

AGREEMENT SUMMARY

Important Notice

The *Anytime Fitness® chain* comprises a network of independently owned and operated fitness **Clubs**, including our **Club**.

This is an **Agreement** under which you agree to become a **Member** of our **Club**. It is made up of this **Important Notice**, the **Details** section, the attached **Terms** and any other document attached or referred to, including our **Club Rules**, our privacy policy and the **Special Conditions for Minors 14-17 Year Olds**, (if applicable).

When you sign this **Agreement** you are entering into a legally binding contract with us.

This **Agreement** sets out your rights to use our **Facilities and Services** and the responsibilities you have to comply with as a **Member**. These responsibilities, including payment of **Membership Fees**, do not depend on how often you use our **Facilities and Services**.

What is set out in this **Agreement** overrides any statements made by you or us before you signed it so you should read through it fully to make sure it reflects your expectations. If you are unsure whether any particular statements that you have relied on are part of this **Agreement**, or if you have any queries regarding this **Agreement**, please ask us before you sign.

Words in **Bold** type and capitalised first letters are defined in clause 1 of the attached **Terms**.

Type of Agreement

You must choose the type of agreement you wish to have by ticking and initialling the relevant boxes below:

Type of Agreement	Description	Applicable Agreement	Initial Term End Date
Fixed Term Agreement	<p>A Fixed Term Agreement provides for the supply of prescribed goods or services for the Initial Term. It will not continue after the end of the Initial Term. You will need a new Agreement if you want to keep using the Facilities and Services after this and a new Joining Fee may apply. If you opt for a Fixed Term Agreement we may require that you pre-pay the Membership Fees for the whole Agreement.</p> <p>By selecting this option, you acknowledge and confirm that the Agreement is a Fixed Term Agreement.</p>		
Ongoing Agreement	<p>An Ongoing Agreement provides for the supply of prescribed goods or services on an ongoing basis. It will continue after the Initial Term until either you or we terminate it in the way set out in the Terms. Your Fees may increase after the Initial Term expires.</p> <p>By selecting this option, you acknowledge and confirm that the Agreement is an Ongoing Agreement.</p>		

Initial:	Date:

Agreement Details

Initial Term	0 Months
Services Supplied	We will provide access to Club and its facilities for the use of our Members , in accordance with the terms of this Agreement .
Services Exclusions	<p>This Agreement and the services provided under it are subject to the following exclusions, limitations, and restrictions:</p> <p>a. Access to our Club (and any other Club) is only provided to Members. If you wish to provide access to any person who is not a Member, additional Fees will apply in accordance with the terms of the Agreement.</p> <p>b. Members must be at least 18 years of age. If you are 14-17 years of age and you wish to join us, you and your parent or guardian must agree to the Special Conditions for Minors.</p> <p>c. Engaging in any commercial or business activities in our Club (and any other Club) is prohibited.</p>
Start Date for Initial Term	If our Club is open, the date you sign this Agreement (unless we agree to a later date). Otherwise, the date our Club opens - provided we have given you prior notice of that date. If we have not given you prior notice, the Start Date is the day you are notified that our Club has opened.
Cooling Off	This Agreement is subject to a 7-day cooling off period. This means you may terminate the Agreement within the 7 days following the Start Date (ending at 11.59 pm on the 7th day following the Start Date)

Standard Fees

Type of Fees	Goods or Services relevant to Fee	Amount	Payment Timing
Membership Fee for Initial Term:	For provision of services pursuant to this Agreement.	0.00	Payable in accordance with the option selected in the below Details section.
Joining Fee:	For the set-up costs for your Membership.	0.00	Payable on commencement of this agreement.
Member Access Key Fee:	For the purchase of your Member Access Key.	0.00	Payable on commencement of this agreement.
Total Fees Payable for Initial Term:		0.00	

Other Fees

Type of Fees	Goods or Services relevant to Fee	Amount	Payment Timing
Cancellation Fee	For administrative costs incurred as a result of the cancellation of your Membership before the end of the Initial Term .	The higher of 50% of the balance due for the Initial Term or a sum equal to 30 days Membership Fees	Payable upon cancellation of the Agreement during the Initial Term (due to reasons other than medical reasons).
Billers Administration Fee	For administrative costs incurred by the Biller due to your direct debit being unable to be processed	\$7.50	Payable at the same time as the following direct debit.
Freeze Fee (per week)	For administrative costs incurred due to the Agreement being 'frozen'	\$2.50 (Maximum)	This fee will be payable weekly while your Agreement is 'frozen'.
Guest Fee (per visit)	For admission of one guest into a Club .	\$30.00 (Maximum)	Payable upon entry of the guest.
Tailgate Fee	For unapproved admission of one guest into a Club .	\$60.00 (Maximum)	Payable if you allow another person to access a Club without permission.
Pro Rata Fee	For the provision of services pursuant to this Agreement that fall outside of a complete Direct Debit Payment Period	A pro-rata amount of your Membership Fee	Payable with your first or last direct debit payment.

Summary of some Key Terms

Some of the key terms of this **Agreement** are summarised below. You must refer to the noted clause or provision for full details:

Cooling Off: You can cancel this **Agreement** within 7 days from the **Start Date** by giving us written notice (see **Details** and clause 3).

Your Safety: You agree to give us all relevant health and fitness information before or during any exercise. Each time you use the **Facilities and Services**, you must ensure you are in good physical condition and know of no medical or other reason why you should not exercise. If unsure, you should seek medical guidance (see clause 5).

Access and Reciprocity: When you join our **Club** you can access and use our **Club** and our **Facilities and Services**. You are also able to access and use all other **Clubs** (see clause 2). Note, if you are under 18 years of age you will be restricted as to which other Clubs you may enjoy reciprocal access with. Where **Clubs** offer group classes or personal training services, these are not included within your **Membership Fee** but will be at additional cost if used by you.

Minor: Any member under 18 years old at the time of entering into this Agreement is a minor.

