use or uses to which the Premises or any part thereof may be put or as to the prospective income from, and expense of operation of, the Premises. Tenant agrees that Landlord, its employees and agents have made no representations, inducements or promises about the Premises, the Shopping Center or this Lease, or about the characteristics or conditions regarding or pertaining to the Premises or the Shopping Center, unless the representations, inducements and promises are in this Lease. Therefore, no claim or liability, or cause for termination, shall be asserted by Tenant against Landlord, its employees and agents, for, and they shall not be liable because of, the breach of any representations, inducements or promises not expressly in this Lease.

#### ARTICLE XXII --HAZARDOUS MATERIALS

Section 22.01      Prohibition of Hazardous Materials. Tenant shall not cause or permit any Hazardous Material to be brought upon, transported through, stored, kept, used, discharged or disposed in or about the Shopping Center by Tenant or any Tenant Parties, except that Tenant may store and use Hazardous Materials in the Premises, if: (i) they are used in the ordinary course of business, and (ii) their storage or use does not violate any applicable laws.

Section 22.02      Tenant Indemnity. Tenant shall indemnify, defend, protect and hold harmless Landlord (and Landlord's parents, subsidiaries, affiliates, employees, partners, agents, mortgagees or successors to Landlord's interest in the Shopping Center) (collectively "Indemnity") from any and all claims, sums paid in settlement of claims, judgments, damages, clean-up costs, penalties, fines, costs, liabilities, losses or expenses (including, without limitation, reasonable attorneys', consultants' and experts' fees and any other reasonable and customary fees by Landlord to enforce the Indemnity) which arise during or after the Term as a result of Tenant's breach of the obligations or the release or contamination of the Shopping Center by Tenant or Tenant Parties, including, without limitation: diminution in value of the Shopping Center; damages for the loss of, or the restriction on the use of, rentable or usable space or any amenity of the Shopping Center; damages arising from any adverse impact on the sale or lease of the Shopping Center. This Indemnity includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on, under or originating from the Shopping Center. This Indemnity shall survive the expiration or earlier termination of the Term of this Lease and shall survive any transfer of Landlord's interest in the Shopping Center.



Section 22.03      Landlord Indemnity. Landlord shall indemnify, defend, and hold Tenant harmless from and against from any and all claims, sums paid in settlement of claims, judgments, damages, clean-up costs, penalties, fines, costs, liabilities, losses or expenses (including, without limitation, reasonable attorneys', consultants' and experts' fees and any other reasonable and customary fees by Tenant to enforce the Indemnity) which arise during or after the Term as a result of any of the following: (i) any Hazardous Materials existing on or about the Premises or the Shopping Center that are caused or created by Landlord or any of Landlord's parents, subsidiaries, affiliates, employees, partners, agents, mortgagees or successors or assigns; or (ii) any Hazardous Materials that migrate onto the Premises or the Shopping Center after the Term through no fault of Tenant. This Indemnity shall survive the expiration or earlier termination of the Term of this Lease and shall survive any transfer of Tenant's interest in the Premises.

Section 22.04      Remediation. Without limiting the foregoing, if the presence of Hazardous Material anywhere on the Shopping Center caused or permitted by Tenant or any Tenant Parties results in the contamination, release or threatened release of Hazardous Material on, from or under the Shopping Center or other properties, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Shopping Center and other properties to the condition existing before the introduction of the Hazardous Material; provided that Landlord's written approval of the actions shall be obtained first (which approval shall not be unreasonably withheld) and so long as such actions do not have or would not potentially have any material, adverse long-term or short-term effect on Landlord or on the Shopping Center or other properties.

#### ARTICLE XXIII --SPECIAL PROVISIONS

Section 23.01      Landlord's Entry. In any circumstance where Landlord is permitted to enter upon the Premises during the Term, whether for the purpose of curing any default of Tenant, repairing damage resulting from fire or other casualty or an eminent domain taking or is otherwise permitted under this Lease or by law to go upon the Premises, no such entry shall: (a) constitute an eviction or disturbance of Tenant's use and possession of the Premises or a breach by Landlord or any Landlord's obligations under this Lease; (b) except in the case of the breach of this Lease, gross negligence, or willful misconduct of Landlord, its agents, representatives, employees or any of them, render Landlord liable for damages for loss of business or otherwise, or entitle Tenant to be relieved from any of Tenant's obligations under this Lease; or (c) grant Tenant any right of setoff or recoupment or other remedy that is not provided for by this Lease. In connection with any entry incident to performance of repairs, replacements, maintenance or construction, all of the aforesaid provisions shall be applicable notwithstanding that Landlord may elect to take building materials in, to or upon the Premises that may be required or utilized in connection with entry by Landlord.

