

Membership Terms and Conditions New South Wales

1. Definitions

- a) Access Pass means your membership card allowing you to enter the Studio.
- (b) Access Pass Fee means the Access Pass Fee specified in the Agreement.
- (c) Agreement means this membership agreement made between you and Goldsbrough Fitness Studio (GFS) incorporating the documents referred to in clause 2(b).
- (d) Billing Account means the bank account or credit card nominated by you to have your direct debit Membership Fees deducted from.
- (e) Studio means the Goldsbrough Fitness Studio (GFS) as specified in your Membership Agreement or any such Studio that your membership may be transferred to.
- (f) Studio Access means the initial Joining Fee and Access Pass Fee specified in the Agreement.
- (g) Studio Rules mean the Studio rules as amended from time to time, which are located at the Studio.
- (h) DD Membership means a weekly membership, with recurring fortnightly direct debit payments.
- (i) DD Membership Fee means the fortnightly fee payable for the DD Membership inclusive of any Payment Provider fees.
- (j) Dishonour Fee means a \$10.00 fee.
- (k) The Pre-Workout Questionnaire means the pre-workout questionnaire that the member is required to complete prior to using the Studio.
- (l) GFS means Goldsbrough Fitness Studio, the entity specified on your Membership Agreement and includes its heirs, estates, agents, representatives, officers, directors, shareholders, successors, affiliates, subsidiaries and employees.
- (m) Joining Fee means the fee specified in the Agreement.
- (n) Member means the individual who has entered into this Agreement with GFS.
- (o) Membership Agreement means the form provided to you by GFS requiring you to provide the relevant details to GFS (e.g. name, address, payment card details) relating to your membership.
- (p) Membership Fees means the fees that are due and payable by you pursuant to this Agreement.
- (q) Minor means members under the age of 18.
- (r) Paid In Advance (PIA) Membership means Members that have paid in advance according to the level of PIA membership as specified in this Agreement.
- (s) Payment Agreement means the Agreement between you and us permitting our Payment Provider to provide the direct debit and credit card payment facilities to you on our behalf in accordance with the Payment Provider's Direct Debit Service Agreement.

(t) Payment Provider means the payment provider specified from time to time by GFS, which is currently Paypal unless GFS otherwise specifies.

(u) Payment Provider's Direct Debit Request Service Agreement means the Payment's Provider's service agreement provided to you by Paypal.

(v) Policies mean the GFS membership policies as amended from time to time, which are located at www.gfstudio.com.au and located at your Studio.

(w) Privacy Policy means the GFS privacy policy, which is available at www.gfstudio.com.au or by emailing info@gfstudio.com.au

(x) Products mean any products that are purchased pursuant to GFS sale of goods terms and conditions.

(y) Written Notice means notice in writing, given in person, by email or post to the parties' last known address.

2. Terms and Conditions

(a) Your membership is governed by this Agreement.

(b) This Agreement incorporates these terms, the Membership Agreement, the Policies, the Studio Rules and the Privacy Policy.

(c) Accepting this Agreement does not automatically entitle you to a membership as your application may be subject to further review by GFS.

(d) GFS reserves the right, in its sole discretion, to amend this Agreement.

(e) GFS holds, so far as a provision of this Agreement is for the benefit of a third-party that provision on trust for the relevant third-party.

3. Membership

(a) Nature of Membership: Your membership permits you to use GFS premises, facilities, equipment and services as shown and limited by the membership identified. The GFS premises are to be used for the intended purpose at all times. The intended purpose is fitness and strength training. Your membership is non-transferable by you unless deemed appropriate by GFS.

(b) Change to Details: you must provide GFS with any changes to your details, which are relevant to your membership in writing.

(c) All Club Privileges: Subject to clause 18, your membership entitles you to utilise "GFS" branded clubs, as listed on the website.

(d) Membership Hold: GFS will only hold your membership in accordance with the requirements of the GFS Membership Hold Policy available at the Studio or at www.gfstudio.com.au

(e) GFS premises is available to members 24 hours per day, 7 days per week. It is understood by members that GFS may be required to close for maintenance or other purposes on occasion.

(f) Members are asked to ensure the premises (front door & window) are locked when they vacate the premises.

4. Payments

(a) You agree to pay all Membership Fees as set out in this Agreement and agree to be bound by the direct debit terms and conditions as described in the Payment Agreement and the Payment Provider's Direct Debit Request Service Agreement.

(b) For a DD Membership you must make your payments on a fortnightly basis in advance.

(c) For a PIA membership, you must pay your membership in advance according to your level of PIA membership as indicated by GFS to you.

(d) For all memberships you must make payment of the Studio Access and pro-rata amount in advance and the balance of the Membership Fees by way of direct debit from your bank account, credit card or Paypal account.

(e) A \$90 Access Pass bond is payable at the beginning of your membership prior to the Access Pass being issued. This bond will be refundable once the Access Pass is returned on termination of your membership, subject to no other fees being outstanding.

(f) You must provide to GFS, in the form requested by GFS, a Payment Agreement authorising GFS' Payment Provider to debit the Membership Fee due for each direct debit period from your Billing Account.

(g) GFS will endeavour to contact you by phone, SMS or email to inform you of any overdue payments. In the event that GFS cannot contact you, it will provide you with Written Notice of overdue payments.

(h) A Member will be charged a Dishonour Fee in the event that their financial institution dishonours a fortnightly direct debit payment.

(i) A Member will be charged a \$49.00 fee if their Access Pass is damaged or lost and requires replacement.

(j) Additional fees (being bank charges or administrative charges incurred by the Payment Provider) will apply for any overdue or late payments.

(k) If there are repeated failures to meet your payment obligations (other than through the fault of GFS or its Payment Provider), without prejudicing GFS' rights to recover any overdue payments, your membership may be suspended or terminated by Written Notice to you.

(l) You acknowledge and agree that GFS may change its Payment Provider and that GFS and/or the current Payment Provider may, in their sole discretion, assign or novate all existing Payment Agreements to a new payment provider. In the event that GFS or the current Payment Provider assigns or novates the existing Payment Agreements to a new payment provider, you consent to GFS or the current Payment Provider providing your personal information (including, but not limited to your payment details, to its new payment provider) in accordance with this Agreement and GFS' Privacy Policy.

(m) GFS reserves the right, at any time, to change the Membership Fees charged to Members for use of the Studio facilities. GFS agrees to use reasonable endeavours to provide you with Written Notice of the changes. The changes will take effect 30 days after the Written Notice has deemed to be received by you. We deem receipt to have occurred 2 business days after the Written Notice was sent. At the end of the 30 day period, you authorise GFS and/or the Payment Provider to debit the new amount to your account.

5. Minimum Age

(a) All Members of GFS must be a minimum of 16 years of age. All Minors must have a parent or legal guardian agree to the terms of this Agreement. All Minors must attend the Studio to obtain a membership.

(b) Minors aged 16-17 years of age must comply with the restrictions outlined in the Kids in Gyms Policy available at Fitness Australia website (www.fitnessaustralia.com.au) or in the Studio.

6. Access by Non-Members

(a) GFS only grants Members, unless otherwise specified in this Agreement, access to the Studio. No Member is permitted to bring a non-Member into the Studio without written permission from GFS Management. This includes personal trainers (PT's), coaches or similar.

(b) If a Member breaches clause 6(a) of this Agreement, the Member acknowledges that:

(c) 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 GFS;

(d) The act of bringing a non-Member into the Studio constitutes automatic acceptance by the Member of a new membership for the non-Member. The Joining Fee and Access Pass Fee, in addition to the DD Membership Fee, will be charged to the Member in the following ways:

(i) For a Member who holds a DD Membership, this amount will be deducted from their nominated bank account, credit card or Paypal account; and

(ii) For a Member who holds a PIA Membership, the Member will receive an invoice for this amount;

(iii) Payment of the amount in accordance with the clause above will entitle the non-Member to use the Studio for one fortnight;

(iv) In order for the non-Member to take advantage of the new membership, they will need to attend the relevant Studio and comply with all of the obligations that all new Members are required to comply with pursuant to this Agreement; and

(v) GFS reserves the right to terminate the membership of the Member who brings a non-Member into the Studio.

7. Orientation

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

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

(c) GFS may suspend or terminate this Agreement in the event of unsatisfactory completion of the Studio orientation prior to the commencement of exercise.

(d) You acknowledge and agree that "GFS" branded Studio's may have different equipment and/or be a different layout. You acknowledge and represent to GFS that you will seek assistance from GFS personnel before using equipment that is unfamiliar to you.

(e) You acknowledge that use of the 'Wahoo Kickr' and 'CycleOps' is prohibited unless you have booked a session via www.gfstudio.com.au. Prior to booking your first session you must complete an induction on correct usage.

8. Physical Condition

(a) It is your responsibility not to use any equipment, which may adversely affect any medical condition.

(b) You hereby represent to your Studio and GFS and their directors, officers, employees, contractors and agents that, to the best of your knowledge, you do not have any physical, medical or other disability or condition which may be affected or aggravated by, or which may result in any sickness, injury or death to you as a result of, your use of the Studio or its facilities.

(c) If you have any health or medical concerns now or after you join as a Member of the Studio, you must discuss them with your doctor before using the equipment or the Studio.

(d) You acknowledge that GFS did not give you any medical advice before you used the equipment, and cannot give you any medical advice after you use the equipment.

9. Pre-Workout Questionnaire

(a) It is a condition of membership with GFS that each Member, prior to using the Studio, has to complete the Pre-Workout Questionnaire at registration, which is online at www.gfstudio.com.au.

(b) You will not be permitted to use the GFS until you have completed the Pre-Workout Questionnaire.

(c) GFS reserves the right to restrict, suspend or terminate your membership if GFS is of the reasonable opinion that you are unfit to utilise the Club on a 24/7 basis. If your membership is restricted or suspended for this reason, your membership will not be reinstated until you provide GFS with a medical certificate confirming that you are fit to train.

