

EXPRESS FITNESS TERMS & CONDITIONS

We are pleased to offer you membership to the gym facilities owned and operated by JA & KA Walker Investments Pty Ltd A.C.N. 165 694 815 as trustee for the JA & KA Walker Family Trust ("Express Fitness 24/7", "us", "we") and its successors or assigns, on the terms set out in this agreement. Unless this Agreement is validly terminated in accordance with the following terms, you agree that you are liable for all payments set out under the terms of this Agreement.

- 1. Contract** This is a legally binding contract. By signing the membership agreement (Agreement), agreement form attached to the front of this document (the "Form"), you agree to be bound by these terms and conditions, our code of conduct and our rules of use (together constituting the "Agreement") as displayed throughout the gym and amended from time to time. Items set out in the Form are defined terms in the Agreement. The Agreement begins on the Commencement Date in item B and ends either 6 months or 12 months from the Commencement Date, depending on your selected membership in item B (except for Individual Memberships) or when validly terminated in accordance with these terms and conditions ("Term"). This Agreement may not be varied except in writing signed by all of the parties.
- 2. Membership** You have selected the Membership Plan indicated in item B. This Agreement entitles you to access the gym facilities for the Term. You must pay the rate per fortnight specified in item B for the Term of your Membership Plan. Failure to pay the fee specified in item B is considered a fundamental breach of this Agreement.
- 3. Continuing Membership Agreement** If you have selected a 12 Month Membership, you acknowledge that this Agreement is an on-going agreement under the Fair Trading (Code of Practice – Fitness Industry) Regulation 2003. This Agreement will continue after the end of the initial 12 month term and ends only if and when you terminate the Agreement. You will continue to be responsible for payments debited fortnightly from your nominated bank account.
Initial_____ Date_____
- 4. Services** You are entitled to use all of Express Fitness 24/7's services, facilities and equipment at the gym (the Facilities) at any time during the Term of this Agreement . The Facilities are available for you to inspect during the Cooling Off Period and are subject change at any time.
- 5. Unsupervised Facility**
The gym is open twenty-four hours a day to members and is accessible during un-staffed hours. By accepting this Agreement you agree that you use the Facilities at your own risk and acknowledge that the gym is not supervised or staffed by Express Fitness 24/7 personnel at all times.
Initial_____ Date_____
- 6. Fees**
 - 6.1 Membership Fees** You agree to pay the membership fees set out in item B of this Agreement, dependent on your selection of Membership Plan and you agree to abide by the direct debit terms and conditions as described in this Agreement. You will be charged on a fortnightly basis in advance for all Membership Plans, in accordance with the Direct Debit terms. Express Fitness 24/7 reserves the right at any time to change the fees charged to members for use of the Facilities and will use best endeavours to provide you with 30 days written notice to the address you have supplied.
 - 6.2 Dishonour Fee** You will be charged an administration fee of \$10.00 in the event that your direct debit membership payment cannot be processed by your financial institution. Express Fitness 24/7 will continue to debit your nominated account, including by manual process of the transaction, without notice, until the amount owing is received. Express Fitness 24/7 will make reasonable effort to contact you before any payment is processed, either by phone, in person, or by writing to the address provided. You must make sure that the payment method you choose on your agreement continue throughout the agreement term. If the account details you provide fail, you are liable for all resulting fees and debts.
 - 6.3 Termination Fee** You will be charged a termination fee of the lesser of \$75 or 20% of the total value of your membership agreement for terminating this agreement prior to the expiry of the Term of the Membership Plan in accordance with the Cancellation and Termination Policy, for early termination of this Agreement, or during the Cooling Off Period.
 - 6.4 Breach of Policy Fee** If you do not comply with our 'No Tailgating Policy' you may be charged a fee of \$150.00 (Breach of Policy Fee).
 - 6.5 Swipe Card Fee** You will be charged a fee of \$59.95 for a swipe-card providing you with access to the gym at all hours. This fee is non-refundable. In the event that you lose your swipe-card you must pay for a new card at the fee of \$59.95 to enable you to gain access to the gym during un-staffed hours. It is your responsibility to ensure that the card does not get damaged or stolen.
 - 6.6 Club Enhancement Fee** You will be charged a quarterly fee of \$4.95 for club enhancement, this will be charged on the following dates 31st March, 30th June, 30th September and 31st December. Initial: _____
- 7. Safety & Security**
 - 7.1 No Tailgating Policy** a) You may not allow your guests to attend the gym at any time without prior permission from Express Fitness 24/7. b) You may not allow another gym member to enter the gym behind you without first closing the door behind you ("Tailgating"). c) Failure to comply with the No Tailgating Policy will result in an alert to our security systems and you will be charged the Breach of Policy Fee.
 - 7.2 You are not permitted to access the gym during non-staffed hours unless you hold a valid swipe card.**
 - 7.3 The gym is monitored by a 24 hour recorded surveillance** system and your swipe card activity is also monitored. Surveillance is operated in the floor areas of the gym and over external car parks. NO surveillance is operated within the walls of the bathrooms. By signing this Agreement you acknowledge that you will be subject to video surveillance and recording whilst using the gym.
 - 7.4 Personal training services** may be provided at the gym by employees or independent contractors. You acknowledge and agree that Express Fitness 24/7 is not liable in any way whatsoever for the actions or advice provided to you by any personal trainer in the gym.
 - 7.5** Express Fitness 24/7 is fitted with an emergency security alert for your safety. You agree to use the system only in the case of a true emergency.
 - 7.6** You are required to use all safety features of the gym equipment.
 - 7.7** You are responsible for wiping down all equipment, following gym safety procedures and un-racking all weights.
 - 7.8** Photography and videography are not permitted within the gym.
 - 7.9** All gym membership holders must be a minimum of 14 years old. All minors under the age of 18 years must have a parent or guardian co-sign the membership agreement form. Members aged between 14-16 years will not be issued with an access card and will only be able to use the facility during staffed hours. If these members wish to use the Facility during non-staffed times, a parent/guardian will need to be present at all times.
Parent Initials _____
- 8. Member assumption of risk and release** You acknowledge that in using the gym Facilities under this Agreement, you risk serious injury, from your actions or from another gym member's actions. You agree to release, defend, indemnify, hold harmless and insure, to the fullest extent permitted by law Express Fitness 24/7 or its successors or assigns, from any and all damages, losses, expenses or liability, resulting from or arising out of, caused by, attributable