Section 23.02      Independent Obligations. The obligation of Tenant to pay Rent and other sums under this Lease, and the obligation of Tenant to perform Tenant's other covenants and duties under this Lease and the obligation of Landlord to perform Landlord's other covenants and duties under this Lease constitute independent and unconditional obligations, unless an abatement, offset, or reduction is expressly provided for in this Lease. Tenant waives and relinquishes all rights which it might have to claim any nature of lien against or withhold, or deduct from or offset against any Rent and other sums to be paid Landlord by Tenant, except as expressly set forth in this Lease.

#### ARTICLE XXIV --SUBROGATION

Landlord and Tenant each waive any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property, the Premises or its contents, or to other portions of the Shopping Center or the Premises arising from any liability, loss, damage or injury for which insurance is carried or required to be carried pursuant to this Lease. LANDLORD AND TENANT INTEND FOR THE WAIVER OF CLAIMS SET FORTH IN THIS ARTICLE XXIV TO APPLY EVEN IF THE LOSS OR DAMAGE DESCRIBED IN SUCH SECTION IS CAUSED BY THE NEGLIGENCE OF THE RELEASED PARTY AND EVEN IF THE RELEASED PARTY WOULD OTHERWISE BE STRICTLY LIABLE FOR SUCH LOSS OR DAMAGE UNDER APPLICABLE LAWS. The foregoing shall not apply to losses, damages, or injuries that are in excess of policy limits or that are not covered due to a deductible or self-insured retention clause in the policy.

## ARTICLE XXV --SIGNAGE

Tenant will be entitled to construct on the exterior of the Premises, or otherwise in the Shopping Center, the maximum amount of signs permitted under applicable law. All of Tenant's signs shall be subject to the approval of Landlord, which will not be unreasonably withheld or delayed. Tenant shall also have the right to affix to the exterior of the Premises "Pre-Opening" and "Grand Opening" banners during the pre-sale and grand opening periods, as well as reasonable promotional banners periodically during the Lease Term.

## ARTICLE XXVI --MISCELLANEOUS PROVISIONS

Section 26.01 Relationship of Parties. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. This Lease shall not confer rights or benefits, including third-party beneficiary rights or benefits to anyone that is not a named party to this Lease, including any individual, corporation, partnership, trust, unincorporated organization, governmental organization or agency or political subdivision.

Section 26.02 Construction. Each party has read and understands this Lease. The rule of construction that a document should be construed most strictly against the party which prepared the document shall not be applied, because both parties have participated in the preparation of this Lease. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one tenant and to either corporations, associations, partnerships or individuals, males or females, shall, in all instances, be assumed as though fully expressed. The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof. The parties acknowledge that certain charges, fees and other payments are deemed Additional Rent in order to enforce Landlord's remedies, and shall not be construed to be Base Rent if rent controls are imposed. The printed provisions of this Lease and written or typed additions shall be given equal weight for the interpretation of this Lease. The deletion of any portion of this Lease shall not create an implication regarding the intent of the parties, and this Lease shall be read and interpreted as if the deleted portion had never been in this Lease.

Section 26.03 Parties Bound. It is agreed that this Lease, and each and all the covenants and obligations hereof, shall be binding upon and inure to the benefit of, as the case may be, the parties hereto, their respective heirs, executors, administrators, successors and assigns, subject to all agreements and restrictions herein contained with respect to assignment or other transfer of Tenant's interest herein.

Section 26.04 Entire Agreement. This Lease contains the entire agreement between the parties, and no agreement shall be effective to change, modify or terminate this Lease in whole or in part unless such agreement is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought.

Section 26.05 Brokers. Landlord and Tenant warrant that neither has had any dealings with any broker or agent in connection with the negotiation or execution of this Lease, and each party agrees to indemnify the other party and hold him harmless from and against any and all cost, expense or liability for commissions or other compensation and charges claimed by any broker or agent by, through, or under Landlord or Tenant with respect to this Lease.

Section 26.06 Savings and Governing Law. If any provision of this Lease or any paragraph, sentence, clause, phrase or word is judicially or administratively held invalid or unenforceable, that shall not affect, modify or impair any other paragraph, sentence, clause, phrase or word. The laws of the state of Missouri shall govern the interpretation, validity, performance and enforcement of this Lease.

Section 26.07 Force Majeure. If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles,

inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 26.07 shall not operate to excuse either party from prompt payment of (as applicable) Base Rent, construction allowances or any other payments required by the terms of this Lease.

Section 26.08      Recording of Lease. This Lease shall not be recorded, but a short form lease of even date herewith, describing the property herein demised, giving the Term of the Lease and referring to this Lease may be recorded by either party upon execution by both parties. The party so requesting such short form lease shall be responsible for preparation and recording thereof, and release thereof after termination of this Lease.

Section 26.09      No Option. The submission of this Lease for examination or execution does not constitute a reservation of or option for the Premises, and this Lease becomes effective as a lease only upon execution and delivery thereof by Landlord and Tenant.