Membership Transfer and Assignment of this Agreement: As a broad rule, if you use another **Club** more than our **Club**, (using the criteria set out in this **Agreement**) your **Membership** and this **Agreement** will be transferred from our **Club** to the **Club** you visit the most. If this happens, the **Fees**, including your **Membership Fees**, may be increased to the **Membership Fees** charged by the other **Club** and you will be required to pay the increased **Membership Fees** and if you have pre-paid **Membership Fees** the period you are deemed to have pre-paid for may be reduced in proportion to any higher **Membership Fees** charged by the other **Club** (see clause 8). You should consider which **Club** you intend to use the majority of the time when deciding which **Club** to sign up with.

Relocation Overseas: Where the transfer provisions are triggered to another **Club** outside of Australia, then you will be required to enter into a new **Agreement** with that **Club** if you wish to continue as a **Member** and be granted access to any **Club**. Your **Agreement** with us will be cancelled and you will be entitled to a refund for any pre-paid **Membership Fees** that relate to a period after the date of cancellation (see clause 8.4).

Putting Your Membership on Hold: In any 12 month period you can usually 'freeze' your **Agreement** twice for up to 3 months for both periods combined. If we agree, you may freeze your **Agreement** more than this time for travel, medical or hardship reasons but must give us proof. The minimum freeze period is one billing period (or 2 weeks if you have pre-paid your **Membership Fees**). Your Membership will be extended by the freeze period. A weekly **Freeze Fee** of up to \$2.50 may apply (see clause 9).

Cancelling in the Initial Term for Medical Reasons: You can cancel your **Membership** in the **Initial Term** if you contract a permanent illness or a physical incapacity which is confirmed by a doctor (see clause 10).

Cancelling in the Initial Term for Other Reasons: You can cancel for your convenience if you pay the **Cancellation Fee** which is generally the higher of 50% of the balance due for the **Initial Term** or a sum equal to 30 days **Membership Fees** (see clause 10). You can also cancel on notice of 30 days if you relocate more than 15 km away from any **Club** and give us proof (see clause 10).

Cancelling an Ongoing Agreement After the Initial Term: You may cancel on 30 days written notice (see clause 10).

Not Enough Money in Account When Fees are Due: Your bank or credit provider may charge you a fee for overdrawing your account. You will also be charged the **Billers Administration Fee** by our third party **Biller** on our behalf each time your payment to us is dishonoured and our third party **Biller** is unable to collect a payment due to a late or rejected payment. (see the **Details** and clause 13).

Your Initials ____

DETAILS

Anytime Fitness Club - "Us" "Our" "We"	
Company Name:	
ABN:	
Trading Name:	
Email:	
Club Address	

Member - "You" "Your"		
Full Name:		ID: (e.g.Licence:)
Address:		
Email:		Phone:
Date of Birth:		Gender:
Emergency Contact:		E.C. Phone:
Payment Method		
Payment of Membership Fees: (Please choose):	<input type="checkbox"/> Upfront Pre-payment for Initial Term <input type="checkbox"/> Period payment by direct debit	
Direct Debit Payment Period: (Please choose):	<input type="checkbox"/> Each week in advance <input type="checkbox"/> Each fortnight in advance <input type="checkbox"/> Each month in advance	
Period Direct Debit Amount:	(May vary on Membership transfer or after Initial Term) 0.00 Each Direct Debit Payment Period (selected above)	
<p>Direct Debit Information: If an automatic direct debit arrangement is in place, your Membership Fees will continue to be debited from your account until you or we cancel the arrangement by advising your bank or credit provider. If you end this Agreement or stop the automatic debit arrangement in a way not described in this Agreement, you may be liable for damages for breach of contract.</p> <p>You should, however, ensure that any direct debit authorisation for payments under this Agreement are cancelled in accordance with the below guidelines.</p>		
For Fixed Agreements:	Direct debit authorisations should be cancelled at the end of the Initial Term or on earlier termination of this Agreement .	
For Ongoing Agreements:	Direct debit authorisations should be cancelled on termination of the Agreement including if you terminate the Agreement before the end of the Initial Term .	

Signing Part

- * I/we have read through this **Agreement** in full and understand my/our obligations under it
- * By signing here, I/we agree to be bound by the provisions of this **Agreement**
- * **Minors:** You may join some "**Approved Clubs**" as long as you agree to follow the **Special Conditions for Minors**. You promise you have read and understand these and will act in accordance with them. Your parent or guardian must also co-sign this **Agreement**, your **Pre-Exercise Questionnaire** and the **Special Conditions for Minors**.

Member Signature:

Date:

By co-signing below, the parent or guardian of a **Minor** agrees to this **Agreement**, agrees to accept personal responsibility to ensure the **Minor** complies with it, and also agrees to rectify any failure of the **Minor** to comply with it.

Parent / Guardian
Signature:

Date:

Name:

Office Use Only

- | | |
|---|---|
| <input type="checkbox"/> All signing persons have read the Agreement | <input type="checkbox"/> Minor requirements completed |
| <input type="checkbox"/> ID shown and Details have been completed | <input type="checkbox"/> ACL Exclusion clause signed for VIC / SA |
| <input type="checkbox"/> Orientation completed | <input type="checkbox"/> Periodic Billing Agreement Notice signed for ACT |
| <input type="checkbox"/> Pre-Exercise Questionnaire Completed | |

TERMS

1 Definitions

Agreement: this **Agreement** as described in the **Important Notice**.

Anytime Australia: Anytime Australia Pty Ltd, ACN 131 035 491, which is the Australian *Anytime Fitness* franchisor.

Anytime Fitness Franchisor LLC: Anytime Fitness Franchisor LLC of Minnesota USA which owns the *Anytime Fitness* system, trademark and other intellectual property.

Approved Club: a **Club** that has been approved by Anytime Australia to offer memberships to **Minors**.

ACL: means the Australian Consumer Law in the **CCA**.

Biller: Our third party biller, whose details are set out at clause 13.4.

