

TIVITY HEALTH PARTNER LOCATION AGREEMENT

This Tivity Health Partner Location Agreement (this “**Agreement**”) is between **TIVITY HEALTH SERVICES, LLC** (“**Tivity Health**”), and the (“**Facility**”) named below. This Agreement is effective as of the date of the signature by the Facility below (the “**Effective Date**”). Facility desires that it and its other locations listed on **Exhibit A-1** be included as a member of Tivity Health’s network of locations for the purposes of fitness memberships and/or offering Tivity Health’s programs, and Tivity Health desires Facility to be a member of Tivity Health’s network.

Facility. The undersigned Facility and any additional participating locations of Facility as mutually agreed to and set forth in **Exhibit A-1**, which have entered into this Agreement with Tivity Health to be part of its Tivity Health Network.

Facility Contact. Facility has designated the person named on **Exhibit A-2** as authorized to represent Facility in communicating with Tivity Health about this Agreement.

Pricing. Tivity Health will pay Facility the selected program fees in **Attachment A**.

Programs. Facility will offer each Tivity Health program marked in **Attachment A**.

Term. The term of this Agreement runs from the Effective Date through August 31, 2028 (“**Initial Term**”) and thereafter will automatically renew for successive one (1) year terms from September 1 to August 31 (“**Renewal Term**”), provided that after the Initial Term, either party may terminate this Agreement upon 120 days’ prior written notice of the expiration of the Renewal Term.

Terms & Conditions. This Agreement will be governed by the Standard Terms and Conditions attached hereto and incorporated by reference herein.

The Tivity Health materials on the Fitness Provider Portal (the “**Portal**”) are incorporated by reference as an integral part of this Agreement.

This Agreement supersedes any prior agreements and represents the entire understanding and agreement between the parties regarding the subject matter of this Agreement.

Tivity Health and Facility each sign below to agree to be bound to the terms of this Agreement as of the Effective Date.

TIVITY HEALTH SERVICES, LLC

Name of Facility

Signature

Signature

Tivity Health Printed Name

Printed Name

Tivity Health Title

Title

Date

Date

ATTACHMENT A

Notices, Utilization Payment, Programs and Pricing

1. Notices to Facility and Tivity Health.

Facility Contact: Attached Exhibit A-2

Tivity Health Contact: Tivity Health PL Contracting Department
4031 Aspen Grove Drive, Suite 250
Franklin, TN 37067
Email: PLContracting@tivityhealth.com

2. Program Utilization Payment.

- a) Program Utilization Payment for Selected Tivity Health Programs. Tivity Health shall compensate Facility based on Program Participant Visits, with a maximum cap payment per Program Participant per month. Tivity Health shall not compensate Facility for more than one Program Participant Visit per day. As used herein, the term (“**Program Participant**”) shall mean a member who has completed the Program enrollment. Additionally, for purposes of calculating the payment, the date a Participant enrolls shall be considered a (“**Program Visit**”), regardless of whether the Participant attends a class on that day.
- b) Payment Schedule. Payment shall be processed for direct deposit by Tivity Health by the last day of the month following the month in which Program Participant Visits occurred (the “**Following Month**”), provided Tivity Health receives Facility’s monthly utilization data by the fifth (5th) day of the Following Month. In the event utilization data is not received in a timely manner, payment may be delayed. Payment for monthly utilization received after the last day of the Following Month will be denied for non-timely filing and will not be eligible for reimbursement or appeal. Appeals must be brought to the attention of Tivity Health within thirty (30) days of receipt of payment; appeals brought at a later date will not be eligible for review.

3. Programs and Pricing. A description of each Program appears on the Portal: <https://fitness.tivityhealth.com>

- ☒ SilverSneakers® Fitness Program Offering Basic Fitness Membership to Program Participants
\$3.00 per Program Visit up to \$24.00 per Program Participant per Month
- ☒ Prime® Commercial Program
\$3.50 per Program Visit up to \$30.00 per Program Participant per Month
- ☒ Prime Private Brand® Commercial Program
\$3.50 per Program Visit up to \$30.00 per Program Participant per Month

STANDARD TERMS AND CONDITIONS

1. **Definitions.** All terms not defined herein will have the meanings given to them in the Partner Location Agreement between Tivity Health and Facility (the “Agreement”).

a. **“Confidential Information”** means this Agreement, the identity of any Tivity Health customer, Participant information and information a recipient should reasonably understand to be confidential given the nature of such information, including, without limitation, any Tivity Health IP.

b. **“Sponsoring Organization”** means any organization, employer group, health plan or subset thereof that is contracted with Tivity Health to provide the Program to its members and whose members may therefore utilize Facility in accordance with the terms of this Agreement.

c. **“Participant”** means a Sponsoring Organization member, employee, dependent or other individual eligible to use the Facility through Participation in a Program. Facility acknowledges that not all individuals that are eligible for the Program will necessarily be eligible to use all Facility locations that participate under this Agreement. Facility agrees to follow Tivity Health’s verification process to ensure the eligibility of each individual to use Facility locations.

d. **“Program”** means each Tivity Health program elected in the Agreement and as described on the Portal.

e. **“Reference Guide”** means the procedures and guidelines set forth on the Portal for participation in the Tivity Health network.

f. **“Tivity Health IP”** means any and all intellectual property associated with the Program and tangible embodiments thereof, including, without limitation: the Portal, the Reference Guide; Program descriptions, processes and know-how; Tivity Health content on the Portal; and all data regarding activity at the Facility, such as utilization reports.

2. **Facility Responsibilities.** In exchange for the compensation to be paid by Tivity Health, Facility shall perform the following services:

a. **Program Implementation Process.** To prepare for Program commencement, Facility agrees to participate in the following 1) coordination with Tivity Health of electronic reporting containing the required data elements; 2) Tivity Health-scheduled and led training; and 3) Tivity Health’s evaluation of Facility to certify Facility’s preparedness to provide Program (the date by which each of these has been completed, the Ready Date.”)

b. **Staffed Hours.** Facility shall be appropriately staffed in accordance with professionally recognized standards of fitness programs a minimum of six (6) hours per day, Monday through Friday.

c. **Program Enrollment.** Facility shall enroll Participants in the Program in accordance with the protocol defined in the Reference Guide or other protocol mutually agreed between the Parties.

d. **Reporting Obligations of Facility.** Facility shall report Program utilization to Tivity Health on a monthly basis. Program utilization reporting shall consist of all 1) Program forms completed during the previous month as applicable; and 2) visits for the month. Facility shall prepare a report of daily visits and utilization from the month summarizing activity and containing the required data elements and submit it electronically to Tivity Health no later than the fifth (5th) day of the following month. The required file format, data elements and submission options are defined in the Reference Guide. The Parties to this Agreement shall work cooperatively to establish correct and acceptable electronic monthly utilization data reporting; Tivity Health may provide technical support to Facility if necessary.

e. **SilverSneakers® Program Advisor.** Facility shall designate one staff member as the SilverSneakers Program Advisor, who shall serve as a liaison to Tivity Health and as a resource person for SilverSneakers Participants utilizing the Tivity Health Network and is knowledgeable concerning all services provided by Facility to Participants.

f. **Guest Pass Program.** Facility shall provide Program services to persons presenting a Tivity Health guest pass. Properly documented guest visits will be counted the same as a Participant visit for purposes of calculating Facility’s compensation.

g. **Reference Guide.** Facility must comply with the Reference Guide to remain a part of Tivity Health’s network.

h. **Access to Program at No Charge.** Facility will provide all Participants access to the Program at no charge to the Participants.

i. **Tivity Health Network Reciprocity.** Facility will ensure that all of Facility’s locations listed in the Agreement allow access to all Participants.

j. **Membership Conversion.** Upon the Effective Date, Facility will inactivate any existing gym/facility membership relationship a Participant may have with Facility, which inactivation will be for the duration of the Agreement. Facility will not collect any monthly dues, cancellation fees, or other fees during the inactivation period. Upon termination of the

Agreement or the termination of a Participant's membership with a Tivity Health customer, Facility may re-activate that Participant's inactivated Facility membership.