to, or in connection with your use of the equipment or the Facilities at the gym or any incident that occurs while using the gym Facilities or engaging in gym activities, on or off the gym premises or, otherwise related to your gym membership.

Initials _____

- 9. Medical Health** By executing this Agreement you agree that you are medically healthy and fit to use the Express Fitness 24/7 gym equipment and services. You must notify Express Fitness 24/7 of any pre-existing medical conditions and any medical conditions that arise during the term of your membership. You agree that you will only use the gym facilities when you are healthy and that you are responsible for your actions, which may affect other gym members. Failure to disclose your medical history may result in immediate cancellation of your membership. Express Fitness 24/7 reserves the right to freeze the membership of any person that Express Fitness suspects may not be medically fit to utilise the gym, pending receipt of a medical certificate from a medical practitioner certifying that you are fit to use the gym. Clause 12 will apply to any forced membership freeze.

Initials _____

- 10. Orientation** You must complete an orientation of the gym with one of the Express Fitness 24/7 staff members, prior to being permitted to access the gym. You will be provided with your swipe card at orientation. Your obligation to make all payments under this Agreement is not affected in any way whatsoever by this clause or your ability to attend orientation at the Express Fitness 24/7 designated orientation times. Express Fitness 24/7 will make all reasonable efforts to hold an orientation of the gym at convenient times for gym members, however it is your responsibility to ensure that you complete the orientation.
- 11. Update details** In the event that you change your address, credit card, phone number or other personal details, you must notify Express Fitness 24/7 in writing. Failure to notify Express Fitness 24/7 of your change of details may result in termination of your Agreement.

- 12. Membership Freeze** You may request that Express Fitness 24/7 freeze your membership at any time during the duration of your membership by providing a written request to Express Fitness 24/7 at least 2 weeks' in advance of the requested Freeze period. You may freeze your membership for a minimum of 2 weeks per request. A fee of \$5 per fortnight applies, during the membership freeze period. You are only permitted to freeze your membership for a maximum of 6 weeks each year, calculated from the Commencement Date of this Agreement. To be eligible for a membership freeze, you must not have any outstanding payments owing to Express Fitness 24/7. You agree that Express Fitness 24/7 will extend the term of this Agreement by the number of weeks that the membership is 'frozen'. You further agree that you may not terminate this Agreement during any 'freeze' of membership.

- 13. Cancellation & Termination Policy**
- 13.1 Cooling Off Period** This Agreement is subject to a 48 hour Cooling Off Period. The Cooling Off Period begins from the time of signing this membership Agreement, or from the time and date of the first open day of the gym (if the Agreement was signed prior to the opening of the gym). You may terminate this Agreement at any time during the Cooling-Off Period by providing written notice to Express Fitness 24/7. Express Fitness 24/7 may retain the Termination Fee for you terminating the Agreement during the Cooling Off Period.