Section 26.10      Notices. Wherever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether actually received or not when deposited in the United States Mail, postage prepaid, Registered or Certified Mail, Return Receipt Requested, or the day after deposit with a national recognized overnight delivery service (e.g. Federal Express) addressed to the parties hereto at the addresses hereinafter set forth, or at such other addresses as they have theretofore specified by written notice delivered in accordance herewith, or the day of transmittal by facsimile to the number specified herein if accompanied by confirmation thereof.

If to Landlord:      Four Store Partners, L.L.C.  
9645 Clayton Road, 2<sup>nd</sup> Floor  
St. Louis, Missouri 63124  
Attn: Tim Crowley

With a copy to:

Summers Compton Wells LLC  
8909 Ladue Road  
St. Louis, Missouri 63124  
Attn: Stephen L. Wells

If to Tenant:      Gold's St. Louis, LLC  
4001 Maple Avenue, Suite 200  
Dallas, Texas 75219  
Attn: Real Estate/Accounting Department

With a copy to:

E Smith Realty Partners  
16000 North Dallas Parkway, Suite 550 N  
Dallas, Texas 75248  
Attention: Lease Administration

Section 26.11      Estoppel Certificates. Both Landlord and Tenant agree, upon request of the other party, at any time and from time to time upon ten (10) business days' notice, to execute and deliver to the requesting party, without charge, a written declaration, in recordable form: (i) ratifying this Lease, (ii) confirming the commencement and expiration dates of the Term; (iii) certifying that Tenant is in occupancy of the Premises, and that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended, except by such writings as shall be stated; (iv) that there are no defenses or offsets against the enforcement of this Lease, or stating those claimed; and (v) reciting the amount of advance Rent, if any, paid by Tenant and the date to which

Rent has been paid. If Landlord desires to finance or refinance the Premises, or any part thereof, Tenant hereby agrees to deliver to any lender designated by Landlord such financial statements of Tenant as may be reasonably required by such lender.

Section 26.12      Subordination. This Lease and the estate of Tenant hereunder shall be subject and subordinate to any ground lease, deed of trust, mortgage lien or charge, or any reciprocal easement agreement or other operating agreement which now encumbers or which at any time hereafter may encumber the Premises (such ground lease, deed of trust, mortgage lien or charge or any reciprocal easement agreement or other operating agreement and any replacement, renewal, modification, consolidation or extension thereof being hereinafter referred to as an "Encumbrance"); provided always that this Lease shall never be subject or subordinate to any Encumbrance unless the holder of such Encumbrance and Landlord execute an agreement in a form reasonably satisfactory to Tenant, which provides that Tenant's rights under this Lease will not be disturbed so long as Tenant is not in default hereunder, and which does not materially adversely affect Tenant's rights in this Lease. Tenant agrees that it will, within 10 days following written request, execute and deliver any commercially reasonable documents necessary to evidence the subordination of its rights under this Lease as aforesaid.

Section 26.13      Replacement of Existing Leases. This Lease fully replaces and is in lieu of the following lease agreements: (i) that certain Restated and Amended Lease Agreement dated December 5, 1996 between SM Properties 2000, L.L.C. and Schnuck Markets, Inc., as assigned by that certain Assignment of Lease dated December 5, 1996 from SM Properties 2000, L.L.C. to Four Store Partners, L.L.C. (collectively, the "Master Lease"); and (ii) that certain Sublease Agreement dated March 18, 1996 between Schnuck Markets, Inc., a Missouri corporation, and Family Company of America, L.L.C., a Missouri limited liability company, as assigned by that certain Assignment of Sublease dated June 1, 1999, between Kathy A. Surrat-States, in her capacity as the duly appointed and acting Chapter 7 Trustee for The Family Company of America, L.C. and 24 Hour Fitness, Inc., a California corporation, as amended by that certain Amendment to Sublease between Schnuck Markets, Inc. and 24 Hour Fitness USA, Inc., and as further amended by that certain Property Improvement Agreement dated September 27, 2012, between Four Store Partners, L.L.C., Schnuck Markets, Inc. and 24 Hour Fitness USA, Inc., as assigned by that certain Lease Assignment Agreement dated June 15, 2016 between 24 Hour Fitness USA, Inc., as assignor, and Genesis Health Clubs of the Midwest LLC, as assignee, as further assigned by Genesis Health Clubs of Midwest LLC to Gold's St. Louis LLC (collectively, the "Sublease"). The Sublease and Master Lease shall be void and of no further force or effect upon the Effective Date of this Lease.

Section 26.14      Financial Statements. Upon Landlord's written request, but not more than once per calendar year, Tenant shall deliver to Landlord its annual financial statements and the annual financial statements of the Guarantor of this Lease. All such financial statements shall be prepared in accordance with a comprehensive method of accounting consistently applied and shall be certified by an executive officer of Tenant or Guarantor as true, correct and complete.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Lease as of the day and year first above written.

TENANT:

GOLD'S ST. LOUIS, LLC

By: 

Name: Brandon Braun

Title: President

LANDLORD:

FOUR STORE PARTNERS, L.L.C.

