



# EIGHTH AVENUE PLACE

## *Fitness Centre Waiver and Release of Claims*

**Hines**

Access Card No. \_\_\_\_\_  
(building use only)

### FITNESS CENTRE WAIVER AND RELEASE OF CLAIMS (user)

Part I: (PLEASE PRINT CLEARLY)

Name of User: \_\_\_\_\_

Birthdate: \_\_\_\_/\_\_\_\_/\_\_\_\_ MM/DD/YYYY

Gender: M F

Home: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Work: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

E-mail: \_\_\_\_\_

Street Address: \_\_\_\_\_ City/Prov:P/C: \_\_\_\_\_

In case of an emergency, contact: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

#### PART II: ACKNOWLEDGMENT AND COVENANT NOT TO SUE

This is a legally binding document. By signing this document, you waive your right to bring a court action to recover compensation or to obtain any other remedy for any injury to yourself or your property or for your death however caused arising out of your use of the fitness facilities of Eighth Avenue Place, now or in the future.

I hereby acknowledge and agree that the use of all equipment and facilities in the GYM including but not limited to all cardio equipment, weight machines and free weights, HAVE INHERENT RISKS. I have full knowledge of the nature and extent of all the risks inherent to the use of the GYM, and its other training facilities, including, but not limited to:

1. Injuries occasioned by the negligence of other users of the GYM;
2. Cuts and abrasions resulting from skin contact with any surfaces;
3. Injuries resulting from landing or falling on any surfaces; and
4. Injuries to bones, joints, ligaments, tendons, or death.

I further acknowledge that the preceding list is not inclusive of all possible risks associated with the use of the GYM and that said list in no way limits the extent or reach of this release and covenant not to sue.

In consideration of my use of the GYM, I agree not to claim or sue for any alleged liabilities, claims, or causes of action released in this Fitness Facility Waiver and Release of Claims (WAIVER).

#### PART III: RELEASE AND INDEMNIFICATION

In consideration of my use of the GYM, I, the undersigned user, agree to release on behalf of myself, my heirs, next of kin, dependents, representatives, successors, executors, administrators, assigns and any other person or entity on my behalf, and hereby DO RELEASE Penny Lane II Limited Partnership, by its General Partner, Penny Lane Shopping Centre Ltd., Immeubles SNPL Inc./SNPL Properties Inc., ARI 8AP GP Inc., as general partner for and on behalf of ARI 8AP Investments LP, Hines Canada Management Co. II ULC and their affiliates, owners, operators,



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## *Fitness Centre Waiver and Release of Claims continued...*

principals, directors, officers, partners, managers, employees, members, agents, instructors, volunteers, sponsors, contractors, and subcontractors or any of their representatives (RELEASED PARTIES) from any cause of action, claims, demands, losses, suits and contract and costs of any nature whatsoever, including, but not limited to, a claim of negligence, gross negligence, breach of contract, or breach of any statutory or other duty of care, including any duty of care owed under the Occupiers' Liability Act, R.S.A. 2000, c. O-4, which I, my heirs, representatives, successors, executors, administrators, and assigns may now have, or may have in the future, against the RELEASED PARTIES on account of personal injury, property damage, death, or accident of any kind, arising out of, or in any way related to my use of the GYM whether that use is supervised or unsupervised, however the injury or damage is caused, including, but not limited to, the negligence of the RELEASED PARTIES.

In consideration of my use of the GYM, I, the undersigned user, agree to INDEMNIFY AND HOLD HARMLESS the RELEASED PARTIES from any and all causes of actions, claims, demands, losses, suits and contract and costs of any nature whatsoever arising out of, or in any way relating to my use of the GYM.

I hereby certify the following:

1. That I have full knowledge of the nature and extent of the risks inherent to the use of the GYM and that I am voluntarily assuming all risks to my person or loss thereof. I understand that I will be solely responsible for any property damage or loss, personal injury, illness, disability (including death) that I sustain while using the GYM and that by this WAIVER, I am relieving the RELEASED PARTIES, of any liability for such damage, injury, illness, or disability. The RELEASED PARTIES shall not be liable to me in any way for any property damage or loss, personal injury, illness, disability (including death) which I may sustain at the GYM or as a result of utilizing any of the GYM's facilities or participation in any activity of any kind operated by the RELEASED PARTIES at the GYM or elsewhere at Eighth Avenue Place, no matter how such damage, injury, illness, or disability is caused, and no matter whether caused by negligence or otherwise.
2. That I am in good health and that I have no physical limitations that would preclude my safe use of the GYM and its equipment.
3. That I have sufficient health, accident, and liability insurance to cover any bodily injury or property damage that I may incur while using equipment and facilities in the GYM and to cover bodily injury or property damage caused to a third party as a result of my use of the GYM. If I have no such insurance, I certify that I am personally capable of personally paying for any and all such expenses or liability.
4. Should it become necessary for the RELEASED PARTIES to incur attorney's fees and costs to enforce this agreement, or any portion thereof, I agree to pay all reasonable costs and attorney's fees thereby expended, or for which liability is incurred.
5. That this WAIVER is the only document executed by me relating to my use of the GYM. I am not relying on any oral or written representations or statements made by the RELEASED PARTIES or anyone else with respect to the safety of the use of the GYM.
6. That I have signed this WAIVER freely and voluntarily without any inducement, assurance, or guarantee being made to me. I understand and intend my signature to be a complete and unconditional release of all liability as set out in this WAIVER.
7. That I have carefully read this document, that I agree to its terms and that I have had the opportunity to ask questions and to seek independent legal advice.