13.2 Breach of Agreement Express Fitness 24/7 reserves the right to cancel your membership if you breach a term of Agreement at any time. In the event that Express Fitness 24/7 cancels your membership Agreement you must immediately return your swipe key and the balance of your Membership Plan will be immediately due and payable. Express Fitness 24/7 will immediately terminate this Agreement in the event that: **a)** Your direct debit payments cannot be processed on two or more occasions; **b)** You are in breach of the 'no Tailgating' policy; **c)** Your conduct at the gym is improper or likely to cause harm or nuisance to other gym members, harm to yourself, or you damage gym property; **d)** You fail to comply with the terms of this Agreement, the code of conduct and any other gym rules as amended from time to time.

13.3 Termination Rights You may cancel your membership as follows: **a)** Permanent illness or incapacity: You must provide a medical certificate from a certified medical practitioner stating that you are permanently ill or incapacitated preventing you from using the gym Facilities and services for the remainder of the Term your membership plan. Express Fitness 24/7 will terminate your membership from the next direct debit payment and you will be charged the Termination Fee. **b)** Relocation: If you are relocating to an address outside of the Gold Coast City Council area and you are unable to transfer your membership to an affiliate of Express Fitness 24/7, you may terminate the Agreement by providing one months' notice in writing, paying the Termination Fee and returning your swipe card at the end of the membership. You must provide two items of written evidence of your relocation, e.g. driver's licence with updated address, letter from employer, or evidence of lease agreement and electricity contract. **c)** You may terminate an individual Membership at any time by completing a cancellation form at Express Fitness 24/7 Pty Ltd providing one months' notice and returning your swipe card to Express Fitness 24/7 at the end of your membership. Your membership direct debits will not be stopped until Express Fitness 24/7 has received your swipe card. **d)** Termination of Pre-Paid Membership: if you have elected a prepaid 6 or 12 month Membership Plan, you may only cancel in accordance with item a and b above. Express Fitness 24/7 will refund the remainder of the balance of your membership Plan, less the applicable Termination Fee.

13.4 Costs You must pay to Express Fitness 24/7 any costs, charges and expenses (including all debt recovery fees and legal fees on an indemnity basis) incurred by Express Fitness 24/7 in the exercise or attempted exercise of any power, right or remedy under this Agreement and/or your failure to comply with this Agreement.

- 14. Assignment** You may not assign your rights or interests in this Agreement to any third party at any time.
- 15. Equipment** You agree that the equipment provided for your use in the Express Fitness 24/7 gym is sourced from a third party. Express Fitness 24/7 do not warrant the performance of the equipment or accept any liability for malfunction, damage or injury caused by the performance of the equipment.
- 16. Severability** Any provision of this agreement which is or becomes illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and will not invalidate the remaining provisions.
- 17. Indemnity** You agree to defend, indemnify, hold harmless and insure Express Fitness 24/7 from any and all damages expenses or liability, resulting from or arising out of any negligence or misconduct on your part, or from any breach or default of this Agreement which is caused or occasioned by your acts or omissions.
- 18. Survival** If this agreement is terminated for any reason such termination will not affect any accrued rights or liabilities of either party nor will it affect the coming into force or the continuance in force of any provision of this Agreement (in so far as it imposes obligations on you) which is expressly or by implication intended to come into force or continue on or after the termination.
- 19. Disputes** Any dispute or query must be in writing only to Express Fitness. Express Fitness 24/7 shall consider and respond to written queries or disputes within a reasonable time.
- 20. Governing Law & Jurisdiction** This Agreement is governed by the law of the State of Queensland and the parties submit to the jurisdiction of the courts of that State.

Members
Signature: _____

Date: _____

Staff
Signature: _____

Date: _____

EZI DEBIT TERMS & CONDITIONS

DDR Service Agreement (Ver 1.3) I/We hereby authorise Ezidebit Pty Ltd ACN 096 902 813 (Direct Debit User ID number 165969) (herein referred to as "Ezidebit") to make periodic debits on behalf of the "Business" as indicated on the attached Direct Debit Request (herein referred to as "the Business").

I/We acknowledge that Ezidebit is acting as a Direct Debit Agent for the Business and that Ezidebit does not provide any goods or services (other than the direct debit collection services to me/us for the Business pursuant to the Direct Debit Request and this DDR Service Agreement) and has no express or implied liability in regards to the goods and services provided by the Business or the terms and conditions of any agreement that I/We have with the Business.

I/We acknowledge that the debit amount will be debited from my/our account according to the terms and conditions of my/our agreement with the Business and the terms and conditions of the Direct Debit Request (and specifically the Debit Arrangement and the Fees/Charges detailed in the Direct Debit Request) and this DDR Service Agreement.