By: 

Name: TIMOTHY G. CROWLEY

Title: MANAGER

1830519\_9.docx

EXHIBIT A

PROPERTY



EXHIBIT A

#85 Clayton & Baxter  
14885 Clayton Road  
Chesterfield, MO

LEGAL DESCRIPTION

A tract of land being part of adjusted Tract "A" of the "Boundary Adjustment Plat of a tract of land being Tract "A" of Parcel C-S of 'Conway Land Subdivision' and part of Fractional Section 26", according to the Plat thereof recorded in Book 251, Page 60 of the St. Louis County Records, situated in Fractional Section 26, Township 45 North, Range 4 East, in the City of Chesterfield, St. Louis County, Missouri, being more particularly described as follows:

Beginning at a point on the Northeastern Right of Way Line of Baxter Road, variable width, at the Westernmost Corner of adjusted Tract "A", as aforementioned, thence along the Northwestern Line of said Tract "A", North 23 degrees 34 minutes 40 seconds East, 239.49 feet to a point; thence departing said Northwestern Line, South 66 degrees 08 minutes 42 seconds East, 282.04 feet to a point; thence South 23 degrees 51 minutes 18 seconds West, 90.00 feet to a point; thence South 66 degrees 08 minutes 42 seconds East, 224.20 feet to a point; thence South 23 degrees 51 minutes 18 seconds West, 27.00 feet to a point; thence South 62 degrees 31 minutes 08 seconds East, 50.10 feet to a point on the Western Line of a tract of land conveyed to the State of Missouri (for the widening of Missouri State Highway HH (also known as Clayton Road, variable width) by Deed recorded in Book 10127, Page 1523 of the St. Louis County Records; thence along said Western Line, South 27 degrees 29 minutes 54 seconds West, 14.15 feet to a point 63.42 feet perpendicular distant from the centerline of said highway opposite P.T. Station 144+99.14; thence South 33 degrees 26 minutes 00 seconds West, 160.29 feet to a point 75 feet radial distant from centerline at Station 143+25.37; thence Southwesterly 91.83 feet along a curve to the right having a radius of 806.95 feet and a chord bearing South 38 degrees 12 minutes 55 seconds West to a point 75 feet radial distant from centerline at Station 142+25.00; thence South 24 degrees 12 minutes 50 seconds West, 24.17 feet to a point 67.50 feet radial distant from centerline at Station 142+00.00; thence Southwesterly 161.26 feet along a curve to the right having a radius of 814.45 feet and a chord bearing South 48 degrees 46 minutes 20 seconds West to a point of compound curvature, 67.50 feet radial distant from centerline at Station 140+25.37; thence Southwesterly 29.60 feet along a curve to the right having a radius of 44.50 feet and a chord bearing South 73 degrees 29 minutes 36 seconds West to a point on the Adjusted Parcel Line as shown on the aforementioned Boundary Adjustment Plat; thence along said Adjusted Parcel Line, North 65 degrees 33 minutes 00 seconds East, 14.71 feet to a point; thence North 23 degrees 24 minutes 11 seconds East, 130.00 feet to a point; thence North 66 degrees 35 minutes 49 seconds West, 140.00 feet to a point; thence South 65 degrees 33 minutes 00 seconds West, 43.37 feet to a point on the Northeastern Right of Way Line of Baxter Road, as aforementioned, thence along said Northeastern Right of Way Line, North 26 degrees 21 minutes 33 seconds West, 105.32 feet to a point, thence North 24 degrees 27 minutes 00 seconds West, 234.35 feet to the point of beginning, containing 4.39 acres, more or less.

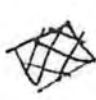

**EXHIBIT B**

**SITE PLAN**

The Site Plan is not intended as a representation to Tenant that all matters appearing on the Site Plan are exactly as shown thereon.





 = Premises  
 = Property

## EXHIBIT C

### CONSTRUCTION PROCEDURES

#### ARTICLE 1.00 GENERAL DESIGN AND CONSTRUCTION CRITERIA

- 1.01 Landlord acknowledges that Tenant intends to remodel the Premises within twelve (12) months of the date of this Lease. Tenant is responsible for selecting contracts relating to the construction and installation of Tenant's Improvements, supervision and completion of the work, to make such improvements ("Tenant's Work") and payment therefor, procurement of all permits and permissions related to Tenant's Work, compliance with the requirements of all authorities having jurisdiction and with conditions contained herein, and payment of all fees and charges incurred in connection therewith. Tenant shall have the right to select all contractors, project managers, architects and space planners. All such contractors shall be properly licensed and insured as required by Section 10.01 of this Lease.
- 1.02 Tenant shall impose and enforce all terms hereof on any architect, engineer, designer, contractor and workmen engaged by Tenant, its contractors and subcontractors.

