

**LEASE AGREEMENT**

THIS LEASE, made as of this \_\_\_ day of \_\_\_\_\_, 2015 (the "Commencement Date"), by and among the City of Parma, an Ohio municipal corporation (the "Lessor"), and YMCA of Greater Cleveland, an Ohio not-for-profit corporation (the "Lessee").

**WITNESSETH:**

1.     **PREMISES**

In consideration of the mutual covenants and agreements contained herein, Lessor hereby leases to Lessee and Lessee rents from Lessor approximately \_\_\_\_\_ usable square feet of building space (the "Premises") located in the City of Parma's Donna Smallwood Activities Center and Office on Aging, having an address of 7001 West Ridgewood Drive, Parma, Ohio (the "Building").

2.     **TERM**

This lease agreement shall commence upon the signing of this document and continue for a period of one (1) year. The lease shall automatically renew under the same terms and conditions each succeeding year unless and until either the Lessor or Lessee gives thirty (30) days written notice that it no longer desires to continue with the lease agreement.

3.     **RENT AND SECURITY DEPOSIT**

The Lessee shall pay the following as rent for the use of the Premises:

***MONTHLY RENT AND SECURITY DEPOSIT TO BE DETERMINED***

4.     **USE**

Lessee agrees that it will use and occupy the Premises for purposes of providing exercise equipment, exercise classes (including, but not limited to, Arthritis Foundation Fitness Program, Yoga, Fitness After 50, SilverSneakers, and Zumba), support groups, and education programs (including, but not limited to, bridge, MS Society classes, and Diabetes Prevention and Education). Lessee shall provide the exercise equipment, including all cardio and weight machines. Lessee shall be permitted to occupy the Premises during regular business hours of the Premises, Monday through Friday, 8:00 a.m. – 4:00 p.m. Lessee covenants that it shall use the Premises in a safe and reasonable manner and that no nuisance shall be permitted nor shall any waste be committed upon the Premises. Lessee further covenants that it shall fully obey all public laws, ordinances, rules or regulations relating to its particular use of the Premises.

Lessee shall employ and provide all instructors and supervisors for any YMCA related uses on the Premises, and will provide a computer and any required software for admitting persons holding a YMCA ID card. Any opening or closing of the Premises or the Building is the



sole responsibility of the Lessor. No employee of Lessee is permitted to open or close the Premises or the Building.

Lessee shall have the right to use appropriate signage to display its presence at the Premises, which shall have the approval of, and which shall not be unreasonably withheld by, the Lessor. Any signage used shall conform to all applicable standards as established in the Parma Codified Ordinances.

Lessor shall be entitled to use the address of the Premises in its marketing and promotional materials, provided it does not imply or otherwise suggest that it maintains any relationship with Lessor besides a lessor/lessee relationship.

Lessee's use of the Premises shall not, in any way, hinder or interfere with any activity, event, or use of the Premises by Lessor in the operation of the Donna Smallwood Activities Center and Office on Aging.

#### 5. TAXES

Lessor shall be responsible to pay all real estate taxes, assessments, levies or governmental impositions, special or otherwise, and charges which shall be assessed and levied upon the Building if any. Any sales, gross income, rental or other duly imposed tax which is measured by or imposed upon Rent or otherwise related to Lessee's occupancy or use of the Premises shall be borne by Lessee, except that Lessee shall not thereby be required to pay any inheritance, franchise, income, personal property or similar taxes levied on the Lessor.

#### 6. MAINTENANCE AND REPAIRS

(a) Lessee shall keep the Premises in good order, condition and repair, and shall keep the Premises in a clean, sanitary and safe condition, and in accordance with all applicable city, state, federal and agency regulations. Lessee shall not permit any waste, damage, or any other injury to the Premises.

(b) Lessor shall maintain and make all necessary maintenance and repairs to the Building, except Lessee shall be responsible for any such maintenance or repair to the Building required due to the negligence of Lessee, its employees, agents, or invitees. Lessor shall provide custodial services to the Premises, including sweeping floors, emptying trash cans, and cleaning restrooms.

#### 7. INSURANCE

(a) At all times during the term of this Lease, Lessee shall, at Lessee's own expense, keep in full force and effect public liability insurance in companies acceptable to Lessor, naming both Lessor and Lessee as insured parties, in which the coverage shall not be less than \$1,000,000 combined single limit per occurrence. Lessee shall further maintain all-risk property insurance on its personal property and trade fixtures located on the Premises to the full insurable value thereof.

(b) Certificates of all policies of insurance to be maintained by the Lessee pursuant to the terms of this Section, and said certificates and certificates of all renewals thereof, shall be delivered to the lessor prior to the Commencement Date. Each such policy shall contain an endorsement to the effect that the same shall not be canceled or the coverage thereunder decreased without thirty (30) days notice to the Lessor.

## 8. UTILITIES

Lessor shall be responsible for providing all utility services for the Building, including but not limited to, electricity, gas, water, sewer, heat, telephone and trash collections.

Lessee shall require a total of \_\_\_ designated electrical circuits for its equipment, and shall provide, at its own expense, any electrician or electrical services for this purpose.

## 9. LESSOR'S REMEDIES UPON DEFAULT

(a) If Lessee shall at any time be in default in the payment of rent or any other sum of money required to be paid by Lessee, or in the performance of any of the covenants, terms, conditions, provisions, rules and regulations of this Lease and the Lessee shall fail to remedy any such default within ten (10) days after due, Lessor, in addition to all other remedies given to lessor in law or in equity by written notice to Lessee may terminate this Lease, and in any event may dispossess the Lessee.

(b) Upon Lessee's default hereunder, Lessor shall have the right to pursue any one or more of the following rights and remedies without notice or demand of any kind to Lessee or any other person:

(i) Lessor may terminate this Lease, in which event Lessee shall immediately surrender the Premises to Lessor, and Lessor shall immediately be entitled to the following as damages, in addition to its other remedies: (A) any unpaid rent, including interest thereon which is due and owing at the time of such termination; plus (B) that rent, including interest thereon, which would have been earned after termination until the time of judgment; plus (C) an amount equal to the rent for the balance of what otherwise would have been the Term had the same not been terminated; plus (D) any other amount necessary to compensate Lessor for all of the damages caused by lessee's failure to perform its obligations under the Lease, including, without limitation, the reasonable costs of renovating the Premises, brokerage fees, reasonable attorneys' fees, and loss and damage due to the failure of Lessee to maintain and/or repair the Premises as required hereunder.

(ii) Without terminating this Lease and the obligations of Lessee hereunder, Lessor may enter upon the Premises and do whatever Lessee is obligated to do under the terms of this Lease and take possession thereof and remove all persons therefrom, without being liable for prosecution or any claim of damage therefor and lessee agrees to reimburse Lessor on demand for any expense which lessor may incur in effecting compliance with lessee's

obligations under the Lease and Lessee further agrees that Lessor shall not be liable for any damages resulting to Lessee from such action; and

(iii) In addition to any other remedy set forth in this Lease, Lessor shall have all rights and remedies available pursuant to Ohio law, including without limitation injunctive relief of all varieties.

#### 10. DAMAGE OR DESTRUCTION OF PREMISES

If the Premises are damaged or destroyed at any time by fire or other casualty, Lessor may, in its sole discretion, repair and restore the same to good leasable condition with reasonable dispatch. The rent herein provided shall abate entirely in case the entire Premises are unleaseable, and pro rata for any portion rendered unleaseable in case a part only is unleaseable, until the same be restored to a leaseable condition; provided, however, that if Lessee, its agents, employees, guests or invitees shall fail to remove their damaged goods, wares, or equipment or otherwise delay the repair and restoration of the Premises, there shall be no abatement of rent during the period of such delay; provided further that there shall be no abatement of rent if such fire or other casualty damaging or destroying the Premises is the result of an act or omission of Lessee, its agents, employees, guests, or invitees. If Lessee shall use any part of the Premises for storage or other useful purpose during the period of repair, a reasonable charge shall be made therefrom against the Lessee.

Notwithstanding anything to the contrary contained herein, in the event that the Building is destroyed to the extent of more than thirty percent (30%) of the value thereof, Lessor may at its option terminate this Lease by written notice to Lessee. In the event lessor elects to repair and restore the Building, this Lease shall not terminate, but the rent shall abate, as provided herein to the extent the Premises are unleaseable. If Lessor elects to repair and restore the Building or Premises as herein provided, Lessor's obligation hereunder shall be limited to the amount of any insurance proceeds actually received by it, plus Lessor's deductible, if any.

#### 11. WAIVER

The failure of Lessor or Lessee to insist upon strict performance by the other of any of the provisions of this Lease or to exercise any option herein conferred shall not be deemed as a waiver or relinquishment for the future of any such provision or option.

#### 12. REMEDIES CUMULATIVE

All rights and remedies provided for herein or otherwise existing at law or in equity are cumulative, and the exercise of one or more rights or remedies by either party shall not preclude or waive its right to the exercise of any or all of the others.

### 13. SURRENDER OF LEASED PREMISES

Upon the expiration or earlier termination of this Lease, Lessee shall quit and surrender the Premises to Lessor in the same conditions when received, ordinary wear and tear excepted, together with all keys delivered to Lessor and all improvements, alterations and additions at any time made or installed in, upon or to the Premise (except personal property, equipment and trade fixtures installed at Lessee's expense), all of which shall thereupon become the property of Lessor without any claim by Lessee therefore. Before surrendering the Premises, lessee shall, if Lessor so elects, also remove any improvements, alterations, additions and equipment made or installed by or on behalf of Lessee or made by Lessor at Lessee's request in the Premises. Lessee agrees to repair any damage caused by the removal of any of such improvements, alterations, additions and equipment, or by the removal of Lessee's personal property, equipment and trade fixtures. If Lessee shall fail to remove any of Lessee's personal property, equipment or trade fixtures, within ten (10) days or any of Lessee's improvements, alternations, additions and equipment which Lessor has elected to be removed, said property shall, at the option of Lessor, either be deemed abandoned and become the property of Lessor, or Lessor shall have the right to remove and store such property and to dispose of such property in accordance with the law, at the expense of Lessee, without further notice to or demand upon Lessee and without liability to Lessee for damage or loss, and hold Lessee responsible for any and all charges and expenses incurred by Lessor therefore.

### 14. WAIVER OF SUBROGATION

The Lessor hereby releases Lessee, and Lessee hereby releases Lessor, and their respective officers, agents, employees, and servants, from any and all claims or demands, for damage, loss, expense or injury to the Premises or to the furnishings, fixtures, equipment, inventory or other property of the Lessor, Lessee or their respective officers, agents, employees, servants, or invitees in, about or upon the Premises or the building or buildings within which the Premises are located, cause by or resulting from perils, events, or happenings which are insured by policies carried by the Lessor or the Lessee and in force at the time of said loss.

The Lessor and the Lessee shall provide the other with a waiver, from any insurance carrier that it has engaged, releasing its subrogation rights against the other party.

### 15. INDEMNIFICATION

Lessee shall defend and hold harmless Lessor from and against any and all loss, cost, damage, or expense, including attorneys' fees, of any nature whatsoever arising out of or connected with the use or occupancy of the Premises by lessee, its agents, employees, guests, invitees, licensees, and contractors, in, on or about the Premises or the approaches thereto, or arising or alleged to have arisen out of the acts or omissions of Lessee's officers, agents, employees, guest, invitees, licensees and contractors, including without limitation, any loss that it may occasion as a result of the following:

- a. Any and all claims, or damages or injury to persons or property arising out of or with respect to Lessee's use of the Premises, or occurring within the Premises.
- b. The conducts of the lessee's business or from any activity, work or thing done, permitted or suffered by the Lessee or Lessor in or about the Premises or Building.
- c. From any and all claims arising from any breach or default in the performance of any obligation of the Lessee or Lessee's part to be performed under the terms of this Lease.
- d. From any act of negligence of the Lessee or its agents or employees.

The Lessee shall defend the Lessor from the claims of any party or parties and the Lessee shall pay all costs, attorney fees, expenses, judgments, awards, or liabilities incurred or arising from or about such claim, action or proceeding emanating from or pertaining to the foregoing acts or events.

The Lessor shall not be liable for any damage to or loss to Lessee's equipment, tools, fixtures, inventory, merchandise, records, or any other personal property or items owned by the Lessee, the Lessee's agents, employees, customers, guests and invitees, or business interruption, arising from any cause whatsoever, and including, for purpose of illustration rather than limitation, leakage from windows, doors, roofs, sprinkler systems, and plumbing whether arising from faulty equipment or failure to make timely or proper repairs. The Lessor shall not be liable to the Lessee or its agents, employees, customers, guests, and invitees, for claims or losses occasioned by faulty equipment or failure to make timely or proper repairs.

#### 16. CARE OF LESSEE

The Lessee hereby agrees that it will occupy the Premises and conduct its business as follows:

- a. In such a manner that is consistent with the values of Lessor (caring, honesty, respect, and responsibility) and shall comply with all rules and regulations promulgated by the Lessor, as such rules and regulations may be changed from time to time.
- b. In such a manner that it would not be contrary to federal, state or local laws, rules or regulations.
- c. That is shall not commit or suffer to be committed any waste upon the Premises
- d. That it will not do or suffer to be done on said Premises which will cause damage or injury to the Premises or the Building, other tenants and their customers, invitees and licensees.

- e. That it will not conduct any activity which will cause a cancellation or increase of any insurance policy covering said Building or any part thereof.
- f. That it will not use or permit on the Premises any hazardous waste or substance.
- g. In such a manner that would not, in the reasonable discretion of the Lessor, endanger the health or safety of Lessor's patrons.
- h. That it will not permit noxious odors to emanate from the Premises.

17. HOLDING OVER

If Lessor so elects to terminate the Lease after an event of default and/or if the Premises are not surrendered at the end of the Term, then Lessee shall indemnify lessor against loss or liability resulting from delay by Lessee in so surrendering the Premises, including without limitation, any claims founded on such delay made by any succeeding occupant of the Premises or any part thereof, and Lessee shall be liable to Lessor for legal fees, costs, rent, and expenses incurred by Lessor in obtaining possession of the Premises.

18. NOTICES

Any notices or consent required to be given by or on behalf of either party upon the other shall be in writing and shall be given in person or by mailing such notices or consent by Registered or Certified Mail to the addresses hereinafter specified, or to such other addresses as either party may hereinafter designate by notice to the other.

If to Lessor: Mayor Timothy J. DeGeeter  
6611 Ridge Road  
Parma, OH 44129

With a copy to: Timothy G. Dobeck, Law Director  
6611 Ridge Road  
Parma, OH 44129

If to Lessee: XXXXX

19. MISCELLANEOUS

(a) This Lease contains the sole and entire agreement and understanding of the parties with respect to the entire subject matter hereof, all prior negotiations, commitments and understanding relating thereto being merged herein.

(b) This Lease may be amended or modified only by a written instrument signed by both parties.

(c) All matters pertaining to the validity, construction and effect of this Lease shall be governed by and construed under the laws of the State of Ohio, without regard to its conflicts of law provisions.

(d) If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, nevertheless shall continue in full force and effect without being impaired or invalidated in any way.

(e) All terms and words used in this Lease, regardless of the number and gender in which they are used, shall be deemed and construed to include any number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context or sense of this Lease, or any section or clause herein may require, the same as if such words had been fully and properly written in the required number and gender. The headings used in the Lease are used for reference purposes only, and do not constitute substantive matter to be considered in construing the terms of this Lease.

(f) This Lease may be executed in any number of counterparts, and each of said counterpart shall be deemed for all purposes to be an original.

(g) This Lease shall bind and inure to the benefit of the parties, hereto, their respective successors and assigns.

(h) Nothing contained in this Lease shall render Lessor in any way a partner, joint venture or associate with lessee in the operation of the Premises or subject Lessor to any obligation, loss, charge or expense in connection with or arising from the operation of the Premises.

*[Remainder of Page Intentionally Left Blank – Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first above written.

**LESSOR: City of Parma**

By: \_\_\_\_\_  
Timothy J. DeGeeter, Mayor

**LESSEE: The YMCA of Greater Cleveland**

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

STATE OF OHIO            )  
                                  ) SS:  
CUYAHOGA COUNTY        )

Before me, a Notary Public in and for said County and State, personally appeared the above named City of Parma, by Timothy J. DeGeeter, Mayor, who acknowledges that he did sign the forgoing instrument and that the same is the free act and deed of said municipality, and his free act and deed as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

STATE OF OHIO            )  
                                  ) SS:  
CUYAHOGA COUNTY        )

Before me, a Notary Public in and for said County and State, personally appeared the above named YMCA of Greater Cleveland, by XXXXXXXXXX, who acknowledges that he did sign the foregoing instrument and that the same is the few act and deed of said not-for-profit corporation, and his free act and deed as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public