k. Portal. Facility's participating locations will create and maintain user accounts on the web based Tivity Health Fitness Provider Portal. Facility shall utilize the Tivity Health Fitness Provider Portal to verify Participant eligibility and to obtain and access Tivity Health materials, including Sponsoring Organization information, training materials, Program forms, Program reports, and the Reference Guide.

l. Communications. Facility will coordinate all external communications through Tivity Health. All marketing and advertising materials that refer to any Tivity Health Program, Tivity Health, or any Sponsoring Organization, and any materials intended for distribution to Participants prepared by Facility that refer to any Tivity Health Program, Tivity Health, or any Sponsoring Organization shall be approved by Tivity Health in writing prior to distribution or publication. Tivity Health shall have sole discretion as to if, and how, Tivity Health communicates Facility's participation in the Program to Participants. Facility will immediately notify Tivity Health of all external inquiries regarding any Tivity Health Program, Tivity Health, or a Tivity Health customer.

m. Return of Materials. Facility will promptly return all Tivity Health Program materials upon termination of the Agreement or at Tivity Health's request.

n. Fraud, Waste and Abuse Training. Applicable Facility personnel will complete fraud, waste and abuse training as required by the Center for Medicare and Medicaid Services and provide confirmation of completion of same on the Portal.

o. Insurance. Facility will maintain commercially reasonable levels of general liability insurance in order to satisfy Facility's obligations to Tivity Health under this Agreement and as is reasonable and appropriate and industry-standard given Facility's business operations.

3. Use of Trademarks, Logos, and Copyrighted Materials. Each party grants the other a limited and non-exclusive right to use the other's trademarked or service-marked name, logo, identity, format, and materials solely for use for the purposes outlined in this Agreement (the "**Marks and Materials**"); provided, any use by Facility must be approved in advance and in writing by Tivity Health. Upon termination of the Agreement Facility will cease all use, advertising, marketing, and referencing of Tivity Health Marks and Materials. Nothing in the Agreement grants either party any right, title or interest in or to the Marks and Materials of the other party. All use by Facility of Tivity Health's Marks and

Materials (including goodwill) will be for the sole benefit of Tivity Health.

4. Tivity Health IP. Tivity Health is the sole and exclusive owner of any and all Tivity Health IP, and nothing in the Agreement will alter Tivity Health's ownership rights in the Tivity Health IP whatsoever. Facility may not sell, license or otherwise transfer the Tivity Health IP.

5. Disagreements. If the parties have a disagreement, they will work in good faith to resolve it. Neither party will sue the other in front of a judge or jury; rather, all unresolved disagreements will be resolved exclusively by binding arbitration. Neither party will initiate, support, or otherwise participate in class action lawsuits, class-wide arbitrations, private attorney-general actions or the like against the other party.

6. Research Studies. Facility must seek prior written approval (which Tivity Health may decline in its sole discretion) from Tivity Health before undertaking any research or clinical study of Participants or Programs. Facility will provide study findings and results to Tivity Health prior to any publication or presentation of same. Tivity Health may withhold approvals hereunder in its sole discretion.

7. Compensation. Tivity Health will pay Facility the fees and rates set forth in the Agreement. Facility will be responsible to pay its own taxes on any payment received from Tivity Health.

8. Termination.

a. Immediate Termination. Tivity Health may immediately terminate the Agreement upon notice to Facility in the event of (i) Facility closure; (ii) fraudulent reporting of Program utilization by Facility; (iii) Tivity Health's determination that a Participant's health or safety may be at risk; or (iv) Facility or any of its owners, employees, agents, or affiliates have been convicted of Medicare fraud or appear on any state or federal government exclusion list, including, without limitation, the System for Award Management or the Office of Inspector General's List of Excluded Individuals and Entities.

b. Bankruptcy. If at any time there is filed by or against a party to the Agreement a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee, or conservator of all or a portion of the party's property, or if a party makes an assignment for the benefit of creditors, and if such action is not dismissed after 90 calendar days, the Agreement may be immediately terminated by the other party.

c. Material Breach. If either party breaches a material term or condition of the Agreement, the non-

breaching party may terminate the Agreement on notice to the other party specifying the nature of the breach as long as the breach is not cured within 30 days after such notice.

d. Default. Tivity Health may at its sole discretion and without limiting its other remedies withhold payment of any amounts otherwise due to Facility if Facility commits an act of fraud or commits a material breach of the Agreement.

e. Termination for Material Change. If, during the Term of this Agreement, there is, or is expected to be, a material change in number of expected Participants, as determined by Tivity Health in Tivity Health's sole discretion, then Tivity Health may terminate this Agreement by providing 120 days written notice to Facility.