#### ARTICLE 2.00 INTENTIONALLY DELETED

#### ARTICLE 3.00 CONSTRUCTION ALLOWANCE

- 3.01 CONSTRUCTION ALLOWANCE: Landlord shall pay Tenant \$415,000.00 within ten (10) days after Tenant's completion of fifty percent (50%) of Tenant's Work (as shown by a paid application from Tenant's contractor), and the remaining \$415,000.00 within ten (10) days after the completion of Tenant's Work (as shown by a paid application from Tenant's contractor, together with lien waivers). If Landlord does not pay any portion of the Construction Allowance to Tenant within ten (10) days after the date when such payment is due, then Tenant may offset such amounts against Rent until it has been paid in full.

#### ARTICLE 4.00 TENANT'S WORK

- 4.01 At its own expense, Tenant shall provide all design, engineering, plans, specifications, drawings, permits, fees, work, labor, skill and equipment required to complete the Premises for occupancy, and shall construct Tenant's Improvements in accordance with the Plans and Specifications, approved in the manner set forth herein. As soon as possible after the Effective Date of this Lease, Tenant shall perform the following work in the Premises: (a) repair the concrete ramp and other identified areas of damaged concrete in the rear of the Building (such other areas of damaged concrete are marked with orange paint as of the Effective Date); (b) repair the concrete sidewalk in front of the Building; and (c) paint/coat the underneath of the overhang on the front side of the Building. The parties acknowledge and agree that the work set forth in the immediately preceding sentence is a one-time obligation of Tenant and, after Tenant makes the foregoing repairs, Landlord shall be responsible for such items on a going forward basis.
- 4.02 No construction work shall be undertaken or commenced by Tenant until:
- (a) The Plans have been submitted to and approved by Landlord in accordance with the terms and conditions of this Lease, and
  - (b) all necessary building permits and required insurance coverages have been secured and certificates of insurance delivered to Landlord.
- 4.03 Tenant shall ensure that all materials, skill and workmanship in Tenant's Work shall be of uniformly high quality, not less than building standard, and in accordance with the best standards of practice and any governing codes or regulations. Tenant shall have the obligation to timely deliver any materials and equipment and labor to be supplied by Tenant so as not to delay substantial completion of Tenant's Work. Tenant represents and warrants that the Plans and Specifications and the improvements contemplated thereby shall be in compliance with applicable building and zoning laws, ordinances, regulations and any covenants, conditions or restrictions affecting the Shopping Center, and that the same are in accordance with good engineering and architectural practice, and that Tenant's Plans are sufficient for issuance of a building permit for Tenant's Work.

- 4.04 Tenant shall appoint a representative as Tenant's representative with full authority to make decisions and commitments on behalf of Tenant in respect to Tenant's Work and changes therein.
- 4.05 Except as otherwise set forth in this Lease or in Tenant's Plans, all of Tenant's Work shall be confined to the interior of the Premises, with the exception of sign mountings, which shall be performed in compliance with the approved sign drawings.

#### ARTICLE 5.00 TENANT'S ACCESS FOR COMPLETION OF WORK

- 5.01 Tenant and its architects, designers, engineers, contractors and workmen shall have access to and non-exclusive use of the Premises to perform Tenant's Work and such other work approved by Landlord as Tenant may desire. Any such work shall be done by contractors selected by Tenant.
- 5.02 Tenant shall at all times keep the Premises and adjacent areas free from accumulations of unreasonable amounts of waste material or rubbish caused by its suppliers, contractors or workmen, considering the scope of Tenant's Work. At the completion of Tenant's Work, Tenant's contractor shall forthwith remove all rubbish and all tools, equipment and surplus materials from and about the Premises and shall leave the Premises clean.

#### ARTICLE 6.00 INSURANCE; PAYMENT DOCUMENTATION

- 6.01 Prior to commencement of Tenant's Work, Tenant shall obtain, at its sole expense, and maintain during the performance of Tenant's Work, the insurance coverages required by Section 10.01 of the Lease.
- 6.02 Tenant shall furnish Landlord with sworn owner's and contractor's statements, contractor's affidavits and partial and final waivers of lien, in such form and content as Landlord may reasonably require, in order to establish that the cost of all labor, services and materials furnished in connection with Tenant's Work has been paid in full.

### FIRST AMENDMENT TO SHOPPING CENTER LEASE

THIS FIRST AMENDMENT TO SHOPPING CENTER LEASE (this "Amendment") is made and entered into effective as of the 13<sup>th</sup> day of December, 2019 by and between Four Store Partners, L.L.C., a Missouri limited liability company ("Landlord"), and Gold's St. Louis, LLC, a Delaware limited liability company ("Tenant").

