

Send to  
393  
First American Title Order # A0112508

WHEN RECORDED MAIL TO:

Standard Insurance Company  
Post Office Box 711  
Portland, OR 97207

Attn: P. Slover, P7E

SIC Loan No. 27030605

**SUBORDINATION, ATTORNMENT, AND  
NONDISTURBANCE AGREEMENT**

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR INTERESTS IN THE PROPERTY BECOMING SUBJECT TO AND OF A LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

**Recitals**

A. The undersigned Lessor and Lessee are parties to a lease dated **February 19, 1997** ("the Lease"), which lease covers part or all of the real property (the "Property") described as follows:

THE EAST 228.42 FEET (EXCEPTING THEREFROM THE WEST 106 FEET OF THE SOUTH 161 FEET THEREOF ALSO EXCEPT THE WEST 89.42 FEET OF THE EAST 122.42 FEET OF THE SOUTH 156.45 FEET THEREOF, ALSO EXCEPT THE EAST 33 FEET TAKEN FOR CENTRAL AVENUE AND EXCEPT THAT PART TAKEN FOR MELROSE AVENUE) OF THE SOUTH 5 ACRES OF THE EAST 40 ACRE OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PROPERTY TAX ID NO. 13-20-433-020

STREET ADDRESS: 3212 North Central Avenue, Chicago, Illinois

B. STANDARD INSURANCE COMPANY, an Oregon corporation ("Lender") has agreed to make or purchase a loan to Lessor in the original principal sum of \$900,000.00, evidenced by a promissory note, dated **September 12, 1997**, and secured by a Mortgage of even date (the "Mortgage") on the Property and by such other security instruments as Lender may require (the "Security Instruments").

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

C. As a condition precedent to Lender's disbursement of loan proceeds, Lender has required that Lessee subordinate the Lease and Lessee's interest in the Property in all respects to the lien of the Mortgage, which will be recorded in the county in which the Property is located, or which was recorded on \_\_\_\_\_, 19\_\_\_\_ as Document No. \_\_\_\_\_ in Book \_\_\_\_\_ on Page \_\_\_\_\_ Official Records of the County in which the Property is located, and to the lien of the Security Instruments, if any, securing Lender's other interests in the Property.

D. It will be of substantial benefit to the Lessee for Lender to disburse the loan proceeds.

E. Lender is disbursing the loan proceeds in reliance upon the agreements contained in this instrument.

F. In return for the subordination, Lender is agreeable to not disturbing Lessee's possession of the Property under the Lease.

## Agreement

NOW, THEREFORE, in order to induce Lender to make or purchase the loan to Lessor, and in consideration of the promises made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Lessee, it is hereby agreed as follows:

1. **Subordination.** The Lease and Lessee's leasehold estate created thereby and any renewals, extensions, amendments or modifications thereof, shall be and are completely and unconditionally subject and subordinate to the lien of the Mortgage and to the liens of the Security Instruments, if any, and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof.

2. **Reliance By Lender.** The undersigned are executing this instrument in order to induce Lender to disburse the loan proceeds secured by the Mortgage, and the undersigned agree that the disbursement by Lender of all or any part of the loan proceeds shall constitute conclusive reliance by Lender upon this instrument and the provisions hereof and the subordination affected hereby.

3. **Tenant Not To Be Disturbed.** So long as Lessee is not in default (beyond any period given Lessee to cure such default) in the payment of rent or additional rent or in the performance of any of the other terms, covenants or conditions of the Lease on Lessee's part to be performed, Lessee's possession of the Property under the Lease and Lessee's rights and privileges under the Lease, or any extensions or renewals thereof which may be affected in accordance with any renewal rights therefor in the Lease, shall not be diminished or interfered with by Lender, and Lessee's occupancy of the Property shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any such extensions or renewals thereof.

4. **Lessee Not To Be Joined In Foreclosure.** So long as Lessee is not in default (beyond any period given Lessee to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Lessee's part to be

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

performed, Lender will not join Lessee as a defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Lease.

5. **Lessee To Attorn To Lender.** If the interests of Lessor shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by Lender in lieu of or pursuant to a foreclosure, or by any other manner, and Lender succeeds to the interest of the Lessor under the Lease, Lessee shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the Lessor under the Lease, and Lessee does hereby attorn to Lender as its Lessor, said attornment to be effective upon Lender succeeding to the interest of the Lessor under the Lease without the execution of any further instrument, provided that Lessee shall be under no obligation to pay rent to Lender until Lessee receives written notice from Lender that it has succeeded to the interest of the Lessor under the Lease. The respective rights and obligations of Lessee and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth therein, subject to paragraph 6 below concerning purchase options, and subject to paragraph 7 below concerning condemnation; it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth herein, subject to paragraph 6 below concerning purchase options, and subject to paragraph 7 below concerning condemnation.

6. **Purchase Options.** Any options or rights contained in the Lease allowing Lessee to acquire title to the Property are hereby made subject and subordinate to the rights of Lender under the Mortgage, and any acquisition of title to the Property made by Lessee during the term of the Mortgage shall be made subordinate and subject to the Mortgage.

7. **Condemnation.** Without limiting the generality of the foregoing, Lessee subordinates its right, title and interest under the Lease to the interest of Lender in any award of condemnation or eminent domain, and Lessee does assign and transfer to Lender the right and privilege to receive any interest of Lessee in and to the full extent of such award of condemnation or eminent domain, or, if the Mortgage is not yet fully satisfied, to the extent necessary to pay in full any and all sums secured by the Mortgage (Lessee authorizing Lender to apply any funds so received in satisfaction of any sums secured by the Mortgage).

8. **Exercise of Rights Under Loan Documents Not Lease Default.** The undersigned represents to Lender that the exercise by Lender of its rights and remedies under the Mortgage, under the Security Instruments or under the note secured thereby, including without limitation its rights of foreclosure, shall not constitute an event of default under the Lease.

9. **Lender Not Bound By Certain Acts of Lessor.** If Lender shall succeed to the interests of Lessor under the Lease, Lender shall not be (a) liable for any act or omission of any prior lessor (including Lessor), (b) subject to any offsets or defenses which Lessee might have against any prior lessor (including Lessor), (c) bound by any rent or additional rent which Lessee might have paid

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

for more than the then current installment, or (d) bound by any amendment or modification of the Lease made without its consent, or (e) liable for any security or other deposits which were paid by Lessee, or any predecessor in interest to Lessee, to any Lessor, and which were not received by Lender.

10. **Waiver.** Without limiting the generality of the foregoing, Lessee waives presentment, demand, protest, and notice and agrees that Lender, without notice to or consent of Lessee, upon such terms as Lender may deem advisable, without releasing or discharging Lessee from this Subordination Agreement or affecting the lien or priority of the Mortgage, may:

- (a) extend, in whole or in part, by renewal or otherwise, the time of payment or performance of any obligation secured by the Mortgage;
- (b) release, surrender, exchange, or modify any obligation secured by the Mortgage, or any security for such obligation; and/or
- (c) settle or compromise any claim with respect to any obligation secured by the Mortgage or any claim against any person who has given security for any such obligation.

The undersigned ratifies any such extension, renewal, release, surrender, exchange, modification, settlement, or compromise and waives all defenses, counterclaims, or offsets which it might have by reason thereof.

11. **Successors and Assigns.** This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their heirs, executors, administrators, representatives, successors and assigns, including without limitation each and every lessee and lessor under the Lease or any other person having an interest therein and shall inure to the benefit of Lender and its successors and assigns.

12. **Choice of Law.** The law of the state in which the Property is located shall govern the validity, interpretation, construction, and performance of this Agreement.

13. **Captions and Headings.** The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

14. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be telexed, cabled, delivered by hand, or mailed by first class registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

If to Lender:

STANDARD INSURANCE COMPANY  
Mortgage Loan Servicing, P7D  
Post Office Box 711  
Portland, Oregon 97207

If to Lessee:

Team Total Fitness, Inc.  
c/o 3212 North Central Avenue  
Chicago, Illinois 60634

Changes in the respective addresses to which such notices shall be directed may be made from time to time by either party by notice to the other party. Notices given by mail in accordance with this provision shall be deemed to have been given three (3) days after the date of dispatch; notices given by any other means shall be deemed to have been given when received.

15. **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE UNDERSIGNED CONSULT WITH ITS ATTORNEYS WITH RESPECT THERETO.**

DATED this 12th day of September, 1997.

LESSOR  
Albany Bank and Trust Company, N.A.,  
as Trustee u/t/a dated May 12, 1997  
and known as Trust Number 11-5320

By: Arnold J. Karzov  
(Typed Name) ARNOLD J. KARZOV  
Its: Vice President TRUST OFFICER

By: Michael Bentcover  
(Typed Name) MICHAEL BENTCOVER  
Its: Secretary VICE-PRESIDENT

LESSEE Team Total Fitness, Inc.,  
an Illinois corporation

By: \_\_\_\_\_  
William K. Dabish, President

Attest: \_\_\_\_\_  
Stephen Mekuly, Secretary

LENDER Standard Insurance Company,  
an Oregon corporation

By: \_\_\_\_\_  
Gregg D. Harrod, Treasurer

Attest: \_\_\_\_\_  
Mark Fisher, Assistant Secretary

This instrument is executed by ALBANY BANK & TRUST COMPANY N.A., not personally but solely as Trustee, as aforesaid. All the covenants, including but not limited to all environmental representations and conditions to be performed hereunder by ALBANY BANK & TRUST COMPANY N.A. are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be assessed or be enforceable against ALBANY BANK & TRUST COMPANY N.A. by reason of any of the covenants, statements, representations or warranties contained in this instrument.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE  
100 NORTH LAUREL STREET  
CHICAGO, ILLINOIS 60602  
TEL: (312) 603-3000  
WWW.COOKCOUNTYCLERK.COM  
PROPERTY OF COOK COUNTY CLERK'S OFFICE

# UNOFFICIAL COPY

14. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be telexed, cabled, delivered by hand, or mailed by first class registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Lender:

STANDARD INSURANCE COMPANY  
Mortgage Loan Servicing, P7D  
Post Office Box 711  
Portland, Oregon 97207

If to Lessee:

Team Total Fitness, Inc.  
c/o 3212 North Central Avenue  
Chicago, Illinois 60634

Changes in the respective addresses to which such notices shall be directed may be made from time to time by either party by notice to the other party. Notices given by mail in accordance with this provision shall be deemed to have been given three (3) days after the date of dispatch; notices given by any other means shall be deemed to have been given when received.

15. **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE UNDERSIGNED CONSULT WITH ITS ATTORNEYS WITH RESPECT THERETO.**

DATED this 12th day of September, 1997.

LESSOR Skyline Investments Corp.,  
an Illinois corporation

By:   
Josef Matuschka, President

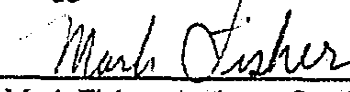
LESSEE Team Total Fitness, Inc.,  
an Illinois corporation

By:   
William K. Dabish, President

Attest:   
Stephen Mekuly, Secretary

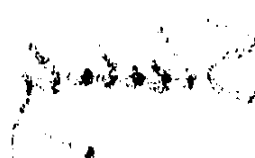
LENDER Standard Insurance Company,  
an Oregon corporation

By:   
Gregg D. Harrod, Treasurer

Attest:   
Mark Fisher, Assistant Secretary

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

STATE OF OREGON                    )  
  ) ss:  
COUNTY OF MULTNOMAH        )

On this 12<sup>th</sup> day of September, 1997, before me appeared GREGG D. HARROD and MARK FISHER, both to me personally known, who being duly sworn did say that he, the said GREGG D. HARROD is the Treasurer, and he, the said MARK FISHER is the Assistant Secretary of STANDARD INSURANCE COMPANY, the within named corporation, and that the seal affixed to said document is the corporate seal of said corporation, and that the said document was signed and sealed in behalf of said corporation by authority of its Board of Directors, and GREGG D. HARROD and MARK FISHER acknowledged said document to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.



*Terry Lee Sample*  
\_\_\_\_\_  
Terry Lee Sample  
Notary Public for Oregon  
My Commission Expires: June 14, 2000

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

PREPARED BY AND AFTER  
RECORDING RETURN TO:

**P. SLOPER**  
STANDARD MORTGAGE INVESTORS, LLC  
MORTGAGE LOAN CLOSING, P7E  
P.O. BOX 711  
PORTLAND, OREGON 97207

ADD NOTARY ACKNOWLEDGMENTS AS REQUIRED BY LAW.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office