

# **Flexible Contract Terms & Conditions**

## **1. Membership Billing Terms:**

- 1a) All direct debit memberships are on an ongoing basis after the initial 14 days (minimum of 2 fortnightly membership payments) has concluded, direct debits will continue until notice is given as per Membership Application Terms and Conditions 2l (i, ii, iii), 2m and 2n.
- 1b) Urth Fitness company policy is that:
  - i. Your regular scheduled debit will be attempted by our third-party billing company, EzyPay.
  - ii. Direct debits only occur on a Thursday for all members.
  - iii. The actual processing of the debit is at the discretion of your nominated financial institution.
- 1c) If a direct debit falls on a Public Holiday, the direct debit will be attempted on the next business day and processed at the discretion of your nominated financial institution.
- 1d) If you wish to pay your direct debit over the counter, before it is attempted by EzyPay, it MUST be done before 6:00pm the night BEFORE the direct debit is due to come out. Any attempt to pay this over the counter, the day of, or day after, your debit run, will be refused and not allowed.

## **2. Membership Application Terms and Conditions:**

*Definitions: Urth Fitness means: Urth Fitness Pty. Ltd. ATF The Urth Fitness Trust. The specific Urth Fitness Facility (and its parent company).*

*Urth Fitness management and any entity as authorised by Urth Fitness to act on its behalf.*

*The member/ proposed member, nominated applicant, I, You're or you mean: you, the individual who is named on, and has signed the application.*

*24-Hour Access means: Access to the Urth Fitness Facility outside of normal staff operating hours, or as advised by Urth Fitness.*

- 2a) Acceptance by Urth Fitness of this application allows the nominated member/proposed member to attend the Urth Fitness facility.
- 2b) The billing of your membership is conducted through EzyPay billing system acting on behalf of Urth Fitness and the membership system Perfect Gym.
- 2c) For any dishonoured payment made with EzyPay through their system will incur a failed payment fee of \$20.00 for each dishonour incurred.
- 2d) When a dishonour occurs, the fee mentioned in 2c) will be applied to your account for each dishonour. Once you receive notification of your dishonour, you have a fortnight from the failed billing day to fix the amounts up; if not, they will be debited from your account along with your normal payment on the next due date. Upon 3 consecutive failed payments, billing will be stopped as well as access denied to your Urth Fitness facility, and you may be sent to 2e) A \$39.00 Yearly Administration Fee, per person, per membership, will be debited on or around the Thursday, approximately 8 (eight) weeks after your membership sign-up date, and annually from this date on all active memberships.
- 2f) Urth Fitness membership applicants must be 18 years of age at the time of application. However, membership may be considered for nominated applicants under 18 years of age, but NOT younger than 14 years of age.
- 2g) This membership may include group fitness classes. If group fitness classes are offered,

the timetable, class type and activities may change without notification, at any time. There is no compensation and/or cancellation of membership, or the like, in the event of dissatisfaction with such changes.

- 2h) Time-stop is NOT included.
- 2i) This membership includes the use of cardio equipment and full use of the (general) gym, stretching and abdominal workout area(s). The use of apparatus, equipment and facilities may be subject to conditions and time limits. Any such conditions or time limits are to be strictly adhered to.
- 2j) Urth Fitness reserves the right to refuse admission and/or cancel any membership at its sole discretion, without prior notification or warning. All decisions are final; no reason or recourse will be accepted, or explanation or discussion entered into. In the event that a membership is cancelled by Urth Fitness, NO refund of any payment by the member, including membership fees, will be made.
- 2k) The member/ proposed member will receive Urth Fitness (and associated entities) Newsletters and Promotions by email.
- 2l) Once accepted by Urth Fitness, this membership CANNOT be cancelled in the agreed membership period. However, Urth Fitness at its sole discretion MAY allow the cancellation of the membership, but ONLY if the following applies:
  - i. By reason of lengthy or permanent illness or physical incapacity causing inability to engage in the activity available at Urth Fitness, as verified by a medical practitioner, who is nominated by Urth Fitness, the cost of which must be borne by the member.
  - ii. By reason of the relocation of the member's primary residential address to a distance further than 14 km in radius from the Urth Fitness facility. However, if the member already resides more than 14km radius at the time the membership application is made (and accepted), then the new primary residential address MUST be more than 30km from a Urth Fitness facility, in order for a request for cancellation to be considered.
  - iii. If you are a student under the age of 25, and can provide valid and current tertiary education student proof, to be approved by the Urth Fitness club Manager, you are eligible to cancel this membership after a minimum term of 3 months has lapsed and the 14 days written notification has been provided.
  - iv. The Urth Fitness club Manager can at any time decline any student identification/ proof without notice.
- 2m) In the event that Urth Fitness agrees to grant membership cancellation, this is subject to payment of a \$99.00 cancellation fee accompanied by written notice from the member.
- 2n) To cancel outside of the contractual period, 14 DAYS WRITTEN NOTICE or otherwise stated in each individual membership's terms and conditions, is necessary, and any membership fees which fall due within the 14-day period MUST ALSO BE PAID.
- 2o) Urth Fitness does NOT refund any payments by the member, including paid in full, upfront and/or direct debit membership fees; including where applicable the acceptance of membership cancellation, for ANY reason whatsoever.
- 2p) This membership will NOT be cancelled if the member falls into arrears. Interest may, at the discretion of Urth Fitness, accrue if membership arrears occur.
- 2q) This membership CANNOT be cancelled by telephone. Any request for cancellation by a member MUST be made in writing. ALL payments of arrears (including any accrued interest), and/or cancellation fees of the like, MUST be paid to Urth Fitness as instructed by Urth Fitness.
- 2r) In the event the member relocates their primary residential address, and/or changes any of their contact information, telephone number, or the like, they MUST notify Urth Fitness WITHIN 2 WEEKS of the date the change takes effect. Failure to do so will render Urth Fitness free of any responsibility for any adverse outcomes, including, but not limited to,

any financial deficits that may occur as a result of this.

- 2s) Members using the 24-HOUR ACCESS are subject to computer door entry recognition and continual monitoring and recording (via CCTV). ANY member who knowingly admits another person ("guest") entry to the facility by use of their electronic key, or by any other means, will incur a \$240.00 admittance fee, per person, which will be included in the member's fortnightly billing. Whilst on the premises, any "guest" is bound by the membership "Terms and Conditions" and "Acknowledgement, Release and assumption of Risk", also the "Club Rules" and "Conditions of Entry" (the latter two of which are displayed prominently adjacent to the entry area), which form part of the member's membership agreement. The member's "guest(s)" MUST leave the facility at the same time the member departs. The members will be liable, both for themselves and their "guest(s)" for ANY damages to the Facility, including but not limited to; the premises, equipment, fixtures and fittings, and the like.
- 2t) Members using 24-HOUR ACCESS are required to become familiar with security devices operating at the Facility during the hours when the Facility is unstaffed. These include, but are not limited to: personal security devices (neck worn, or similar), emergency panic buttons, request to exit button, or the like. Members are to seek instruction for all such devices from Urth Fitness Staff, during normal business hours, and PRIOR to any 24-hour access use. The members will be liable, both for themselves and their "guest(s)" for ANY damage, loss, or the like, such as equipment.
- 2u) Members using the 24 HOURS ACCESS, MUST NOT; IN ANY CIRCUMSTANCES give, lend, sell, distribute; or the like; their electronic entry key to ANY other person(s), for any reason WHATSOEVER. Failure to comply will result in cancellation of membership, and may incur financial liability and/or criminal and/or civil prosecution.
- 2v) In the event that any Member using the 24-HOUR ACCESS incurs any damage, loss, or the like to their electronic key, then the Member will be liable for the replacement cost of such device. Members may be suspended until such device is replaced, and the cost of such device is recovered by Urth Fitness.
- 2w) In the event that any members using the 24-HOUR ACCESS experience any significant, dangerous or threatening event, including but limited to: fire, accident, robbery, vandalism, or the like, they MUST remain at the Facility until the arrival of the relevant authorities. This includes, but is not limited to, Urth Fitness Staff, Police, Fire Department, Ambulance or Security. However, members MUST NOT, under any circumstances, place themselves in a position of danger.
- 2x) In the event that the 24-HOUR ACCESS facility is unavailable, for any reason whatsoever. Urth Fitness will post notices of such unavailability at the Facility. Under NO circumstances will members be allowed to cancel or vary membership, or obtain refunds for any memberships or fees for any such availability at the Facility.
- 2y) Urth Fitness reserves the right to make changes to this agreement by providing 14 days' notice. Updated contracts are available online and can be requested at any time by the member/proposed member.

### **3. No Refund Policy:**

- 3a) I ACKNOWLEDGE that under no circumstances will a refund be given for any unused portion of Urth Fitness Membership, including 24-hour access. This also includes any force majeure situation, including but not limited to forced business closure.
- 3b) I understand that the membership may be transferred to another party, at the sole discretion of Urth Fitness, for a fee nominated by Urth Fitness.

### **4. Release of Indemnity of Urth Fitness:**

- 4a) In consideration of the acceptance by Urth Fitness of my membership, and specifically on each occasion when I am admitted to (by the way of acceptance membership card and/or pass); or attend when unstaffed (24-hour access, by use of electronic key); a Urth Fitness facility for participation in health and fitness activities; and except to the extent that the

same may be precluded by law; I acknowledge and agree that;

- 4b) I participate in the activity at my sole risk and responsibility.
- 4c) "I" release indemnify against all action within my power; and hold harmless; Urth Fitness, it's related companies, business, directors, management, staff, agents and contractors from any and all actions and/ or claims which could be made by me; or on my behalf; or by other relates or non-related parties for in respect of or arising out of; any injury, loss, damage; event or death cause to me; or to my property, or to someone else or their property (where I am involved) whether by negligence, breach of contract, or in; or by; anyway whatsoever.
- 4d) "I" ALSO AGREE THAT in the event that "I" am injured or my property is damaged, "I" will bring no claim, legal or otherwise, against Urth Fitness, its related companies, businesses and agencies; directors, management, staff, servant, agents and contractors, in respect of that injury or damage.
- 4e) In the event that I use the 24-hour access (unstaffed), and that during this time I admit other persons "guest(s)" to the facility, I agree that I am doing so without the expressed knowledge and consent of Urth Fitness. Furthermore, I assume all risk, liability and legal obligation, solely upon myself for any "guest(s)" that I allow entry to, whether or not they sustain loss, injury or death, either caused by me, or indirectly, either at the time of attendance or at a later time, as a result of their attendance at the Urth Fitness facility.

## **5. Your Obligations, Club Rules & Code of Conduct:**

As a valued Urth Fitness member, you are required to accept and comply with the following Policies, Procedures and Code of Conduct. You agree that they are in the best interests of all involved. You also agree that Urth Fitness may, and has the right to, revoke and/or cancel your membership. You acknowledge and agree that:

- 5a) All membership Rules and Conditions also apply equally (unless otherwise stated) to attendance at the Urth Fitness facility outside of the normal staff operating hours (24-hour access).
- 5b) Urth Fitness reserves the right to revoke and/or cancel my membership at any time, without prior warning or explanation, and to remove me, or to have me removed, from the Urth Fitness facility premises (including where part of the facility, the carpark) forthwith. This includes, but is not limited to, my contravention of the Urth Fitness "Code of Conduct" for any reason which may be deemed to bring Urth Fitness into dispute. I agree that no refunds will be given to me or any guest of mine removed as a result of this.
- 5c) CONDUCT – I understand, acknowledge and accept that I am expected to have read the "Code of Conduct" rules and requirements as displayed at the specific Urth Fitness facility. Further I accept and agree that I am expected to conduct myself in a respectful manner, at all times; and with all Urth Fitness directors, management, staff, servants, agents and contractors; and all other members, guest and visitors, at all times, including; but limited to; the use of appropriate language.
- 5d) MEMBERS PHOTOGRAPHY AND/OR VIDEO – I understand and acknowledge and accept that at NO time am I (or any 'guest' of mine) permitted to create, capture or produce any photography and/or video footage by any means whatsoever (including mobile phone) of anyone other than myself whilst attending a Urth Fitness facility. This includes, but is not limited to, staff and other members, any part of the building (inside or out), change rooms, toilets, facility car parking, grounds and lands attached to the facility. Urth Fitness maintains full discretion in requesting any member or guest to cease or remove photography and/or video at any time.
- 5e) NOISE LEVEL – I understand, acknowledge and accept that excess noise, bad language, shouting, dropping 'dumbbells', weights or equipment is unacceptable. I understand and agree that if I conduct myself with any of these behaviours, I may be issued with a once only warning. Furthermore, I understand and agree that a second offence will result in the immediate revocation and cancellation of my membership.
- 5f) DRESS CODE – I understand, acknowledge and accept that I am to wear suitable and

appropriate clothing and footwear. This includes: tracksuits, sports shorts and t/shirts, polo shirts, sports singlets and the like; running shoes, gym and specific training (including gym orthotic) shoes. No thongs or sandals are acceptable.

- 5g) VEHICLE PARKING – I understand, acknowledge and accept that all vehicles; including; but not limited to bicycles, motor cars, motorcycles, 4wd vehicles, trucks and the like; are to be parked at the specific Urth Fitness facility, in the parking spaces provided, in the Urth Fitness car park. Failing this, or due to the unavailability of Urth Fitness car parking, within common private car parks, or at public car parking (within the provisions of the law). Further, I agree and accept that Urth Fitness accepts no responsibility or liability whatsoever for vehicles, persons or property, either at Urth Fitness carparks, common private car parks, or at public car parking. I acknowledge and accept full responsibility for my vehicle parking whilst attending Urth Fitness.
- 5h) MEMBERSHIP CARDS – I understand, acknowledge and accept that entry to Urth Fitness is subject to the “Conditions of Entry” as displayed at each Urth Fitness facility. Further, I understand and agree that my membership card must be produced each time I visit Urth Fitness; otherwise, I must purchase a new membership card or may be refused entry.
- 5i) PROGRAMS AND INSTRUCTIONS – I understand, acknowledge and accept that it is my responsibility to ascertain my own physical capability to perform the health and fitness activities at Urth Fitness. Further I agree that if I have not conducted the activities previously, or for some time; or if I believe that I require guidance in order to assist in the prevention of the risk of injury; and to attempt to gain the maximum benefit from my membership; I will seek assistance by way of making a booking at reception for instruction and guidance by a ‘personal trainer’ or other suitably qualified staff, as advised by the Urth Fitness facility.
- 5j) ATTENDANCE AND ACTIVITY – I understand, acknowledge and accept that as part of my general attendance at the Urth Fitness facility, that ‘sports’ bags (or the like) are to be placed in lockers provided. If there is not a locker available, then I agree to follow the instructions of Urth Fitness staff in respect of this. I understand and agree that I must have a clean towel with me while conducting health and fitness activities, and that I am responsible for loading, unloading and stacking weights, returning equipment to a ready-to-use condition (for the next participant), and cleaning each apparatus once I have concluded its use. Further, I understand and agree that improper use of mobile phones, cameras and recording devices, and all glass water bottles and containers are not permitted in the gym or related areas.
- 5k) MONITORING – I understand, acknowledge and accept that whilst I am in attendance at Urth Fitness (including the carpark) that I may be recorded on CCTV visually and/or audibly, from time to time. I agree and accept that this recorded footage (and or stills) is primarily for the purpose of security, and may also be used for promotional purposes. Further, I understand and accept that this is not limited to internal use, and may be released to the Police, Courts or Government authorities as required by law. Further I understand, acknowledge and accept that whilst I am in attendance at Urth Fitness (including the carpark) outside of normal staffed operating hours (24 hours access), that I will be monitored by means of (but not limited to) computer door entry recognition and continual monitoring and recording (via CCTV).
- 5l) CHILDREN – I understand, acknowledge and accept that no children (under 12 years of age) are permitted in the gym or associated areas. I understand that children over 14 years of age are permitted in the ‘cardio’ area, provided they are accompanied and supervised by an adult.
- 5m) ALCOHOL, PRESCRIPTION AND ILLEGAL DRUGS – I understand, acknowledge and accept that alcohol and illegal drugs are not permitted under any circumstances in the facility. I understand and agree that if I am taking prescription, or self-prescribed medical drugs, that they may not be taken or carried (notwithstanding ‘Ventolin or similar asthma medication) in the gym or associated areas. Further, I understand and agree that if I am taking prescription, or self-prescribed medical drugs, that I am solely responsible for their



effect, any outcomes for their use, whilst attending Urth Fitness.

- 5n) **ACCIDENT AND INCIDENT REPORTING** – I understand, acknowledge and accept that all accidents are to be reported to reception staff for action, and admission into the 'Accident and Incident' register. Further, I understand and agree to follow all instructions from Urth Fitness staff in the event of an accident or incident. In the event that an accident or incident occurs during attendance outside of normal staff operating hours (24 hours access), I agree that I will report the incident no later than during the next session of normal staffed operating hours of the Urth Fitness facility, by means of written account, which must be dated and signed by me, and delivered either in person or by electronic means (preferably via email). In the event that I deliver this written account via electronic means, I agree that I will contact Urth Fitness staff via telephone to ensure that they have received the written account.
- 5o) **DISPUTE RESOLUTION** – I understand, acknowledge and accept that any/all issues and/or disagreements with Urth Fitness management, staff, personal trainers, other members and guests are to be presented to Urth Fitness Facility Manager in writing. If the issues raised are not resolved, and/or the parties are still in disagreement after discussion then a Urth Fitness Director or General Manager will mediate. The decision of the Urth Fitness Director or General Manager is final and absolute.

## **6. Acknowledgement, Agreement, and Declaration:**

Definitions:

*Us or We means Urth Fitness Pty. Ltd. (AFT THE URTH FITNESS TRUST), including the specific Urth Fitness facility.*

*You, Your, I, or Participant, means you (the entity) have signed or authorised by other legal means the Membership Application.*

*Agreement, Contract (including Terms & Conditions) means this document, which is bound inextricably to the Membership Application (see other side).*

*24-Hour Access means access to the Urth Fitness Facility outside the normal staffed operation hours, or as advised by Urth Fitness.*

**WARNING** - This is an important document which affects your legal rights and obligations. Read it carefully and do not agree to it unless you are satisfied that you understand it and are willing to comply with the terms. If you have any questions, please ask a staff member.

- 6a) I as the proposed member/being the parental guardian of the member/proposed member under the age of 18, acknowledge that I have read and understood ALL of the sections of this application, including the Terms and Conditions, and Acknowledgement, Release and Assumption of Risk. By agreeing to this application, I agree/on behalf of the member/proposed member, to be bound by ALL of these, as well as the general terms and conditions of Urth Fitness, and the "Club" rules of the specific Urth Fitness Facility.
- 6b) **Acknowledgement of Risks, Injury and Obligations:**  
I ACKNOWLEDGE AND UNDERSTAND that whilst attending Urth Fitness facilities and participating in various health and fitness activities, that:
- i. "I" may be physically injured (minor or severe), which may result in death.
  - ii. My personal property may be lost or damaged, or "I" may cause damage to others' property.
  - iii. "I" may cause personal injury (minor or severe) to other persons and they to me.
  - iv. The conditions in which the activities are conducted may vary without warning. (v) I agree to assume the risk and responsibility for any injury, death or property damage resulting from participation in the activity at Urth Fitness facilities.