WHEREAS, Landlord and Tenant entered into that certain Shopping Center Lease dated November 30, 2016 (the "Lease"), for the lease of the real property and improvements located at 14885 Clayton Road, Chesterfield, Missouri 63107 (the "Premises"), as more particularly described in the Lease;

WHEREAS, Landlord and Tenant desire to amend the Lease on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual terms and conditions herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. **Base Rent.** Section 4.01 of the Lease is hereby deleted in its entirety and replaced with the following:

Section 4.01 Base Rent. Except as otherwise specifically set forth in this Lease, Tenant will pay to the Landlord without any prior demand therefor and without any deduction or setoff whatsoever, beginning as of the Rent Commencement Date, Base Rent ("Base Rent") as follows:

<u>Period</u>	<u>Monthly Base Rent</u>
(i) 12/1/16 – 11/30/17	\$19,116.67
(ii) 12/1/17 – 11/30/18	\$21,429.17
(iii) 12/1/18 – 03/31/19	\$22,970.83
(iv) 04/1/19 – 11/30/19	\$35,458.33
(v) 12/1/19 – 12/31/19	\$37,000.00
(vi) 1/1/20 – 11/30/20	\$38,770.00
(vii) 12/1/20 – 11/30/21	\$40,311.67
(viii) 12/1/21 – 11/30/26	\$40,774.17
(ix) 12/1/26 – 03/31/29	\$44,675.58
(x) First option period	\$42,905.58
(xi) Second option period	\$47,175.00

(xii)	Third option period	\$51,914.08
(xiii)	Fourth option period	\$57,103.33

Base Rent for each month during the Term will be due and payable monthly in advance on or before the first (1st) day of such month.

2. **Tenant's Work.** Tenant agrees to perform the repairs and maintenance at the Premises and the Shopping Center as set forth in Exhibit A (the "Tenant's Work") attached hereto and incorporated herein by this reference. Tenant hereby irrevocably appoints and designates Landlord or its designee as Tenant's agent ("Tenant's Agent") to supervise completion of the Tenant's Work on Tenant's behalf. In connection therewith, Tenant's Agent will solicit bids for such work and submit those to Shane Armstrong, Tenant's designated representative, for prior review, approval and execution; provided, however, if Tenant does not provide Tenant's Agent with written notice of Tenant's reasonable objections to a bid within five (5) business days after receipt from Tenant's Agent, Tenant will be deemed to have approved and accepted that bid and related scope of work and Tenant's Agent may execute that bid on Tenant's behalf. If Tenant timely objects to a bid as aforesaid, Tenant's Agent will have the particular work rebid with a reputable contractor, subcontractor or supplier selected by Tenant. If Tenant does not approve that rebid within five (5) business days after receipt, Tenant's Agent may accept the original bid or the rebid as it determines to be appropriate in its discretion. Notwithstanding the foregoing, Tenant's Agent shall not accept bids for Tenant's Work which, in the aggregate, exceed One Hundred Eighty-Four Thousand Dollars (\$184,000.00). Tenant agrees to cooperate with Tenant's Agent to ensure that the Tenant's Work is commenced and completed without delay. Tenant acknowledges that the Tenant's Work will be performed during business hours. It is anticipated that the repair and maintenance work will have little or no impact on Tenant's business. Tenant will indemnify, defend and hold Landlord and Tenant's Agent harmless from and against any and all claims, damages, losses and expenses (except as otherwise expressly provided in this Amendment), including attorneys' fees, arising out of or resulting from the performance of the Tenant's Work. Moreover, Tenant will look only to the warranties provided by contractors, subcontractors or equipment manufacturers in respect of any defects in or other issues with respect to the Tenant's Work and Landlord and Tenant's Agent will have no liability therefor.

3. **Payment for Tenant's Work.** In consideration of the increased Base Rent provided for in this Amendment, Landlord agrees to pay up to One Hundred Eighty-Four Thousand Dollars (\$184,000.00) of the costs and expenses actually incurred by Tenant in connection with the Tenant's Work, which the parties acknowledge is repair and maintenance work otherwise required to be performed by Tenant pursuant to Section 9.02 of the Lease, and up to \$15,000 in soft costs (such as engineering and legal costs). If Tenant actually incurs less than One Hundred Eighty-Four Thousand Dollars (\$184,000.00) for the costs and expenses associated with the Tenant's Work then Landlord will send to Tenant, within thirty (30) days after completion of all Tenant's Work in accordance with this Amendment and the Lease, a check payment in the amount of the difference between One Hundred Eighty-Four Thousand Dollars (\$184,000.00) and the cost and expenses actually incurred by Tenant in connection with Tenant's Work. If Tenant's Agent has not completed all of Tenant's Work by such date as is nine (9) months following the date of this Amendment, Landlord shall send to Tenant a check payment in the amount of the difference between One Hundred Eighty-Four Thousand Dollars (\$184,000.00) and the amounts expended to such date towards completion of the Tenant's Work, whereupon (a) Tenant's Agent shall be released of all further obligations in connection with the Tenant's Work, and (b) Tenant shall promptly commence efforts to complete all remaining Tenant's Work, (c) Tenant shall diligently pursue such Tenant's Work to completion, and (d) Tenant shall in all events



complete Tenant's Work within one hundred twenty (120) days after receipt of the foregoing payment.

4. **Partial Release of REA Charges:** Landlord agrees to enforce all rights of Landlord on behalf of Landlord and Tenant pursuant to that certain letter agreement between Landlord and Baxter Center, LLC dated [August 20, 2019], and as such Tenant will not participate in any capital costs under the REA from and after the date of this Amendment during the remainder of the Term as specifically outlined in said letter agreement. This paragraph is not intended to relieve Tenant of costs associated with ordinary and regular maintenance of common areas under the REA.

5. **Lease Section 9.02.** The fifth (5th) sentence of Section 9.02 is deleted in its entirety and replaced with the following:

"In the event Tenant fails to maintain such preventative maintenance contract or to make any repairs, replacements or maintenance to the Premises or the improvements in accordance with this Lease, Landlord, at its option, may arrange for such a preventative maintenance contract for the HVAC units or may make such repairs, replacements or maintenance, as applicable, on Tenant's behalf; provided, however, Landlord has notified Tenant in writing of Tenant's failure to comply with its preventative maintenance contract and/or repair, replacement or maintenance obligations and Tenant has failed to cure such noncompliance within thirty (30) days after receipt by Tenant of Landlord's notice, in which event the cost of such preventative HVAC maintenance and/or other repairs, maintenance or replacements to the Premises or the improvements shall be billed directly to Tenant and shall be paid by Tenant within ten (10) days of receipt of invoice therefore. Landlord shall be reasonable in exercising the self-help remedy provided for in this Section 9.02, including with respect to the costs and scope of any work performed thereunder, and Landlord's exercise of any self-help right permitted by this Section 9.02 shall not create any assumption that the work performed by Landlord was required by this Lease."

6. **Miscellaneous.**

(a) Terms not otherwise defined in this Amendment will have the meanings ascribed to them in the Lease.

(b) Except as amended by this Amendment, the Lease as modified herein remains in full force and effect and is hereby ratified by Landlord and Tenant. In the event of any conflict between the Lease and this Amendment, the terms and conditions of this Amendment will control. This Amendment addresses the rights and obligations of Landlord and Tenant in connection with any costs and expenses incurred by Tenant related to the Tenant's Work which are not expected to exceed One Hundred Eighty-Four Thousand Dollars (\$184,000.00). This Amendment is not a waiver of any other right or obligation of the Landlord and/or Tenant in connection with any costs and expenses incurred by Tenant related to the Tenant's Work or any other condition of the Premises not included in the Tenant's Work. Nothing in this Amendment will affect or limit in any way Tenant's continuing repair and maintenance obligations under the Lease, including Section 9.02 therein.

(c) This Amendment will be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

(d) This Amendment contains the entire agreement of Landlord and Tenant with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing by Landlord and Tenant.

(e) Neither Landlord nor Tenant have assigned or transferred any interest in the Lease and have full power and authority to execute this Amendment.

(f) This Amendment may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The parties agree that signatures transmitted by facsimile or electronically will be binding as if they were original signatures.

(g) All indemnification and warranty obligations set forth in this Amendment will survive any termination of the Lease.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Shopping Center Lease as of the day and year first above written.

Tenant:

GOLD'S ST. LOUIS, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved  
Date: \_\_\_\_\_

Landlord:

FOUR STORE PARTNERS, L.L.C.

By: \_\_\_\_\_

Timothy G. Crowley, Manager

In order to induce Landlord to enter into this Amendment, the undersigned guarantor hereby ratifies and affirms the Guaranty executed by the undersigned Guarantor on the 30th day of November, 2016 (the "Guaranty"), and confirms and agrees that the Guaranty remains in full force and effect in connection with Tenant's obligations under the Lease as amended hereby.

Guarantor:

Gold's Gym International, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A

### Tenant's Work

The repairs described in this Exhibit A constitute the "Tenant's Work" contemplated in the First Amendment to Shopping Center Lease (the "Amendment").

#### **Premises**

- A.    Profiled Steel Deck Soffit and Open Web Joist Trusses**
  - Clean, paint and treat corroded steel as appropriate
  - Demolish and replace ACT
  - Rearrange duct, conduit, wiring, and platform bridging, if necessary
  - Replace corroded sprinkler heads
  - Scaffolding (not included in pricing)
  
- B:    Grilles, Doors/Bases and other Metals in Pool Area**
  - Clean, paint and treat corroded metals
  - Replace corroded metals as necessary
  
- C:    Swimming Pool Water Boilers**
  - Replace or repair corroded casing and flues to the existing water boilers as necessary
  - Treat and paint as necessary
  
- D:    Downspouts, Rear Elevation**
  - Replace downspouts with manufacturer applied paint, or repair as appropriate
  
- E:    Drainage Leader Heads, Rear Elevation**
  - Replace leader heads with manufacturer applied paint
  - Clear scuppers and downspouts
  - Reinstall sealant to create watertight joints
  - Repaint external and internal surfaces
  