Biller's Administration Fee: the Fee charged under clause 13.3(b) as set out in the **Details** if the Biller is unable to collect payment when due.

Cancellation Fee: the **Fee** payable under clause 12.6 as set out in the **Details**.

CCA: the *Competition and Consumer Act 2010* (Cth).

Club: an *Anytime Fitness* club.

Club Rules: the rules that are referred to in clause 5.6.

Code: the Fitness Industry Code of Practice.

Details: the parts of this **Agreement** described as the "**Details**" and "**Agreement Summary**".

Direct Debit Amount: what you agree to pay by direct debit each **Direct Debit Payment Period** as set out in the **Details**.

Direct Debit Payment Agreement: the periodic billing agreement you enter into with our third party **Biller** for periodic billing services.

Direct Debit Payment Period: the frequency of your direct debit payments as set out in the **Details**.

Essential Term: a term of this **Agreement** that is so important you would not have signed the **Agreement** without it, for example, a requirement that the **Facilities and Services** are available 24 hours a day 7 days a week (subject to clause 18, clause 20.1 and the **Special Conditions for Minors**. If there is a disagreement as to whether a term is an **Essential Term**, the matter will be reasonably determined by **Anytime Australia**.

Excluded Services: means any trainer led group classes offered within the Club or services referred to in clause 14, which are expressed as pay per use classes or services.

Facilities and Services: includes **Club** premises and all exercise areas, bathrooms, equipment, weights, benches, machines, mats and services that you may use (excluding the Excluded Services).

Fees: fees that apply under this **Agreement** as set out in the **Details** and referred to in clause 12.

Fixed Term Agreement: an agreement which automatically ends at the end of the **Initial Term**.

Guest Fee: the **Fee** payable under clause 5.5 as set out in the **Details**.

Home Club: the Anytime Fitness Club specified in the **Details**.

Important Notice: the part of this **Agreement** described as this.

Initial Term: the initial term as set out in the **Details** which for the avoidance of doubt is the fixed term under a **Fixed Term Agreement**.

Initial Term Notice Date: has the meaning given to it at clause 10.2.

Joining Fee: the **Fee** payable under clause 12.2 as set out in the **Details**.

Member: a **Club** member.

Member Access Key: the access key, such as a fob key or digital key, that allows you to access **Clubs**.

Member Access Key Fee: the **Fee** payable under clause 12.4 as set out in the **Details**.

Membership: another word used to refer to this **Agreement**.

Membership Fees: the **Fees** you pay to access the **Facilities and Services** as referred to under clause 12 and set out in the **Details**.

Minimum Age: the minimum age to become a **Member** and use the **Facilities and Services** and referred to in clause 4.

Minor: any person under the age of 18 years old.

Ongoing Agreement: an agreement that continues on an ongoing basis after the **Initial Term** until terminated under clause 10.

Pre-Exercise Questionnaire: the questionnaire or other screening we may require you to answer before using the **Facilities and Services**.

Pro Rata Fee: the Fee/s that may be applicable under clause 12.3 and set out in the **Details**.

Replacement Fob Fee: the amount payable under clause 5.2(e) as set out in the **Details**.

Start Date: when this **Agreement** starts as set out in the **Details**.

Special Conditions for Minors: the special conditions set out in the document headed "Special Conditions for Minors" and referred to in clause 4.

Staffed Hours: the times a **Club** is staffed. These times may not be fixed and will also vary from **Club to Club**.

Tailgate Fee: the **Fee** you will be charged if you allow another person to access a **Club** without permission.

Terms: the part of this **Agreement** described as the "Terms".

2 Joining, Access and Reciprocity

2.1 When you join our **Club**, you will need to give us information noted in the **Details** and provide us with photographic identification. If you join under a particular offer, such as a corporate offer, you will also need to give us proof that you are eligible for that offer.

2.2 On joining we will give you a **Member Access Key** that will let you access and use our **Club** and the **Facilities and Services**.

2.3 You will also be able to access and use all other **Clubs** under the provisions of this **Agreement** provided that you continue to be a **Member** and your **Membership** has not been suspended.

3 Cooling Off

3.1 If you change your mind after joining, you have 7 days to cool off or cancel your **Membership** starting on the **Start Date**. To be effective, you must let us know in writing at any time during this 7 day cooling off period. Your written cancellation can be given to us personally, by post or by e mail.

3.2 If you cancel your **Membership** under clause 3.1, we will charge you the **Member Access Key Fee** and fees for any services or products already supplied but the **Joining Fee** and **Membership Fees** will be refunded.

4 Minimum Age

4.1 For safety and security reasons you must be at least 18 years old to become a **Member**. However, if you are a **Minor**, and both you and your parent or guardian agree to the **Special Conditions for Minors** (which are for your protection), you may join us if we are an **Approved Club**. Your access, including any **Member Access Key**, will be governed by the **Special Conditions for Minors**.

4.2 Your **Membership** may be immediately cancelled if you break one of the **Special Conditions for Minors**.

5 Health and Safety and Acceptable Conduct

5.1 Your physical condition

- (a) When you sign this **Agreement** and each time you use the **Facilities and Services**, you must ensure you are in good physical condition and know of no medical or other reason why you should not exercise. If unsure, you should not use the **Facilities and Services** until you have sought appropriate medical guidance and been given the go-ahead.
- (b) You agree to give us all relevant personal health and fitness information both before and during the course of any exercise program or other activity. You also agree to complete our **Pre Exercise Questionnaire**. In some cases, responses you give will require that you get medical guidance before exercising. You acknowledge that pre-exercise or other screening is no substitute for medical advice and does not guarantee against injury or death.
- (c) You promise that information you give us will be true and accurate and not misleading in any way.
- (d) You must not use the **Facilities and Services** if you are suffering from any illness, disease, injury or other condition that could be a risk to your health or safety or that of other **Members** and others.
- (e) You must inform us if (at any point in time) you know, or have reasonable grounds to believe, that you may be at risk by accessing the **Facilities and Services**, or if your medical condition changes which may increase the risk of adverse events when exercising.
- (f) We may suspend or cancel your **Membership** if we have reason to suspect that you have not complied with clause 5.1.

5.2 Your Member Access Key

- (a) You will need your **Member Access Key** to access **Clubs** and must swipe this each time you use the **Facilities and Services**. You may have either a digital key or fob key. A member can only have one Member Access Key.
- (b) A digital key can be downloaded to your smart mobile device in an application. You are responsible for ensuring your smart mobile device is working with a readable screen to use the digital key.
- (c) If you lose access to or forget your **Member Access Key** you may access a **Club** during **Staffed Hours** if you show photo ID to **Club** staff but this will be at the discretion of the **Club**. You should not ask or expect another person to let you into a **Club** at any time.
- (d) You must not let anyone else into a **Club** without the approval of **Club** staff or let anyone else use your **Member Access Key**. If you break this term, you may be charged the **Tailgate Fee** and/or your **Membership** may be suspended or cancelled.
- (e) If your **Member Access Key** is lost or stolen you must let us know immediately and get a replacement in 14 days or you may be refused **Club** access. If you wish to replace a fob key an additional **Member Access Key Fee** will apply.
- (f) If you are a **Minor**, any **Member Access Key** issued to you will be subject to the **Special Conditions for Minors**.

5.3 Orientation

You may be required to participate in a **Member** orientation to familiarise yourself with the **Facilities and Services** before you use them.

5.4 Proper use of equipment

You promise to take care to use the **Facilities and Services** safely and properly. If you are ever not sure how to operate any equipment properly, you agree to ask **Club** staff first.

5.5 Guests

You may bring a guest into a **Club** but only if they register with **Club** staff, pay a **Guest Fee** and meet our other reasonable conditions. For example, they will need to be the **Minimum Age**, show photo ID, complete the **Pre-Exercise Questionnaire** and other standard forms.

5.6 Club Rules

- (a) **Club Rules** apply to everyone using the **Facilities and Services**. They are usually displayed in the **Club**.
- (b) **Club Rules** form part of this **Agreement** so you must make sure you read, understand and follow them at all times.
- (c) If you break any of the **Club Rules** we will respond in a way we consider fair and appropriate. For example, in less serious cases, we may give you a warning but in serious cases or where you have repeatedly broken **Club Rules** we may suspend or cancel your **Membership**. If your breach causes us or another person costs, loss or damages, you agree to pay for these.
- (d) In addition to the **Club Rules**, you must also carry out your obligations under this Agreement.

5.7 Illegal performance enhancing or other illicit substances

You acknowledge that the distribution or use of illegal or performance enhancing drugs is prohibited and promise that you will not use or distribute these substances in or near a **Club**.

5.8 Commercial activity

You acknowledge that engaging in any commercial or business activities in the **Club**, such as offering training services or selling goods in the **Club** is prohibited unless we grant you written permission to do so. If we do give you written permission, we can revoke this at any time.

5.9 Action for risky or inappropriate conduct

If you behave in a risky or seriously inappropriate way, for example, if you threaten or harass others, damage equipment, distribute or use illicit substances, or train other **Members** without our authorisation, appropriate action will be taken. For example, your **Membership** may be immediately suspended or cancelled (with a **Cancellation Fee** potentially applying), you may be banned from joining any **Club** and/or we may refer the matter to appropriate authorities. If your conduct causes us or another person costs, loss or damages you agree to pay for these.

6 Security

6.1 24 Hour CCTV cameras

Club premises have CCTV security cameras recording 24-hours a day (except in bathrooms) and may have remote video guarding services. This system is used for security purposes but does not guarantee against harm. You should contact the **Club** if you have questions on this.

6.2 Emergencies

- (a) **Clubs** have an emergency phone, panic buttons and security lanyards for safety and security reasons and to alert a security company in emergencies, for example, if you are, or feel, threatened or need medical help. You must understand how emergency apparatus works and agree to use it only in an emergency.
- (b) If you deliberately use emergency apparatus inappropriately, you agree to pay for any costs, loss or damages incurred because of this inappropriate use.
- (c) **Clubs** may also have an emergency or crisis response procedure displayed which must be followed in emergencies.

6.3 Be cautious

You must be cautious when entering, leaving a **Club** and using the **Club** and you must wear security lanyards when appropriate, for example, if exercising alone or outside **Staffed Hours**.

6.4 Following Directions

You agree to follow any reasonable direction of **Club** staff, including but not limited to directions relating to health, safety or security matters or related matters.

7 Privacy

7.1 Your personal information

From when you apply for **Membership**, you will need to provide us with, and we will have access to personal information about you, including information relating to your health and finances. Your personal information may be:

- (a) transferred to and stored out of Australia, including to a country that does not have the same level of privacy protection as Australia; and
- (b) disclosed to and used by other **Clubs**, including overseas **Clubs**, for the purpose of allowing you access to Clubs and providing services to you (for example so that we can confirm your **Membership** if you visit our global facilities).

7.2 General consent

By signing this **Agreement**, you consent to us collecting, using, disclosing and dealing with your personal information in accordance with our privacy policy. In particular, you consent to the transfer and storage of your personal information outside Australia, and to the disclosure and use of your personal information to other **Clubs** inside and outside Australia. You can access our privacy policy at www.anytimefitness.com.au/privacy.

7.3 Up to date contact information

You must tell us promptly if you change your contact or payment details or if there is a change to other relevant personal information, including anything that may affect health or safety.

7.4 Consent to use your image

You understand that photos, films, videos or audio recordings are sometimes taken of **Members** for promotional purposes. Your permission will first be obtained if this is done. By signing this **Agreement**, you agree to allow your image, recording or likeness to be used for any legitimate purpose by us or by **Anytime Australia** and you assign your rights in any of these materials to **Anytime Fitness Franchisor LLC**.

7.5 Other

- (a) As noted in clause 6.1, CCTV camera recording is used in **Clubs** (except in bathrooms).
- (b) **Members** and guests are not allowed to take photos and/or videos in **Clubs** unless specific permission is granted by the **Club**.

8 Transfer

8.1 Your **Membership** may be transferred to another **Club** if:

- (a) over 2 consecutive 30 day periods you use another **Club** a minimum of 4 times in each period AND use that **Club** at least 50% of the time in each period; OR
- (b) over 3 consecutive 30 day periods, you use another **Club** at least once in each of these periods, and 100% of your visits are at the other **Club**.

8.2 If your **Membership** is transferred to another **Club**, your **Fees**, including any ongoing **Membership Fees**, may be increased to reflect the **Fees** applicable in the other **Club** and you will be required to pay the increased **Membership Fees** from the transfer date. If you have pre-paid **Membership Fees** that relate to a period after the date of transfer to the other **Club** and the other **Club** charges higher **Membership Fees**, then the period you are deemed to have pre-paid **Membership Fees** for may in the other **Clubs** reasonable discretion be reduced in proportion to the higher **Membership Fees** charged by the other **Club**.

8.3 If your **Membership** is transferred to another **Club** in another state, you may be required to sign a new **Agreement** compliant with the laws of that state, but which will otherwise be materially the same as the terms of this **Agreement**.

8.4 If your **Membership** is transferred to another **Club** in a country outside of Australia then clause 8.2 will not apply, and:

- (a) you will be required to sign a new **Agreement** compliant with the laws of that country if you wish to continue as a **Member** and access the **Club** in that country;
- (b) your **Agreement** with your old **Club** will be cancelled on 30 days notice from us; and
- (c) if you have pre-paid **Membership Fees** that relate to a period after the termination date, these will be refunded to you. Where you have paid a fixed amount for

Membership Fees then this will be calculated on a pro-rata basis.

8.5 If you are a **Minor** aged 14-15 years, you are restricted to using your **Home Club** only and the transfer provisions within this clause 8 will not apply to you whilst you remain a **Minor**. If you are aged 16-17 years, you may access other **Approved Clubs** in accordance with the **Special Conditions for Minors** and the transfer provisions within this clause 8 will apply.

8.6 Your **Membership** may be transferred to another person who is not a current **Member** but only if we agree, your account is up to date, and the person you transfer to:

- (a) is eligible to become a **Member**;
- (b) is able to take up your **Membership** (for example, if you have a corporate **Membership**);
- (c) signs a new agreement to become a **Member** for at least the balance of the **Initial Term**;
- (d) agrees that that the provisions of clause 2 regarding access and reciprocity will also apply to them; and
- (e) pays **Membership Fees** for at least the balance of the **Initial Term**, or enters into a **Direct Debit Payment Agreement** if these **Fees** are to be paid periodically by direct debit; and
- (f) pays applicable other **Fees** such as a **Member Access Key Fee** and a **Joining Fee**.

8.7 Any transfer of your **Membership** to another person will be subject to them not terminating the **Membership** during their cooling off period. If the **Membership** is terminated by the new **Member** within seven days of being transferred, the transfer will be deemed to be void, and you will continue to be liable for all your obligations under the **Agreement**, including your obligations to pay any amounts owing to us.

9 Putting Your Membership on Hold

9.1 You may temporarily suspend or freeze your **Membership** for any reason if your account is up to date and, if you have a **Fixed Term Agreement**, it has more than 2 weeks left. In any 12 month period you may freeze your **Membership** 2 times for up to 3 months for both periods combined.

9.2 We may agree to freeze your **Membership** for more than the period noted in clause 9.1 for travel, medical or hardship reasons but you must give us proof (such as supporting documents) to our reasonable satisfaction.

9.3 The **Freeze Fee** usually applies during any freeze period.

9.4 While your **Membership** is frozen, the **Initial Term** will be extended for the same time as the freeze period. Direct debit payments that fall in the freeze period will also be frozen (except the **Freeze Fee**).

9.5 If you give us notice that you wish to cancel your **Membership** whilst your **Membership** is frozen then the freeze on your **Membership** will end on the date you give us notice of cancellation.

10 When You Can End This Agreement

10.1 Notice

If you need to notify or tell us anything in writing under this clause:

- (a) you are required to notify your **Home Club** in writing by email or post or handing your notice to us in person at your **Home Club**;
- (b) it would be useful (but not required) if you complete any standard documentation we may have such as a cancellation form and provide your **Membership** number (if you know it);
- (c) if you do not use our standard documentation, your notice must include your name, **Club**, address, phone, email, ID details and signature and explain why you wish to cancel; and
- (d) you must also attach required proof such as a medical certificate.

10.2 Cancelling your Membership on or after end of the Initial Term

(a) If this is a **Fixed Term Agreement**, you do not need to do anything, as your **Membership** will end when the **Initial Term** ends. We may contact you before your **Agreement** ends to discuss renewal. If you chose to renew your **Membership** or sign a new agreement before the **Initial Term** ends, a Joining Fee will not apply.

(b) If this is an **Ongoing Agreement**, it will continue after the **Initial Term** unless you tell us in writing at any time (but at least 14 days if your **Home Club** is in South Australia or 30 days if your **Home Club** is in any other state or territory) before the end of the **Initial Term** that you wish to cancel your **Membership**. If you tell us before the end of the **Initial Term** but it is less than 14 days before the end of the **Initial Term** if your **Home Club** is in South Australia or less than 30 days before the end of your **Initial Term** if your **Home Club** is in any other state or territory, your **Agreement** will be terminated with effect from the relevant date provided for in clause 10.2(c).

(c) If this is an **Ongoing Agreement** and it has continued beyond the **Initial Term**, you can cancel at any time by telling us in writing and the **Agreement** will be terminated with effect from:

- (i) If your **Home Club** is in Australian Capital Territory, the date that is 14 days after you tell us in writing;
 - (ii) If your **Home Club** is in South Australia, the date that is the commencement of the next **Direct Debit Payment Period** if you have provided at least 14 days written notice before that date, failing which, the date that is the commencement of the subsequent **Direct Debit Payment Period**;
 - (iii) for all other states and territories, the date that is 30 days after you tell us in writing.
- (d) If you have terminated an **Ongoing Agreement** after the **Initial Term** and paid **Membership Fees** in advance for any supply period (or portion of a supply period) that falls after the effective date of termination of your **Agreement** provided for in 10.2(c) you will be entitled to a refund (unless such fees have been applied to fees owing under a new agreement you enter into with us).
- (e) If this is an **Ongoing Agreement** and your **Home Club** is in South Australia, Queensland or Western Australia, we will, on or prior to the date 2 months prior to the end of the **Initial Term (Initial Term Notice Date)**, provide you with notice stating:
- (i) the date on which the **Initial Term** ends;
 - (ii) that the **Agreement** continues after the end of the **Initial Term** and ends only if and when you terminate the **Agreement**; and
 - (iii) setting out the procedure for terminating the **Agreement**.

10.3 Cancelling for medical reasons

- (a) You can cancel your **Membership** at any time by telling us in writing if you cannot use the **Facilities and Services** because you contract a permanent illness or a physical incapacity during the term of your **Membership** which materially or wholly prevents your ability to utilise the **Facilities and Services**. This must be confirmed in writing by way of a medical certificate provided by a doctor or other medical professional we reasonably agree to and you agree that we may contact the doctor or other professional for verification purposes.
- (b) If you cancel under clause 10.3(a):
- (i) termination of the **Agreement** will have effect:
- (A) from the date we receive your notice (with an acceptable medical certificate) if your **Home Club** is in Australian Capital Territory or Queensland or Western Australia; or
- (B) from the date this is 14 days after we receive your notice (with an acceptable medical certificate) if your **Home Club** is in South Australia and terminated after the **Initial Term**; or
- (C) from the date that is 30 days after we receive your notice (with an acceptable medical certificate) in all other cases;
- (ii) you will be liable for **Fees** incurred, i.e. your **Membership Fees** for the time you were a **Member** (calculated on a pro rata basis), the **Joining Fee**, the **Member Access Key Fee** and **Fees** for services already supplied; and
 - (iii) if you have pre-paid **Membership Fees** that relate to a period after the termination date (i.e. after you cease to be a **Member**), these will be refunded to you. Where you have paid a fixed amount for **Membership Fees** then this will be calculated on a pro-rata basis.

10.4 Cancelling for your convenience in the Initial Term

- (a) During the **Initial Term**, you can cancel your **Membership** at any time by telling us in writing and paying a **Cancellation Fee**.
- (b) If you cancel under clause 10.4(a):
- (i) termination of the **Agreement** will have effect from the date that is 30 days after you tell us in writing and you will be released from the obligation to pay **Membership Fees** for the balance of the **Initial Term** after the effective termination date (noting however that the **Cancellation Fee** payable by you will be the greater of 50% of the balance of the **Initial Term** after the effective termination date or 30 days **Membership Fees**); and
 - (ii) if you have pre-paid **Membership Fees** that relate to a period after the termination date (i.e. after you cease to be a **Member**), these will be refunded to you (after deducting the **Cancellation Fee**). Where you have paid a fixed amount for **Membership Fees** then this will be calculated on a pro-rata basis.

10.5 Other ways you can cancel this Agreement in the Initial Term

You can also cancel your **Membership** in the following ways and without paying a **Cancellation Fee**:

(a) When prior notice is NOT required

You may cancel without giving us prior notice if:

- (i) we break an **Essential Term** and have not fixed this in a reasonable time of you asking us in writing;
- (ii) you become bankrupt and give us proof (such as supporting documents) to our reasonable satisfaction;
- (iii) we change this **Agreement** in a way that adversely affects you (this does not include a variation of **Fees** in the case of a transfer of **Membership**); or
- (iv) you become entitled to cancel under consumer laws.

(b) When prior notice is required

You may cancel by giving us 30 days written notice if you relocate more than 15 km from a **Club** (or if you are a **Minor**, more than 15km from your **Home Club**) and you give us proof to our reasonable satisfaction.

(c) Applicable Fees

If you cancel your **Membership** under clause 10.5(a) or 10.5(b):

- (i) you will be liable for **Fees** incurred, i.e. your **Membership Fees** for the time you were a **Member** (calculated on a pro rata basis), the **Joining Fee**, the **Member Access Key Fee** and **Fees** for services already supplied. These **Fees** are not refundable except in very limited circumstances related to clauses 10.5(a)(i) and 10.5(a)(iv);
- (ii) if you have pre-paid **Membership Fees** that relate to a period after the termination date (i.e. after you cease to be a **Member**), these will be refunded to you. Where you have paid a fixed amount for **Membership Fees** then this will be calculated on a pro rata basis.

10.6 Liability for Termination

If you terminate the **Agreement** in a manner not described in the **Agreement**, you may be liable to us for breach of contract.

11 When We Can End This Agreement

11.1 In addition to our other rights under this **Agreement**, we may cancel your **Membership** if you breach any obligation under this **Agreement** that can't be fixed or if you breach an obligation that can be fixed but you do not fix it in a reasonable time.

11.2 If we cancel your **Membership** under clause 11.1, you will be liable for **Fees** incurred, i.e. your **Membership Fees** for the time you were a **Member** (calculated on a pro rata basis), the **Joining Fee**, the **Member Access Key Fee** and **Fees** for services already supplied. We may also charge a **Cancellation Fee** and recover costs, loss or damages caused by your breach.

11.3 You promise you are not bankrupt or insolvent and are able to pay applicable **Fees** at the time of signing. You agree that you will tell us promptly if you believe you will be unable to pay your **Membership Fees** for an extended period. We may cancel your **Membership** if you become bankrupt or insolvent.

11.4 If we cancel your **Membership** under clause 11.3 you will be liable for **Fees** incurred, i.e. your **Membership Fees** for the time you were a **Member** (calculated on a pro rata basis), the **Joining Fee**, the **Member Access Key Fee** and **Fees** for services already supplied.

11.5 If you are a **Minor** and our status as an Approved Club ceases, we will cancel your **Membership**. You will be liable for **Fees** incurred, i.e. your **Membership Fees** for the time you were a **Member** (calculated on a pro rata basis), the **Joining Fee** and **Fees** for services already supplied.

11.6 If we cancel your **Membership** and you have pre-paid **Membership Fees** that relate to a period after the termination date (i.e. after you cease to be a **Member**), these will be refunded to you (less any other charges we are entitled to deduct under this **Agreement**). Where you have paid a fixed amount for **Membership Fees** then this will be calculated on a pro rata basis.

12 Fees

12.1 General

- (a) The **Fees** you have to pay are set out in the **Details**. Some rights and obligations that apply in relation to particular **Fees** are set out in this clause.
- (b) If you do not make any payment when it is due, your **Membership** may be suspended and you could be refused access to **Clubs** and to **Facilities and Services** until all outstanding amounts have been paid.
- (c) Your **Membership** may also be terminated if any **Fees** remain unpaid for an extended period. You will still be liable for all unpaid amounts. A **Cancellation Fee** may also apply.

12.2 Joining Fee

We will charge you the **Joining Fee** to cover the set up costs for your **Membership**. This is not refundable except in very limited circumstances related to clauses 3 and 10.5(a)(i) and 10.5(a)(iv).

12.3 Pro-Rata Fee

If you pay by direct debit and your **Start Date** begins after the first day of the relevant **Direct Debit Payment Period**, you will only be charged the applicable portion of the **Direct Debit Amount**. The same applies if you have a Fixed Term Agreement and the **Direct Debit Payment Period** ends after the last day of the **Agreement**.

12.4 Member Access Key Fee

This is the **Fee** charged to buy a fob key or to obtain access to a digital key on your mobile. This is not refundable except in very limited circumstances related to clauses 3 and 10.5(a)(i) and 10.5(a)(iv). If you need a replacement fob key, a further **Member Access Key Fee** will apply.

12.5 Membership Fees

- (a) If this is a **Fixed Term Agreement** you can pre-pay your **Membership Fees** (pay them up front) when you sign this **Agreement**, or you can elect to pay by equal periodic instalments provided this option is available in our **Club**.
- (b) If this is an **Ongoing Agreement**, you must pay **Membership Fees** periodically in advance until your **Agreement** ends. On the expiry of the **Initial Term** you will be entitled to receive services under this **Agreement** for the period of each **Direct Debit Payment Period** that you pay for in advance (being either a weekly, fortnightly or monthly period as specified in the **Details**) which for the avoidance of doubt constitutes the supply period for the purposes of the **Ongoing Agreement** after the **Initial Term**.

12.6 Cancellation Fee

- (a) A **Cancellation Fee** is payable if you want to cancel your **Membership** for your convenience in the **Initial Term**. It is an amount equal to 50% of the balance of your **Membership Fees** for the remainder of the **Initial Term** or a sum equal to 30 days **Membership Fees** (whatever is the higher).
- (b) A **Cancellation Fee** may (at our reasonable discretion) also be payable by you if your **Membership** is ended by us under clause 5.9, clause 11.1 or clause 12.1(c).
- (c) We reserve the right to lower the **Cancellation Fee** payable by you in our absolute and sole discretion if we consider the **Cancellation Fee** is not a genuine reflection of our costs in the circumstances of your cancellation.

12.7 If you do not pay a Fee when due

- (a) If you do not pay a **Fee** or other amount you owe when due, we can suspend your **Membership** until all amounts have been paid. This is in addition to our other rights under this **Agreement**, including those under clause 11.1. Other consequences may also apply with respect to late or rejected direct debit payments (see clause 13.3).
- (b) Non-payment is a breach of contract and we may seek to cancel your **Membership** pursuant to clause 11.1 if the breach remains unremedied for a period of time.

12.8 Fee increases

- (a) During the **Initial Term**:
 - (i) your **Membership Fees** will not be increased (except in the case of a transfer of your **Membership** (see clause 12.8(c));
 - (ii) other **Fees** may, however, be varied.
- (b) After the **Initial Term**, all **Fees** may be increased.
- (c) If your **Membership** is transferred to another **Club**, your **Membership Fees** (and other **Fees**) may be varied to reflect those which are applicable at the other **Club** even if your **Membership** is transferred in the **Initial Term**.
- (d) We will tell you of any **Fee** changes at least 35 days in advance.
- (e) If your **Fees** are varied, you authorise any debits from your nominated account to also be varied.

12.9 Refunds and the Credit Code

We can deduct all **Fees** and charges that you must pay under this **Agreement** from any refund we give you.

13 Direct Debit

13.1 Direct Debit Payment Agreement

- (a) If you pay any **Fees**, including ongoing **Membership Fees**, by direct debit, then this will be processed by our **Biller** on our behalf.
- (b) You will be provided with a copy of **Direct Debit Payment Agreement** which applies to any direct debit services. The **Direct Debit Payment Agreement**, is an agreement between you and the **Biller** who will carry out direct services as agent for us for any payments to be made by you to us.
- (c) The **Direct Debit Payment Agreement** can be accessed here.

13.2 Authority to deduct Fees

By nominating a credit or debit account, you authorise the **Biller**, to deduct from that account all **Fees** and other charges you are responsible for under this **Agreement**. You must keep your account details up to date.

13.3 Late or rejected direct debit payments

(Also see clause 12.7)

- (a) You must ensure there is enough money in your nominated account on the usual payment, or the next working day if that falls on a day when banks do not process payments.
- (b) If there is not enough money in your nominated account on the usual payment day, or there is another reason that your account was unable to be debited (except one within the **Biller's** control), we will charge you the **Biller's Administration Fee**. This will be added to your next debit amount. Prior arrears may also be included.
- (c) You authorise our **Biller** to deduct any unpaid arrears outstanding on your account.
- (d) Your bank or credit provider may charge you a fee for overdrawing your account if you do not have enough money in your account when payment is due.

13.4 Biller details

- (a) The details of the current Biller are as follows:

Name Debitsuccess Pty Ltd
ABN 32 095 551 581
Address 101 Moray Street, South Melbourne, VIC, 3205
Email customerservice@debitsuccess.com
Telephone 1800 148 848

- (b) We reserve the right to change the nominated Biller on 30 days notice to you and you agree to take all steps reasonably necessary including the signing of new direct debit authorities with the new Biller to give effect to such a change.

14 Other Services

14.1 There may be other services, including personal training services, partner offers, body scans and nutritional advice, which may be offered at **Clubs** by us, contractors, licensees and others which are offered separately and/or in addition to services provided under this **Agreement**. You will need to pay applicable fees directly to the providers of the services and agree to separate terms and conditions.

14.2 We are not responsible for these third party provided services including fees or any associated costs claims or refunds, unless they are provided by us.

15 Changes To Your Agreement

15.1 We may sometimes make changes to this **Agreement**, including our **Club Rules**. If we do this, we will try to do this fairly and by giving you a chance to cancel your **Membership** if you are adversely affected by the change and do not agree to it.

15.2 We will tell you of any change at least 30 days in advance and will tell you when it will take effect. Your **Membership** will be amended from the effective date.

15.3 You cannot cancel under this clause in the case of a transfer of your **Membership** or if we have to make the change to comply with a law or a direction of a relevant authority.

16 Our Liability To You

16.1 Statutory guarantees

(a) Under the **ACL** we guarantee that the services we supply:

- (i) are provided with due care and skill;
- (ii) are reasonably fit for any purpose you have told us you are using the services for or told us you wish to achieve; and/or
- (iii) are supplied in a reasonable time.

(b) Under certain legislative provisions, however, we can ask you to accept some limitations to the **ACL** guarantees.

(c) If you sign this **Agreement**, you agree, to the extent allowed by section 139A of the **CCA**, to exclude or modify our liability to you for death or injury from our failure to comply with **ACL** guarantees.

(d) This exclusion does not apply if your death or injury is caused by our "reckless conduct" (as defined in the **CCA**).

16.2 Other implied terms

Nothing in this **Agreement** excludes, restricts or modifies any terms, conditions, warranties, guarantees, rights or remedies which cannot lawfully be excluded, restricted or modified. Otherwise, unless expressly included in this **Agreement**, all implied terms, conditions, warranties, guarantees, rights or remedies that can be lawfully excluded are excluded. In particular, but subject to clause 16.1 and 16.2, we are not liable for death or injury caused by our negligence or breach of implied terms that services will be provided with reasonable care and skill at common law. This does not exclude our liability for reckless conduct.

16.3 Loss of property

You promise not to unnecessarily bring valuables into a **Club** and agree that it is not the obligation of the **Club** to look after unattended property.

17 Your Responsibility For Damage

You agree to pay for any loss or damage to the **Club** or the **Facilities and Services** caused by you or your guests through a wilful, wrongful or negligent act or as a result of your, or their, breach of this **Agreement**.

18 Club Closures

(a) We may need to close our **Club** for a period of time, for example, due to an emergency, or if required by a court order or by law.

(b) We may close our **Club** up to 14 days in any 30 day period under clause 18(a) and keep charging **Membership Fees**.

(c) If we close the **Club** for between 15 and 30 days under clause 18(a) in any 30 day period, clause 18(e) applies.

(d) We may also close the **Club** for up to 30 consecutive days if it is being refurbished or relocated.

(e) If we close the **Club** under clause 18(c) or 18(d) we may keep charging **Membership Fees** if you are able and willing to use another **Club**. If you are not able or willing to use another **Club** we will freeze your **Membership** at no cost to you and extend your **Agreement** for a time equal to the closed period.

(f) We will try, but cannot promise we will be able, to tell you about any **Club** closures in advance.

(g) If we elect to refund any **Membership Fees** in the event of a **Club** closure, such refund will be processed as a credit on your **Membership**:

- (i) for a **Fixed Term Agreement** or an **Ongoing Agreement** that has not yet completed the **Minimum Term**, at the end of the **Minimum Term**; or
- (ii) for an **Ongoing Agreement** that has completed the **Minimum Term**, on commencement of your next **Direct Debit Payment Period**.

19 Complaints and Feedback

19.1 If you have any concerns about the **Facilities and Services** or anything else in relation to your **Membership**, you should first raise it with **Club** staff.

19.2 If you are uncomfortable about approaching, or do not wish to approach **Club** staff, or are not happy with the response given, you may send a complaint to the head office of **Anytime Australia** by email to membersolutions@anytimefitness.com.au

19.3 Complaints will be dealt with in accordance with the *Anytime Fitness* complaints policy which can be found at www.anytimefitness.com.au.

20 General Legal Matters

20.1 Unexpected events

We are not responsible if **Members** cannot use our **Club** because of an event caused by a natural force (such as a fire or a flood) or a road or building closure or something similar beyond our reasonable control. If this continues for more than 30 days, then either you or we may elect to freeze your **Membership** immediately by written notice. If your **Membership** is frozen in accordance with this clause 20.1, the provisions of clause 9 shall apply (except that no **Fee** will apply).

20.2 Severability

If a court decides that any part of this **Agreement** is or becomes illegal, void or unenforceable, that part is deleted and this does not invalidate the rest of this **Agreement**.

20.3 Waiver

If we do not enforce our rights under this **Agreement** at any time, it does not mean that we may not do so in future.

20.4 Entire Agreement

You agree that we have not made any representations or promises that you have relied that are not in this **Agreement**.

20.5 Applicable law

The law of the state/territory set out in the **Details** applies to this **Agreement**.

20.6 Fitness Industry Code of Practice

We endeavour to adhere to the **Code**, which is administered by Fitness Australia. You are able to lodge a complaint with Fitness Australia if we have breached the **Code** or appear to have breached the **Code**.