9. Confidentiality. During the Term and at all times thereafter, Facility may not divulge to anyone or use in any way any Confidential Information.

10. Participant Contact. Facility agrees not to contact Participants during the Term of this Agreement regarding business matters of the Program, including, without limitation, switching health plans, disenrolling, enrolling with other health plans or similar entities, or contracting directly with Facility. Facility will not dissuade Participants from engaging in any Tivity Health Program.

11. Notices. All notices and other communications under this Agreement must be in writing, sent to the applicable contact listed in the Agreement, and will be deemed to have been duly given, made and received when sent by (a) electronic mail or (b) hand delivery, including by a recognized courier service.

12. Facility Operations. In no event shall Tivity Health, or any affiliates of Tivity Health or Sponsoring Organizations, be liable for i) injuries sustained by Participants as a result of the Participant's engagement in the Program or any other activities undertaken in or sponsored by Facility or ii) the Facilities failure to comply with applicable laws.

13. Indemnification. Facility will indemnify, defend, and hold harmless Tivity Health and all Tivity Health Affiliates and their respective officers, directors, shareholders, employees, and representatives from any and all Losses. For purposes of this Section 13, "Losses" means all claims, demands, suits, liabilities, damages, obligations, and expenses (including without limitation reasonable attorneys' fees) incurred by Tivity Health related to negligence or

willful misconduct of Facility or its officers, directors, employees, agents or affiliates.

14. Cooperation in Defense. Tivity Health and Facility agree that, to the extent permitted by law, they will cooperate with one another in the defense of any claim arising from any acts of their respective officers, shareholders, employees, or agents and will give one another written notice of any claims arising in relation to the Agreement.

15. Miscellaneous.

a. Compliance with Federal and State Rules and Regulations. Facility will comply with all applicable federal and state rules and regulations regarding services provided to Participants.

b. Business License and Regulatory Standards. Facility will hold an active and unrestricted business license as required by law and meet occupational health and safety requirements and regulatory standards in the state and jurisdiction in which Facility operates.

c. Severability. Should any provision of the Agreement be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable in any respect, in whole or in part, the offending provisions will not affect the enforceability of the other provisions.

d. Amendment of Agreement to Comply with Law. Tivity Health may amend this Agreement to comply with applicable law upon 60 days' prior written notice to Facility, and Facility may terminate this Agreement during such period if the amendment would have a demonstrable material adverse effect on Facility.

e. Applicable Law. The Agreement is governed by the laws of the State of Delaware, without giving effect to its conflicts of law's provisions, and each party submits to the exclusive jurisdiction of the courts of the State of Delaware.

f. Sale of Business/Transfer of Assets. Facility will notify Tivity Health in writing at least 90 days before it sells or transfers all or substantially all of its assets or business.

g. Survival. Any right, obligation or required performance of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name: Avon Fitness Center

Physical Address: _____

Mailing Address (if not the same as Physical Address): _____

General Email: _____

Phone Number: _____

Web Site Address: _____

***To enable marketing of amenities and services, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal.**

Amenity/Program	Offered as part of basic membership at no additional cost to Members
Cardiovascular Equipment	
Group Exercise/Aerobics Area	
Hot Tub/Whirlpool	
Resistance Training Equipment	
Steam and/or Sauna	
Swimming Pool – Seasonal (not available throughout the year)	
Swimming Pool – Year-Round	
Other	

TIVITY HEALTH PROGRAM ADVISOR: This individual will be the primary contact for the Tivity Health Account Executive to schedule training and will need access to Program Participant records.

Name: _____

Title: _____

Phone: _____

Email: _____

TECHNICAL COORDINATOR: The Technical Coordinator shall be responsible for obtaining management approval for establishing a reporting method for all Facilities in Exhibit A-1 to this Agreement, and for all technical aspects of monthly Program Participant utilization tracking and data reporting.

Name: _____

Title: _____

Phone: _____

Email: _____

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name: Dow Active Complex

Physical Address: _____

Mailing Address (if not the same as Physical Address): _____

General Email: _____

Phone Number: _____

Web Site Address: _____

***To enable marketing of amenities and services, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal.**

Amenity/Program	Offered as part of basic membership at no additional cost to Members
Cardiovascular Equipment	
Group Exercise/Aerobics Area	
Hot Tub/Whirlpool	
Resistance Training Equipment	
Steam and/or Sauna	
Swimming Pool – Seasonal (not available throughout the year)	
Swimming Pool – Year-Round	
Other	

TIVITY HEALTH PROGRAM ADVISOR: This individual will be the primary contact for the Tivity Health Account Executive to schedule training and will need access to Program Participant records.

Name: _____

Title: _____

Phone: _____

Email: _____

TECHNICAL COORDINATOR: The Technical Coordinator shall be responsible for obtaining management approval for establishing a reporting method for all Facilities in Exhibit A-1 to this Agreement, and for all technical aspects of monthly Program Participant utilization tracking and data reporting.

Name: _____

Title: _____

Phone: _____

Email: _____

Confidential

EXHIBIT A-2

CONTRACT ADMINISTRATOR

The Contract Administrator is an authorized signer on behalf of the company/organization and shall be responsible for all legal correspondence and Notices regarding the Agreement, have access to payment information for all Facilities in Exhibit A-1 to this Agreement, and be responsible for setting up Tivity Health Fitness Provider Portal accounts for Facility staff.

Name: _____

Title: _____

Mailing Address: _____

Phone: _____

Email: _____

PROGRAM DESCRIPTIONS

SilverSneakers® Fitness Program – Basic Participant Access Program Description:

In exchange for the compensation to be paid by Tivity Health, Facility shall offer the Program to Participants of the Sponsoring Organization for Medicare, Group Retirees and Older Adults that includes a basic fitness membership, which may include other Tivity Health services, for Participants provided through a network of facilities; also included in the Program are all facets presented in the Terms and Conditions section of the Partner Location Agreement. Program brands include SilverSneakers® Fitness program, Tivity Health ACCESS, and other brand names for the Mature Market Program communicated to Facility by Tivity Health from time to time.

Prime® Program Description:

In exchange for the compensation to be paid by Tivity Health, Facility shall offer the Program to Participants of the Sponsoring Organization as a Commercial Fully Subsidized Program; The Program includes basic fitness membership services for Participants provided through a network of facilities; also included in the Program are all facets presented in the Terms and Conditions section of the Partner Location Agreement. Program Brands include Prime®, Prime MCA, and other brand names for the Commercial Fully Subsidized Program communicated to Facility by Tivity Health from time to time.

- a) Introductory Orientation for Prime Participants. Facility shall offer the Program to all Participants identified by Tivity Health as eligible for the Program. In addition to a basic fitness membership at no cost to the Participant, Facility shall provide Participants with an added value program component (i.e., a thirty (30) minute personalized orientation session or personal training session).

Prime Private Brand® Program Description:

In exchange for the compensation to be paid by Tivity Health, Facility shall offer the Program to Participants of the Sponsoring Organization a Commercial Participant Pay Program; also included in the Program are all facets presented in the Terms and Conditions section of the Partner Location Agreement. For purposes of this Program, Participant Pay is defined as a monthly payment made by Participant to Tivity Health to participate in the Program. Program brands include Prime PB and other brand names for the Commercial Participant Pay Program communicated to Facility by Tivity Health from time to time.

- a) Introductory Orientation for Prime Participants. Facility shall offer the Program to all Participants identified by Tivity Health as eligible for the Program. In addition to a basic fitness membership at no cost to the Participant, Facility shall provide Participants with an added value program component (i.e., a thirty (30) minute personalized orientation session or personal training session).