- F:    HVAC RTU's Condensate Drainage**
  - Replace PVC pipe
  - Install PVC drain lines to discharge condensate directly into the roof drains, as feasible
  
- G:    HVAC RTU's Gas Pipes**
  - Install plastic pipe supports
  - Lift gas pipes off roof membrane
  - Install proprietary plastic pipe support blocks beneath all gas lines
  
- H:    HVAC Screens**
  - Install new screws as required and secure the loose panels
  - Reinforce with bolt straps, bracing and/or other approved method as necessary
  - Clean, treat and paint rust stained areas
  - Patch repair any damage or defect to the roof membrane
  
- I:    Exterior Entrance Doors**
  - Scrape, prime and paint doors, as necessary



- J: Exterior Entrance Window Frames**
  - Install new screws
  - Scrape, prime and paint windows frames, as necessary
- K: Exterior Metal Service Doors**
  - Scrape, prime and paint doors, as necessary
- L: Swimming Pool Edge Coping**
  - Remove debris from all cracks
  - Rake through and point with a non-shrinking grout
- M: Acoustic Ceiling Tiles**
  - Replace damaged acoustic ceiling tiles as necessary to match existing tiles
- N: Exterior Entrance Window Frames**
  - Flash patch all sub-base cracks, holes and depressions
  - Install new vinyl composition tile

Tenant will, through Tenant's Agent, furnish all other labor, materials, equipment and services required to complete the foregoing Tenant's Work. Tenant's Agent will have the right to administer completion of the Tenant's Work, including modifications thereof, as it determines to be appropriate. If Tenant's Agent encounters conditions that are concealed or unknown on the date of this Amendment and which will affect or increase the cost of the Tenant's Work, Tenant's Agent will notify Landlord and Tenant of these conditions and the added cost to repair. Tenant's Agent will not make such repairs, which in all events would be Tenant's responsibility pursuant to Section 9.02 of the Lease, without Tenant's approval, which will not be unreasonably withheld, conditioned or delayed.

#### **Shopping Center**

- O: Asphalt Pavement, Rear of Building and Driveway**
  - Replacement of asphalt pavement with new base and wearing courses as appropriate
- P: Asphalt Pavement, Parking Lot to Front of Building**
  - Rout and seal cracks as appropriate
- Q: Concrete Pavement at Curbs to Main Entrance**
  - Patch and repair concrete pavement at curbs as appropriate
  - Replace damaged sections as necessary
- R: Expansion Joints Between Concrete Sidewalk and Front Elevation**
  - Remove all defective caulking and sealant as appropriate
  - Apply new sealant with back rod
- S: Asphalt Curbing, Rear/SW Side of Building**
  - Patch and repair asphalt curbs as appropriate
  - Replace damaged sections as necessary
- T: Concrete Wheel Stops, Front Parking Lot**
  - Demolish and remove the damaged units

- Replace with new concrete wheel stops to match existing

**U: Lighting Standards, Parking Lot**

- Patch and repair the damaged concrete units as appropriate

**Construction Requirements**

All materials, skill and workmanship in Tenant's Work will be of uniformly high quality, not less than building standard, and in accordance with the best standards of practice and any governing codes or regulations. Tenant represents and warrants that the Tenant's Work will be completed in compliance with the Lease, all applicable building and zoning laws, ordinances, regulations and any covenants, conditions or restrictions affecting the Premises and Shopping Center, and that the same are in accordance with good engineering and architectural practice. Tenant, at its sole cost and expense, will obtain, directly or through Tenant's Agent or contractors, all permits, licenses or approvals required for Tenant's Work from the appropriate authorities.

**Warranty on Tenant's Work**

All work, labor and services performed, whether performed by Tenant, Tenant's Agent, a contractor, sub-contractor or any person directly or indirectly employed by them, will be performed in a good and workmanlike manner and in accordance with industry standards, will be of high quality, will be in conformity with Tenant's repair and maintenance requirements per this Exhibit A, the Amendment and the Lease, and will be free from any faults or defects of any kind.

All materials and equipment furnished and used in connection with the Tenant's Work, whether furnished by the Tenant, Tenant's Agent, a contractor, sub-contractor or any person directly or indirectly employed by them, will be new, unless otherwise specified in any bid accepted by Tenant's Agent, will be of high quality, will be in conformity with Tenant's repair and maintenance requirements per this Exhibit A, the Amendment and the Lease, and will be free from any faults or defects of any kind.

Tenant will repair, or will cause Tenant's Agent, contractors or sub-contractors to repair any work that fails to substantially conform to the requirements set forth in this Exhibit A, the Amendment or the Lease, and will remedy any defects in the work due to faulty materials or workmanship or nonconformity with such requirements.

All warranties from contractors or sub-contractors will be transferable to and enforceable by Landlord (or if not, Tenant agrees to enforce such warranties on Landlord's behalf as requested by Landlord).

*End of Exhibit A*