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*Fitness Centre Waiver and Release of Claims continued...*

I, the undersigned, recognize the dangers inherent to using the GYM. I am assuming the hazard of this risk upon myself because I wish to participate in activities offered at the GYM. I realize that I may be subject to injury or death from these activities. I am aware that the use of protective equipment, including helmets, may prevent injuries or death during participation of activities at or offered by the GYM. I agree to provide my own protective equipment, if desired. I understand that the RELEASED PARTIES will not provide staff, instructors, safety monitors or any personnel of any kind who may watch over my safety, and that any instructors or other personnel providing, teaching or instructing classes at the GYM are not affiliated, by employment, contract or otherwise, with the RELEASED PARTIES in any manner whatsoever and that the RELEASED PARTIES shall not be responsible or liable for any actions or omissions by such instructors or personnel.

#### PART IV: GENERAL

In the event that any provision of this WAIVER is held to be invalid or unenforceable by a court of competent jurisdiction, the validity and the enforceability of the other provisions of this WAIVER shall not be impaired or affected thereby.

I agree that this WAIVER shall be governed by and interpreted in accordance with the laws of the Province of Alberta and that the venue for any legal proceedings involving this WAIVER shall be brought exclusively within the applicable court in Calgary, Alberta.

User's signature \_\_\_\_\_ Date: \_\_\_\_\_

Witness' signature \_\_\_\_\_ Date: \_\_\_\_\_

\*\*If user is under 18 years of age, the signature of a parent or legal guardian is required.

Parent or Guardian signature \_\_\_\_\_ Date: \_\_\_\_\_



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## *Fitness Centre Rules and Regulations*

Eighth Avenue Place contains a Fitness Centre available for Tenants' use. The Platinum Club Fitness Centre is located on the Plus 15 level and is equipped with basic cardiovascular machines and strength stations. There are men's and women's change and shower facilities available as well as steam rooms.

1. The Platinum Club Fitness Centre is open weekdays 4:00 am to 11:00 pm and weekends and holidays from 6:00 am to 11:00 pm.
2. The Platinum Club Fitness Centre is for the use of **AUTHORIZED TENANTS ONLY**. Friends and relatives are **not** permitted in this facility. Authorized tenants are defined as those who have submitted a waiver to the Landlord and have EAP Fitness Centre access added to their building access card.
3. Trainers and instructors must be on contract with the Platinum Club Fitness Service Provider. No outside trainers or instructors are permitted to provide services in the Fitness Centre.
4. Each Tenant is responsible for controlling and monitoring access to the facility. Access cards are issued to an employee at Eighth Avenue Place only and they are prohibited from lending those access cards to non-employees. Please report lost or stolen cards immediately.
5. The Landlord & Platinum Club Fitness Service Provider reserves the right to request photo identification and/or a building access card from any individual in the Fitness Centre for any reason. Failure to provide identification will result in immediate removal from site and may result in loss of Fitness Centre privileges.
6. All persons participating in group exercise, yoga, and cycle classes, using exercise equipment, showers and steam rooms agree to do so at their own risk and agree to operate all equipment as intended and in accordance with the manufacturers' instructions.
7. All persons using the fitness equipment must wipe it clean when finished using it with the cleaning supplies provided. Any unused equipment must be returned to the original storage rack or area.
8. Proper and clean gym attire (athletic shirt, shorts/pants, and closed toe athletic shoes) must be worn in all areas.
9. Food, glass containers and alcoholic beverages are not permitted in the Fitness Centre.
10. Smoking is not permitted in the Platinum Club Fitness Centre.
11. The lockers are intended to be used by Platinum Club Fitness Centre members while they are present within the Centre. Security is instructed



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## *Fitness Centre Rules and Regulations*

- to open all lockers after 11:00 p.m. every night and place any contents from the lockers, change rooms, and Platinum Club Fitness Centre not belonging to individuals in the Platinum Club Fitness Centre at that time into lost and found.
12. Television audio signals are broadcast to receivers located on the cardio machines. Please use your personal headphones to listen to the broadcast of your choice. The television stations are preset and cannot be changed.
  13. All personal radios and other music equipment must be used with headphones.
  14. Use of mobile devices for any purpose in the locker rooms is strictly prohibited. Mobile devices can be utilized on the weight floor and the studios but alerts and ringers must be on silent at all times. Phone conversations are prohibited on the weight floor, cardio and stretch areas, and in the studios. Please take all calls in the Lobby area if required. Image capturing is not permitted in any location of the Fitness Centre.
  15. The Landlord & Platinum Club Fitness Service Provider reserves the right to add, change or delete any Rule or Regulation herein contained and to change the method of operation to ensure maximum enjoyment of the Fitness Centre.
  16. The Platinum Club Fitness Centre is for the enjoyment of all Eighth Avenue Place Tenants and their employees. Please assist us in maintaining these facilities' cleanliness by disposing of all trash in the receptacles provided. Please report any problems to the Fitness Centre reception desk or to the Property Management Office (403-592-2888).
  17. Anyone found to be in violation of any of these rules and regulations is subject to having their fitness privileges revoked.

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

Signature: \_\_\_\_\_

Company: \_\_\_\_\_

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

Sex: M or F