I/We acknowledge that bank account and/or credit card details have been verified against a recent bank statement to ensure accuracy of the details provided and I/We will contact my/our financial institution if I/We are uncertain of the accuracy of these details.

I/We acknowledge that it is my/our responsibility to ensure that there are sufficient cleared funds in the nominated account by the due date to enable the direct debit to be honoured on the debit date. Direct debits normally occur overnight, however transactions can take up to three (3) business days depending on the financial institution. Accordingly, I/We acknowledge and agree that sufficient funds will remain in the nominated account until the direct debit amount has been debited from the account and that if there are insufficient funds available, I/We agree that Ezidebit will not be held responsible for any fees and charges that may be charged by either my/our or its financial institution.

I/We acknowledge that there may be a delay in processing the debit if:-

- (1) there is a public or bank holiday on the day of the debit, or any day after the debit date;
- (2) a payment request is received by Ezidebit on a day that is not a banking business day in Queensland;
- (3) a payment request is received after normal Ezidebit cut off times, being 4:00pm Queensland time, Monday to Friday.

Any payments that fall due on any of the above will be processed on the next business day.

I/We authorise Ezidebit to vary the amount of the payments from time to time as may be agreed by me/us and the Business as provided for within my/our agreement with the Business. I/We authorise Ezidebit to vary the amount of the payments upon receiving instructions from the Business of the agreed variations. I/We do not require Ezidebit to notify me/us of such variations to the debit amount.

I/We acknowledge that Ezidebit is to provide at least 14 days' notice if it proposes to vary any of the terms and conditions of the Direct Debit Request or this DDR Service Agreement including varying any of the terms of the debit arrangements between us.

I/We acknowledge that I/We will contact the Business if I/We wish to alter or defer any of the debit arrangements.

I/We acknowledge that any request by me/us to stop or cancel the debit arrangements will be directed to the Business.

I/We acknowledge that any disputed debit payments will be directed to the Business and/or Ezidebit. If no resolution is forthcoming, I/We agree to contact my/our financial institution.

I/We acknowledge that if a debit is returned by my/our financial institution as unpaid, a failed payment fee is payable by me/us to Ezidebit. I/We will also be responsible for any fees and charges applied by my financial institution for each unsuccessful debit attempt together with any collection fees, including but not limited to any solicitor fees and/or collection agent fee as may be incurred by Ezidebit.

I/We authorise Ezidebit to attempt to re-process any unsuccessful payments as advised by the Business.

I/We acknowledge that certain fees and charges (including setup, variation, SMS or processing fees) may apply to the Direct Debit Request and may be payable to Ezidebit and subject to my/our agreement with the Business agree to pay those fees and charges to Ezidebit.

You appoint Ezidebit as your exclusive agent with regard to the control, management and protection of your personal information (relating to the Business and contained in this DDR Service Agreement). You irrevocably authorise Ezidebit to take all necessary action (which we deem necessary) to protect your personal information, including (but not limited to) prohibiting the release to or access by third parties without our consent.

You hereby irrevocably authorise, direct and instruct any third party who holds/stores keeps your personal information (relating to the Business and contained in this DDR Service Agreement) to release and provide such information to Ezidebit on our written request.

Credit Card Payments

I/We acknowledge that "Ezidebit" will appear as the merchant for all payments from my/our credit card. I/We acknowledge and agree that Ezidebit will not be held liable for any disputed transactions resulting in the non supply of goods and/or services and that all disputes will be directed to the Business as Ezidebit is acting only as a Direct Debit Agent for the Business. I/We acknowledge and agree that in the event that a claim is made, Ezidebit will not be liable for the refund of any funds and agree to reimburse Ezidebit for any successful claims made by the Card Holder through their financial institution against Ezidebit.

Ezidebit will keep your information about your nominated account at the financial institution private and confidential unless this information is required to investigate a claim made relating to an alleged incorrect or wrongful debit, or as otherwise required by law. Further information relating to Ezidebit's Privacy Policy can be found at www.ezidebit.com.au

I/We acknowledge that Credit Card Fees are a minimum of the Transaction Fee or the Credit Card Fee, whichever is greater as detailed on the Direct Debit Request.

I/We authorise:

- a) Ezidebit to verify details of my/our account with my/our financial institution; and
- b) my/our financial institution to release information allowing Ezidebit to verify my/our account details

Po Box 3327, Newstead, QLD 4006, Ph: (07) 3124 5500 Fax: (07) 3124 5555, , DDR Service Agreement (Ver 1.3), ACN 096 902 813 | AFSL 315388, DDR Service Agreement (Ver 1.3) I acknowledge the terms and conditions of this document.

Members
Signature:

Staff
Signature:

Date:

Date: