



## Terms and Conditions

### 1a. PLAIN TERMS

These **Terms** use fairly plain language, so we want to make sure that some of the words and concepts used are easily understood. For instance, we have included clause headings as a guide but these do not form part of this **agreement**. Certain recurring words are defined below and elsewhere in this **agreement** and other forms of those words have equivalent meaning.

### 1b. DEFINITIONS

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

**Fast Twitch: Proofing Startup Pty Ltd**, ABN 83 606 967 239 trading as Fast Twitch

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

**Billers:** Our third party biller, Ezidebit Pty Ltd, ACN 096 902 813

**Billers' Administration Fee:** the Fee charged by the **Billers** under clause 18 as set out in the **Details**.

**Cancellation Fee:** the Fee payable under clause 15 and 16(d) as set out in the **Details**.

**Cancellation Policy:** Our [Cancellation Policy](#) outlines all fees you are liable to pay for in the event of cancellation of prescribed services and treatments.

**Casual/Guest Pass:** A consumer who has not entered into a consumer agreement with the Club, and who pays the Club for the provision of a specified service each time he or she uses that service.

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

**Club:** a **Fast Twitch** club

[Club Rules:](#) the rules that are referred to in clause 8.3.

**Cooling-off period:** A period during which a consumer may terminate his or her consumer agreement.

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

**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 **Billers** for periodic billing services.

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

**End Time:** for the purposes of providing notice for the cancellation of a **Periodic Agreement**, the **End Time** is the end of a **Supply Period** where notice is given at least 14 days before the end of that **Supply Period**. Otherwise, the **End Time** is the end of the next **Supply Period**.

**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 30.1 and the **Special Conditions for 14 and under, 15, 16 and 17 Year Olds**). If there is a disagreement as to whether a term is an **Essential Term**, the matter will be reasonably determined by **Fast Twitch**.

**Facilities and Services:** includes **Club** premises and all exercise areas (and any rehab, sauna and ice-baths), bathrooms, toilets, equipment, weights, benches, machines, mats, car park and any programs, products, classes and services that you may use (excluding services referred to in clause 23).

**Fees:** **fees** that apply under this **Agreement** as set out in the **Details** and referred to in clause 16.

**Fixed Term:** the Fixed Term of a Fixed Term **Agreement**, as set out in the **Details**, which is for a maximum period of 12 months.

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

**Fob Key:** the access key that allows you to access **Clubs**.

**Fob Key Fee and Replacement Fee:** the **Fee** payable under clause 16c and clause 9 as set out in the **Details**.

**Guest Fee/Non-Member:** the **Fee** payable under clause 28 as set out in the **Details**.

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

**Joining Fee:** the **Fee** payable under clause 16 (a) as set out in the **Details**.

**Member:** a **Club** member.

**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 16 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 5.

**Ongoing Agreement:** A consumer agreement where payment is made periodically (weekly) in advance for services to be rendered.

**Periodic Agreement:** an **agreement** that continues on a periodic basis from **Supply Period** to **Supply Period** until terminated under clause 13.

**Permanent Sickness:** Permanent sickness or physical incapacity of a consumer means the consumer is sick or physically incapacitated for the greater of

- a) the remainder of the term of the consumer agreement or;
- b) 5 years

**Pre-Exercise Questionnaire:** A tool that identifies those who may have medical conditions or symptoms associated with diseases which may indicate a consumer's elevated risk of an adverse event during physical activity/exercise that is recognised and used by Fitness Australia or another recognised peak body in the Fitness Industry.

**Pro Rata Fee:** the **Fee/s** that may be applicable under clause 20 and set out in the **Details**.

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

**Special Conditions for 14 and under, 15, 16, 17 Year Olds:** the special conditions set out in the document headed "Special Conditions for 14 and under, 15, 16, 17 Year Olds" and referred to in clause 4 and 5.

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

**Supply Period:** the minimum term of a **Periodic Agreement**, as set out in the **Details**, which is ordinarily a period of 1 month.

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

**Termination Fee:** A fee directly associated with the financial loss incurred by the Club, as a result of a consumer terminating the consumer agreement early.

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

## 2 COOLING OFF

If you change your mind within 7 days of entering a **Membership Agreement**, you may have an opportunity to cancel. You will need to let us know in writing within the time specified in the **details** for it to be effective. We will charge the **joining fee** and fair amounts for fitness services we have already provided, but will otherwise refund you any other amounts you have paid to us within 14 days. If you wish to end your **membership** otherwise, different **terms** apply as set out in these **Terms**.

If we make a mistake in completing any **details** on your **membership** form, we can fix the mistake within 7 days after the date of your **membership** form. We will contact you advising you that this has been done. If we reasonably believe that the subject matter of the mistake was not clearly discussed with you at the time you signed the **membership** form, we will reinstate any applicable cooling off period.

No cooling off period applies in the case of a transferred membership, please see Clause 14.2 for further details.

## 3. JOINING, ACCESS AND RECIPROCITY

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.

On joining we will give you a **Fob Key** or access card that will let you access and use our **Club** and the **Facilities and Services**.

From the **Start Date** you are entitled to the **membership** benefits and use of the **facilities and services** that apply to the **Membership** Type you selected. In some instances certain services and facilities will not become available unless an orientation/induction has been completed. Services and facilities such as sauna, ice-baths, compression boots and other specialised services will require additional orientation/induction before use.

## 4. RESPONSIBILITY FOR MEMBERS UNDER 18

By signing on behalf of a child, the parent or guardian agrees to be responsible for ensuring the child exercises safely, pays their **membership fees** and otherwise follows these **Terms**.

The parent or guardian who signs this form also agrees to hold the **Club** harmless in respect of any claim made by or on behalf of the child against the **Club** to the extent that any such claim would have been excluded under this **agreement**, had the child been an adult and signed this **agreement** on his or her own behalf.

## 5. MINIMUM AGE

For safety and security reasons you must be at least 18 years old to become a **Member**. However, if you are under 18 years of age, and both you and your parent or guardian agree to the **Special Conditions for Minors Policy** (which are for your protection), you may join us if the **Club Manager** approves and you meet the requirements of our 'Special Conditions for Minors' policy.

If you are under 18 years of age your **Membership** may be immediately cancelled if you do not adhere to all of the **Special Conditions for Minors**. The **Special Conditions** can be found on our website and also at the **Club**.

## 6. STAFFED HOURS

A **member** may be subject to a Staffed Access only **membership**, which will only allow them to attend the **Club** during **Staffed Hours**.

## 7. ORIENTATION/INDUCTION

(a) It is a condition of this **Agreement** that you participate in a scheduled **Member** orientation/induction program.

(b) The orientation/induction focuses on various aspects of the **Club** including, but not limited to, **Club** layout, amenities and entry and exit areas.

(c) **Fast Twitch** may suspend or terminate this **Agreement** in the event of unsatisfactory completion of the **Club** orientation/induction prior to the commencement of exercise.

## 8. SAFETY FIRST

The health and safety of members is important to us. This clause sets out some of the things we require of you to help achieve that objective.

### 8.1 Your physical condition

A safe and effective exercise program is dependent upon accurate health and fitness profiling. It is therefore essential that you tell us in writing all relevant personal health and fitness information both before (through our **Pre-Exercise Questionnaire** or otherwise) and during the course of any exercise program or other activity.

You promise that information you disclose to us will be true and accurate and not misleading in any way. You must not attend and use the **facilities and services** whilst you are suffering from any illness, disease, injury or other condition that could present a risk to the health or safety of other members and guests or yourself.

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

If you happen to use the **facilities and services** before disclosing relevant health information to us, you promise that you are in good physical condition and you do not know of any reason why you may not be able to exercise safely. If you feel unsure that you can make this promise, we ask that you do not use the **facilities and services** until we have completed your health and fitness profile.

We may suspend or cancel your **Membership** if we have reason to suspect that you have not complied with clause 8.1.

### 8.2 Equipment

a) We will provide you with an instructional consultation/orientation with a staff **member** before using the **facilities and services** which you must attend before use. In any case, you promise to take care when using the **facilities and services** and make sure that you use the **facilities and services** including equipment appropriately and safely. If you are ever not sure how to operate any equipment properly, you agree not to use the equipment until further instruction has been given by a qualified staff member.

b) You understand and acknowledge that Fast Twitch purchases or leases the equipment from a third party and therefore does not manufacture any of the fitness or other equipment used in the **Club**. You agree to release the **Club** against any loss suffered by yourself as a result of faulty equipment or your use of the equipment.

c) You understand and acknowledge that Fast Twitch is providing recreational services and may not be held liable for defective products or equipment.

d) The **Club** does not warrant that the equipment will be in working condition throughout the term of the membership. In the instance of equipment not in working order we will endeavour to fix any broken equipment in a timely manner.

e) Equipment at the **Club** can be changed at any time without notification to you and other **members**.

### 8.3 [Club Rules](#)

We display rules that apply to everyone using the **facilities and services** in order to promote health and safety and the protection of property (our [Club Rules](#)). A copy of our [Club Rules](#) is contained within this agreement via hyperlink and is displayed on our website and on signage within the premises. Please make sure that you read our [Club Rules](#) carefully as they form part of this **agreement** and ask us if there is anything you are not sure about.

We may occasionally update our [Club Rules](#) to further promote health and safety or to make other improvements. We will seek to tell you of any changes as set out below, though we expect you to keep familiar with the current version of our [Club Rules](#) by reading our website and signage on a regular basis.

If you break our [Club Rules](#), the response we take will be at our reasonable choosing and we will try to exercise this right fairly by giving you a warning if we consider the failure is less serious. In this regard however you acknowledge that health and safety of all users and

protection of property is very important. Accordingly, if we reasonably consider the failure to follow our [Club Rules](#) is serious or persistent we may suspend or even cancel your **membership** with immediate effect.

#### 8.4 Action for risky or inappropriate conduct

We can refuse you entry to the facilities and services or cancel your **membership** immediately if you behave in a way that is seriously risky or inappropriate, such as if you threaten or harass others, deliberately or recklessly damage equipment or facilities or if you use or distribute illegal or performance enhancing drugs. 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 the **Club**. For example, your **Membership** may be immediately suspended or cancelled (with a **Cancellation Fee** 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.

#### 8.5 Please follow our directions

You agree to follow any reasonable direction of a **member** of our staff relating to health and safety or any other matter.

#### 8.6 Risk Warning

(a) Fast Twitch warns that whilst you are on our premises using our **Club** and exercise services, you are at risk of suffering physical harm or personal injury including broken bones, soft tissue injuries, joint injuries, permanent disability or death. These injuries may occur from you:

- (i) slipping on wet flooring;
- (ii) being struck by weights;
- (iii) colliding with equipment, or other **Members**;
- (iv) engaging in strenuous exercise and activities; or
- (v) use of equipment or **Club** facilities,

(b) You acknowledge that any such injury may result not only from your actions but from the action, omission or negligence of others.

(c) You acknowledge and agree that the above mentioned injuries and potential causes of injuries are not exhaustive, and there are other unknown or anticipated risks that may result in injury, illness or death.

(d) You acknowledge that whilst every attempt is made to ensure that the recreational services and facilities provided by Fast Twitch are safe, there are some significant and inherent risks involved, and you agree that you are participating voluntarily at your own risk and responsibility, thereby exposing yourself to certain risks.

You acknowledge that the use of facilities provided by Fast Twitch the **Club** are done so at your own risk and acknowledge that the use of the **Club** may involve risk of injury, whether caused by you or another party.

By accepting this Agreement you agree that Fast Twitch will not be liable for any loss, injury, damage or theft of property, belonging to or brought onto **Club** premises by you, or for any death, personal injury or illness on **Club** premises, or from using our facilities or equipment. This release does not apply if your death or injury results from gross negligence on our part.

### 9. YOUR FOB KEY

You will need your **Fob Key** (or access card) to access **Clubs** and must swipe this each time you use the **Facilities and Services**.

If you lose or forget your **Fob Key** (or access card) 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.

You must not let anyone else into a **Club** without the approval of **Club** staff or let anyone else use your **Fob Key** (or access card). If you break this term, you may be charged the **Tailgate Fee** and/or your **Membership** may be suspended or cancelled. You will also be bound to conditions in clause 28.

If your **Fob Key** (or access card) is lost or stolen you must let us know immediately and get a replacement in 14 days or you may be refused **Club** access. A Replacement **Fob Key** Fee of \$29 will apply as per clause 16 c).

### 10. 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.

### 11. PRIVACY

#### 11.1 Our privacy policy

**Fast Twitch** only collects personal information (being information that identifies or could reasonably identify an individual) where **Fast Twitch** considers it to be reasonably necessary for **Fast Twitch's** services, functions and activities. The main purposes for which **Fast Twitch** collects, holds, uses and discloses personal information are to provide services and benefits to members and to grow **Fast Twitch's** membership. The latest version of the Privacy Policy will be available on our website [www.fasttwitch.com.au](http://www.fasttwitch.com.au)

#### 11.2. Consent to use your image

Our Privacy Policy applies to your personal information regardless of the way in which we collect it, for example, whether it is collected via one of our websites, when you visit one of our venues, when you contact one of our customer service departments or visit one of our social media sites. By submitting information to us and/or accessing and using our websites or social media platforms you consent to us using and disclosing your personal information in the ways described in this Privacy Policy.

#### 11.3 Other

- Please keep your contact **details** up to date

To update your details, please email us at [info@fasttwitch.com.au](mailto:info@fasttwitch.com.au). If you would like to unsubscribe or “opt out” from receiving any direct marketing material from **Fast Twitch**, that option will be available in the relevant communication sent to you. We will respond to your unsubscribe request within a reasonable period after your request is made.

- Photos and Videos

Members and guests are not allowed to take photos and/or videos in **Clubs** unless specific permission is granted by the **Club**. You understand that photos, films, videos or audio recordings are sometimes taken of Members for promotional purposes. By signing this **Agreement**, you agree to allow your image, recording or likeness to be used for any legitimate purpose by us or by **Fast Twitch** and you assign your rights in any of these materials to **Proofing Startup Pty Ltd t/a Fast Twitch**. If you do not want to participate in our promotional materials, please make us aware by contacting [info@fasttwitch.com.au](mailto:info@fasttwitch.com.au), or by writing to us at 270 North East Road, Klemzig, 5087, SA.

## 12. PLACING YOUR MEMBERSHIP ON HOLD & OTHER EVENTS

12.1 You may temporarily suspend your **membership** for travel or medical reasons if all amounts payable for your **membership** are paid up to date and, if your **membership** is for a **Fixed Term**, it has more than two weeks left to run. You will need to produce satisfactory supporting documentation when you apply for a suspension. You must apply for a suspension as soon as possible after you become aware of the relevant circumstances. We are entitled to charge you the **suspension fee** for processing your application. In any 12 month period, we are not obliged to suspend your **membership** on more than two occasions or for more than three months in total. While your **membership** is suspended, the term will be extended and we will freeze any **direct debit payments** that fall within the suspension period.

12.2 In any event in which either a State (South Australia only) or Federal Government provides a mandatory code which affects your ability to access the **Club**, your membership fees will automatically be reduced to the rate of an ‘Online’ membership. The ‘Online’ membership is subject to change according to National guidelines provided at that time, outdoor activities may be allowed and can therefore be included in such a membership. The **Club** reserves the right to alter this ‘Online’ membership at any given time without notice to adhere to any code of conduct that is provided at such time.

## 13. ENDING YOUR MEMBERSHIP

For the purposes of any requirements in this **agreement** to tell us in writing or give us written notice, we will accept notification by email ([info@fasttwitch.com.au](mailto:info@fasttwitch.com.au)) or post (Fast Twitch 270 North East Road, Klemzig, SA, 5087).

### 13.1 On or after expiry of the Minimum Term

If your **membership** is for a **Fixed Term**, we will seek to notify you when the Minimum Term expires. If we do not hear from you after the expiring of the minimum term, your membership will continue as a **Periodic Agreement** to allow you access to the **Club**. You can cancel at any time after the minimum term has expired.

**13.2 Cancelling a Periodic Agreement:** You may cancel during any **Supply Period** by giving us written notice. The cancellation will take effect at the **End Time**. The **End Time** is the end of that **Supply Period** if your notice was given at least 14 days before. Otherwise, the **End Time** is the end of the next **Supply Period**. You can cancel the **Agreement** with earlier effect but you will still be liable for **Membership Fees** on the basis that it was cancelled at the **End Time**. If you have paid **Membership Fees** in advance that extend beyond the **End Time**, you will be entitled to a refund of those **Fees** on cancellation of the **Periodic Agreement**.

**13.3** If your **membership** is **Ongoing**, it will continue after the Minimum Term unless you tell us in writing at any time before the expiry of the Minimum Term that you do not wish your **membership** to continue. We will seek to remind you before this time.

If your **membership** is **Ongoing** and you have not told us that you wish your **membership** to end at the expiry of the Minimum Term, you can terminate any time after the end of the Minimum Term by giving us at least 14 days prior written notice. Any unused **membership fees** after the required notice period will be refunded.

**13.4** Where neither you nor we terminate this **agreement**, any unpaid **fees** will need to be paid by you and in addition to our other rights we may have, including taking action to recover the outstanding payments. You will have 14 days to pay any unpaid **fees** owed to the **Club**.

### 14.1 OTHER WAYS THAT YOU CAN END YOUR MEMBERSHIP

You can also cancel your **membership** where:

(When no **cancellation fee** will apply)

- we don't keep our end of the deal (please see paragraph (a) below);
- you become subject to medical incapacity (please see paragraph (b) below);
- we make changes to this **agreement** that adversely affect you (please see clause 24);
- you otherwise become entitled to do so under consumer legislation;

(When a **cancellation fee** may apply)

- you relocate (please see paragraph (c) below)

A) If we don't keep our end of the deal

You can cancel your **membership** by written notice to us if we breach any of our obligations under this **agreement** and we have not remedied that breach within a reasonable time (being a minimum of at least 14 days) after you have given us a written request that we do so.

No **fees** will be applicable for cancelling in accordance with this clause apart from, to the extent not impacted by our breach, the **joining fee, membership fees** for the time you have been a **member** calculated on a pro-rata basis and any outstanding **fees** for other services already supplied to you.

B) You can cancel for medical reasons

You can end your **membership** by telling us in writing if you cannot exercise for the remainder of Minimum Term due to a permanent sickness or physical incapacity. You must provide requested supporting documentation to our reasonable satisfaction; documentation must be from a practicing General Practitioner or equivalent.

In that event, you will only be charged the **joining fee, membership fees** for the time you have been a **member** calculated on a pro rata basis and any outstanding **fees** for other services already supplied to you.

If you are not suffering from a permanent sickness of physical incapacity, please refer to clause 12.

C) If you no longer live in **South Australia**

You can also cancel on 30 days written notice if you relocate permanently outside of South Australia and supply proof. If you have not re-located permanently, please refer to clause 12.

#### 14.2 Transferring your **Membership**

A) You may transfer your **membership** in the following circumstances at **Fast Twitch's** discretion:

- a) the **membership** is a 6 month or greater, direct debit **membership**; and
- b) the **membership** is within the minimum term; and
- c) the person you are transferring the **membership** to is a non-member of **Fast Twitch** and has not been a member of **Fast Twitch** in the past 3 months.

Upon transfer, you must pay a transfer fee of \$65.00, and the new member will be required to pay an additional fee of \$99.00 for membership set-up. Transfers are subject to **Fast Twitch's** normal membership terms and conditions. The cooling-off period applies to new memberships only and does not apply to membership transfers or renewals. The terms of the membership agreement and the club that the membership is associated with remain unchanged.

B) 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. Your **Membership** may be transferred to another **Club** if: 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 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**.

If your **Membership** is transferred to another **Club**, your **Fees**, including any ongoing **Membership Fees**, may be varied to reflect the **Fees** applicable in the other **Club**. If your **Membership** is transferred to another **Club** in another state or country, you may be required to sign a new **Agreement** compliant with the laws of that state or country. 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) signs a new agreement to become a **Member** for at least the balance of the **Minimum Term**;
- c) agrees that the provisions of clause 3 regarding access and reciprocity will also apply to them; and
- d) pays **Membership Fees** for at least the balance of the Minimum Term, or enters into a Direct Debit Payment Agreement if these **Fees** are to be paid periodically by direct debit; and
- e) pays applicable other Fees such as a Fob Key Fee and a Joining Fee. If our transfer policy is changed, we will use our reasonable efforts to give Members prior notice of the change. When prior notice is NOT required 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
  - i) your **Membership Fees** will not be increased (except in the case of a transfer of your Membership (see clause 14.2 (a));
  - ii) 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 **Minimum Term**.

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

#### 15.1 WHEN CAN WE END YOUR MEMBERSHIP?

In addition to our other rights under this **agreement**, we can terminate your **membership** by written notice to you if you fail to act in accordance with any obligation under this **agreement** and if capable of remedy you do not remedy the failure within a reasonable time of us giving you written notice requiring you do so. If we cancel this **agreement** under this paragraph you will be liable for the **joining fee, membership fees** for the time you were a member, the **cancellation fee** and any other **fees** payable for further fitness services already supplied.

15.2 On rare occasions we may cancel a **membership** by written notice to the **member** without the need to give a reason. If we cancel your **membership** under this paragraph you will only be liable for the **membership fees** for the time you were a **member** and any other **fees** for other fitness services already provided. No **cancellation fee** will apply and we will refund your **joining fee** together with the sum of \$50. You agree that this payment is your sole entitlement to compensation for cancellation of your membership under this paragraph. You also agree that upon receipt of this payment you release us from our obligations under this agreement and any loss of expenses that you have or may incur.

**15.3** 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.

**15.4** We may also cancel or suspend a **membership** immediately by written notice to you if you are abusive, or make threats, to staff of the **Club**, other members or any other person visiting the **Club** or you behave in a manner which the **Club** believes may cause harm to any of those persons.

## **16. FEES YOU HAVE TO PAY FOR YOUR MEMBERSHIP**

The **fees** you have to pay are specified in the **details**. This clause 16 sets out some further rights and obligations that apply in relation to particular **fees**.

If you fail to make any payment when due, we can suspend your **membership** and refuse you access to the **facilities and services** until all outstanding amounts have been paid in addition to our other rights under these **Terms, Fees** and charges continue to accrue during the suspension. As noted in the **details** that period is the supply period during which your **membership** entitlements continue.

### **A. Joining fee**

We may charge you a **joining fee** to cover the set up costs for a new **membership**. The **joining fee** is not refundable except in limited circumstances relating to clause 2.2 and clause 15.2.

### **B. Membership fees**

If your **membership** is for a **Fixed Term** you can pay your **membership fees** up front when you submit the membership form, or you can elect to pay by equal periodic instalments.

If your **membership** is Ongoing, **membership fees** must be paid periodically in advance until your **membership** ends.

### **C. Fob Key fee**

This is the **Fee** charged to buy a **Fob Key**. This is not refundable except in very limited circumstances related to clauses 2 and 14.1. If you need a replacement **Fob Key**, a Replacement **Fob Key** Fee of \$29 will apply.

### **D. Cancellation fee**

You can cancel for your convenience if you pay the **Cancellation Fee** which is the higher of 50% of the balance due for the Minimum Term or a sum equal to 30 days **Membership Fees**. You are also responsible to pay any cancellation fees associated with our [Cancellation Policy](#), if you have booked services and treatments and have not given the required notice.

### **E. Suspension fee**

As per **clause 12** we are entitled to charge you a \$2.50 fee each week or part of a week of the suspension. Please refer to clause 12 for further details.

### **F. In-Body Scanner**

**Members** who sign up with us under our 'Ultimate' Membership receive an In-Body Scan every 8 weeks at a discounted rate of \$18. This fee is direct debited from your account and you will be notified to attend a time to receive your scan. If you miss your booked time or do not want a scan, you will still be debited as this forms part of the membership contract and fee schedule.

### **G. Default Payment Fee**

If your direct debit payment defaults more than 2 times per year, for each default thereafter we will charge an administrative fee of \$15 in rectifying your account. This fee will be direct debited from your account on the next pay debit cycle.

#### **16.1** If you do not pay a **Fee** when due

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 15.1. Other consequences may also apply with respect to late or rejected **direct debit payments** (see clause 18).

**Fees** and charges continue to accrue during a suspension under clause 16.1.

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.

#### **16.2** Fee increases

We will not increase the **membership fees** during the Minimum Term. However, we may increase your **membership fees** or any other **fees** with effect any time after that. We will make a fair effort to tell you at least 60 days before by writing to you at the last address you gave us (which may be an email address). Where we have done so, you authorise us to increase any debits from your nominated account in line with this increase. We will not use this right to vary the **terms** of any special offer which applies to you.

Your **membership fees** in the case of a fixed term will not be increased except in the case of a transfer of your **membership**, in this case the new **membership** pricing structure applies.

## **17. REFUNDS AND THE CREDIT CODE**



We are entitled to deduct all **fees** and charges that you must pay under this **agreement** from any refund we give you. The National Credit Code does not apply to this **agreement**.

## 18. WHEN YOU PAY BY DIRECT DEBIT

If you pay any **Fees**, including ongoing **Membership Fees**, by **direct debit**, then this will be through our **Biller** (not us).

The **terms** and conditions that apply to the direct debit services are available from the **Direct Debit Providers** website. Those **terms** and conditions are entirely separate to this **agreement** and you may have rights and obligations under those **terms** and conditions. As such, the **Direct Debit Provider** acting in its capacity as such has no liability to you in connection with your involvement in exercise activities under this **agreement**. The **Direct Debit Payment Agreement** of the **Biller** which applies to any direct debit services can be found directly on the **Billers** website.

You may at any time contact the **Direct Debit Provider** if you have any queries or to verify your **direct debit** authorisation **details**, <https://www.ezidebit.com/en-au/contact>. Please refer to [DDR Service Agreement](#) for further details.

### 18.1 Authorisation to deduct fees

By nominating a credit or debit account, you are authorising us to deduct from that account all **fees** and other charges for which you may be responsible under this **agreement**. Accordingly, it is essential that you keep your account **details** up to date.

### 18.2 If your payment is late or rejected

You are responsible for making sure that there is enough money in your nominated account on the usual payment day or the next working day if that falls on a day when banks do not process payments. 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), you will be charged the **Biller's Administration Fee**. This will be added to your next debit amount. Prior arrears may also be included. Any bank **fees** charged to us because of a rejection when we attempt to collect payments from you may be charged directly to you by us (or by the **Direct Debit Provider**).

If a payment remains outstanding, you agree that, unless we are in breach of our obligations under these Terms, we (or the **Direct Debit Provider**) may continue to debit the nominated account for the total amount due without notice to you. If the amount owing is more than four periodic **membership fees** we will seek to contact you first.

**18.3** 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.

## 19. DEBT COLLECTION AGENCIES

If paying by **Direct Debit**, upon default by you in regard to any obligation under this **Agreement** and failure to remedy the default after notification by Ezidebit or us the **Club** (Fast Twitch):

- a) you authorise Fast Twitch to notify any debt collection agency of the default;
- b) Fast Twitch may, at its sole discretion terminate the **membership agreement** at which time the full outstanding balance for the remainder of the minimum term or payments (including any current arrears) shall be due in full; and
- c) you authorise Fast Twitch to add to the outstanding debt a **fee** of \$50 and an amount equivalent to 25% of the full outstanding balance (being Fast Twitch's expenses reasonably incurred in collecting the debt) upon initial referral to the debt collection/credit reporting agency.

## 20. 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**.

## 21. SECURITY

### 21.1 24 Hour CCTV cameras

**Club** premises have CCTV security cameras recording 24-hours a day (except in bathrooms and toilets) and may have remote video guarding services. This system is used for security purposes but does not guarantee against harm. Although we will act reasonably to keep the **Club** premises secure, you acknowledge that accessing and making use of the **Club** facilities is at your own risk. You agree to release us from all harm or loss that you incur or suffer as a result of your use of the **Club** or the facilities located at the **Club**. You should contact the **Club** if you have questions on this.

### 21.2 Emergencies

**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.

If you deliberately use emergency apparatus inappropriately, you agree to pay for any costs, loss or damages incurred because of this inappropriate use.

**Clubs** may also have an emergency or crisis response procedure displayed which must be followed in emergencies.

### 21.3 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**.

#### 21.4 Following Directions

You agree to follow any reasonable direction of **Club** staff relating to health, safety or security matters or related matters.

### 22. ISSUES WITH OUTSIDE PROVIDERS

We will seek to make sure those contractors and other authorised persons who provide services at the facilities (outside providers) are appropriately qualified before granting them access. Examples of outside providers include such as coaches, physiotherapists, masseurs and personal trainers who may offer additional services from the facilities that are not included with your **Membership** Type.

Please note that outside providers are neither employed by us nor are they our agents, even if they happen to be wearing clothes displaying our name and logo. You will know that they are outside providers because they will require payment of their **fee** direct from you when you engage them.

This is important because we are not liable for any injury, loss or other claims arising from breach of contract, negligence or otherwise that are suffered by you in connection with any outside provider services, other than to the extent caused by our negligence. In addition, you release us and hold us harmless in relation to any such claims.

We have no responsibility in respect of the **fees** that you must pay directly to outside providers nor for any associated costs or refunds. However, please advise us if you have a problem with an outside provider and we will try to help if we can. Nothing in this clause limits our liability for the actions of our employees or agents.

### 23. OTHER SERVICES

There may be other services offered at the facilities that do not form part of your **Membership** Type but are available for you to purchase separately. These are not part of the services provided under your **membership** and you will be advised at the time if any additional **terms** apply to these services.

### 24. CHANGES TO YOUR MEMBERSHIP AGREEMENT

We may need to make changes to this **agreement** including our Rules during your **membership**. However, we will always try to do this in a way that is fair by giving you an opportunity to cancel your **membership** if you do not agree to the change as described in this clause below.

We will tell you in writing of the proposed change in advance and tell you the date that it will come into effect. This effective date will be at least 30 days from the date of our notification unless it is impractical for us to do so. Your **membership** will be amended with effect from the effective date. If however, you are adversely affected by the change, you may cancel your **membership** without payment of a **cancellation fee** by telling us in writing before that date, with a detailed explanation of how this specific change will materially impact you. If material impact can not be ascertained you are not entitled to cancel this agreement.

Please note you cannot cancel under this clause if we are required to make the change in order to comply with a law or any direction of a competent authority.

### 25. OUR LIABILITY TO YOU

#### 25.1 Statutory guarantees

**ACL:** The Australian Consumer Law (**ACL**) contained in the Competition and Consumer Act 2010 (Cth) (CCA) provides certain guarantees in sections 60 to 62 (statutory guarantees) which generally require that services supplied to you:

- are rendered with due care and skill,
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier and might reasonably be expected to achieve any result you have made known to the supplier and
- are supplied within a reasonable time (when no time is set).

Permitted exclusion: However, the CCA permits a supplier of recreational services to ask you to accept some limitations on those statutory guarantees. Accordingly, to the extent permitted by section 139A of the CCA, you acknowledge and agree that we exclude all liability to you for death or injury resulting from a failure by us to comply with any statutory guarantee.

In the previous sentence, "injury" means:

- physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- the contraction, aggravation or acceleration of a disease; or
- the coming into existence, the aggravation, acceleration or recurrence of any condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to you that is or may be harmful or disadvantageous to you or the community, or that may result in harm or disadvantage to you or the community.

**Reckless conduct:** This exclusion of liability does not apply if you have suffered any significant personal injury that is caused by our reckless conduct (within the meaning given to those **terms** by the **CCA**).

#### 25.2 State based notices

Please refer to the attached **ACL** Exclusion Notice which contains complementary information about the statutory guarantees and the limitations that we are allowed to place on them. These are without prejudice to the limitations contained in this clause.

### 25.3 General exclusions

Please note that nothing in this **agreement** excludes, restricts or modifies any term, condition, warranty, guarantee, right or remedy (including under a statutory guarantee) which cannot lawfully be excluded, restricted or modified.

Otherwise, and except as expressly included in this **agreement**, all implied **terms**, conditions, warranties, rights or other additional obligations that can be lawfully excluded are excluded from this **agreement**. In particular, but subject to the preceding paragraph, we are not liable for;

- negligence; or
- breach of terms implied that services will be provided with reasonable care and skill,

at common law that in either case results in your death or injury (as defined in paragraph (a) above) in connection with or under this **agreement**, but to avoid doubt we do not exclude liability for our reckless conduct.

### 26. LOSS OF PROPERTY

You promise that you will not unnecessarily bring valuables in to the facilities and that if lockers are available you will use the lockers to store any valuable property that you bring with you. If we provide secure storage lockers, then this is part of our service to you. However, we are not responsible if someone breaks into your locker and takes your property, other than to the extent we have not complied with our obligations in respect of this service under a statutory guarantee.

Other than as described above, maintaining the security of unattended property in the facility is not part of the service we provide under this **agreement**. Accordingly, if you choose not to use a locker to securely store your property and leave it unattended in the facilities, we will not be responsible for any loss or damage to your property that occurs.

### 27. YOUR RESPONSIBILITY FOR DAMAGE

You agree to pay for any damage to the facilities caused by you or your guests through a wilful act or negligence. You agree that you are liable for all losses that the **Club** incurs as a result of a breach of the agreement by the **member** or from the **member's** negligence.

### 28. ACCESS BY NON-MEMBERS

(a) **Fast Twitch** only grants Members, unless otherwise specified in this **Agreement**, access to the **Club**. No **Member** is permitted to bring a **non-Member** into the **Club**.

(b) If a **Member** breaches clause 28(a) of this **Agreement**, the **Member** acknowledges that:

- (i) they accept responsibility and liability on their personal behalf for any injury, loss or damage attributed to the **non-Member** whether or not caused through the negligence of the **Club**;
- (ii) you will be subject to clause 9 and the associated **tailgate fee**;
- (iii) the act of bringing a **non-Member** into the **Club** on more than one occasion constitutes automatic acceptance by the **Member** of a new **membership** for the non-Member. The **Joining Fee** and all other **fees** relevant to services used, in addition to the **DD Membership Fee**, will be charged to the **Member** in the following ways:

- (1) for a **Member** who holds a **DD Membership**, this amount will be deducted from their nominated bank account; and
- (2) for a **Member** who holds a **PIA Membership**, the **Member** will receive an invoice for this amount;

- (iv) payment of the amount in accordance with the clause above will entitle the **non-Member** to use the **Club** for one fortnight;
- (v) in order for the **non-Member** to take advantage of the new **membership**, they will need to attend the relevant **Club** and comply with all of the obligations that all new Members are required to comply with pursuant to this **Agreement**; and
- (vi) **Fast Twitch** reserves the right to terminate the **membership** of the **Member** who brings a **non-Member** into the **Club**.

### 29. COMPLAINTS AND FEEDBACK

**29.1** 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.

**29.2** 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 **Fast Twitch** by e-mail to [info@fasttwitch.com.au](mailto:info@fasttwitch.com.au).

**29.3** Complaints will be dealt with in accordance with the **Fast Twitch** complaints policy.

### 30. GENERAL LEGAL ITEMS

#### 30.1 Unexpected events

We are not liable if you cannot use your **membership** due to anything beyond our reasonable control. If that failure or delay continues for more than 30 days, then either you or we can cancel this **agreement** with immediate effect by telling the other in writing. We are entitled to make part or all of the facilities unavailable for up to four weeks during each calendar year to undertake maintenance, repairs or improvements. In the case that the whole or majority of the **Club** is inaccessible we will extend your **membership** by the time you are unable to use the facilities. No extension will be provided for isolated incidences of general repair and maintenance.

#### 30.2 Our logo and intellectual property

No rights in relation to our logo, trademarks or any other intellectual property rights associated with our business, techniques, exercise programs or classes are granted to you under this **agreement**, except that any exercise program created for you may be used while you are a **member** for the purpose of your exercise activities.

### 30.3 Transferring this **agreement**

We can transfer the rights or benefit under this **agreement** or sub-contract our obligations under this **agreement** to a third party at any time by giving you 30 days notice to you but in doing so we will make sure that the transferee agrees to honour the **terms** of your **membership**.

### 30.4 Severability and waiver

If a court finds that any part of any term of this **agreement** is or becomes illegal, void or unenforceable, that part is deleted and this does not invalidate the rest of this **agreement**. If we do not enforce our rights under this **agreement** at any time, it does not mean that we may not do so on future occasions.

## 31. ENTIRE AGREEMENT

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

## 32. APPLICABLE LAW

The law of the State/Territory specified in the **details** applies to this **agreement**.

## 33. CODE OF PRACTICE

Fast Twitch the **Club** operates according to the 'National Fitness Industry Code of Practice' developed by Fitness Australia. A copy of the code can be found on our website ([www.fasttwitch.com.au](http://www.fasttwitch.com.au)). We are bound by this code and you can lodge a complaint with Fitness Australia if we the **Club** has or appears to have breached this code.

## 34. MEDICAL DISCLAIMER

Fast Twitch is not a licensed health care provider. All content and media on the Fast Twitch Website is created and published online for informational purposes only. It is not intended to be a substitute for professional advice, diagnosis or treatment from a licensed medical practitioner or other licenced health professional, and should not be relied on as health or personal advice. Always seek the guidance of your doctor or other qualified health professional with any questions you may have regarding your health or a medical condition. Never disregard the advice of a medical practitioner or other licensed health professional, or delay in seeking it because of something you have read on this Website or any of its links. If you think you may have a medical emergency, go to the nearest hospital emergency department, or call the emergency services immediately. If you choose to rely on any information provided by Fast Twitch, you do so solely at your own risk and all responsibility and liability for any loss or damage is expressly excluded to the maximum extent permitted by law. External (outbound) links to other websites or educational material (e.g. pdf's etc...), including any information or videos published by Fast Twitch on this website, are followed at your own risk. Under no circumstances is Fast Twitch responsible for the claims of third party websites or educational providers. *If you wish to seek clarification on the above matters please don't hesitate to get in touch with Fast Twitch via [info@fasttwitch.com.au](mailto:info@fasttwitch.com.au).*