10. Video and Audio Surveillance

(a) For security purposes, GFS uses video and audio surveillance equipment to monitor the Studio on a 24-hour basis.

(b) By accepting this Agreement you acknowledge that by accessing any "GFS" branded Studio you will be subject to video and audio surveillance and recording.

(c) Video and audio surveillance is limited to the floor area only, and is not within the walls of the bathrooms.

11. Equipment

(a) You understand and acknowledge that GFS purchases or leases the equipment from a third party and therefore do not manufacture any of the fitness or other equipment used in the Studio.

(b) You understand and acknowledge that GFS is providing recreational services and may not be held liable for defective products or equipment.

(c) Members are asked to leave GFS clean and tidy. Please wipe down equipment and replace weights and equipment.

(d) Please report any breakages or malfunctions to GFS Management.

12. Liability for Property

(a) GFS is not liable to you for any personal property that is damaged, lost, or stolen while on or around the Studio including, but not limited to, a vehicle or its contents or any property left in a locker.

(b) If you cause damage to the Studio or any equipment you are liable to GFS for its cost of repair or replacement.

13. Releases and Indemnity

(a) GFS is entitled to ask you to agree to exclude, restrict or modify its liability for death or any personal injury suffered by you on Studio premises, or from the use of our facilities or equipment.

(b) If you accept this Agreement, you agree to restrict the liability of GFS if you are killed or injured, with the result that compensation may not be payable if you or a third party suffers death or personal injury.

(c) GFS may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by accepting this Agreement. Even if you accept this Agreement, you may still have further legal rights against GFS.

(d) A parent or legal guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights.

14. Releases and Indemnity (New South Wales)

(a) You use the facilities provided by GFS at the Studio at your own risk and acknowledge that the use of the Studio may involve risk of injury, whether caused by you or another party. By accepting this Agreement you agree that GFS will not be liable for any loss, injury, damage or theft of property, belonging to or brought onto Studio premises by you, or for any death, personal injury or illness on Studio premises, or from using our facilities or equipment.

(i) This release does not apply if your death or injury results from gross negligence on our part.

15. Cooling Off Period

(a) All new memberships are subject to a cooling off period of 10 business days.

(b) A request for termination of membership during the cooling off period must be made by Written Notice unless this Agreement is defined as an unsolicited consumer agreement under the Australian Consumer Law, in which case termination may be written or oral.

(c) For any membership terminated validly during the cooling off period, GFS will refund to you the total of all Membership Fees.

16. Your Right to Terminate Your Membership

(a) You may terminate your membership at any time on the following basis:

- (i) You provide a request for termination of your membership in writing to GFS and provide a fortnight's notice.
- (b) If your request for termination is for reason of permanent sickness or physical incapacity and this prevents you from using the Studio:
 - (A) Your request must be accompanied by a medical certificate evidencing such permanent sickness or physical incapacity; and
 - (B) There will be a refund of any unused Membership Fees.
- (iii) In the event of death, your estate must provide written evidence in the form of a death certificate and all unused Membership Fees will be refunded.
- (iv) If your request for termination is for reasons other than permanent sickness or physical incapacity:
 - (A) in relation to DD Memberships:

- (i) you may terminate your membership at any time;
- (ii) you must provide GFS with a fortnight's Written Notice of termination with GFS processing your termination as follows: (a) Written Notices received before 5pm on a Business Day will be actioned that Business Day or (b) Written Notices received after 5pm or on a day other than a Business Day will be actioned the next Business Day; and;
- (iii) the Member will be required to pay till the end of the fortnight's notice and the Member has a right to continue attending the Studio until the end of the notice period.
- (iv) if the fortnight's notice period is not able to be direct debited then the fortnight's fee will be deducted from the \$90 access pass fee that the Member paid and the balance of the access pass fee will be refunded once the access pass is returned.

(B) in relation to PIA Members:

- (i) you may not terminate the membership during the prepaid period (or get a refund), unless you suffer from a permanent sickness or physical incapacity as described in clause 17(a)(ii); and
- (ii) if you do not renew your PIA membership by the renewal date, your membership will automatically expire.
- (iii) any refund payable will be calculated on the Standard weekly fee not the discounted yearly in advance fees.

17. GFS' Right to Restrict or Terminate Your Membership

(a) GFS may restrict your membership (including by limiting access to other "GFS" branded Studios) at any time on the following basis:

- (i) Concern for the health and/or safety of the Member; or
- (ii) Non-compliance, improper or harmful conduct engaged in by the Member.

(b) GFS may terminate your membership at any time on the following basis:

- (i) You fail to make any payments of your Membership Fees;
- (ii) GFS reasonably suspects that you are engaging in illegal activity in the Studio;
- (iii) You fail to follow any of the Policies or Studio Rules, or violate any part of this Agreement; or
- (iv) Your conduct is improper or harmful to the best interest of GFS Members.

(c) In the event that GFS terminates your membership in accordance with clause 18(b), termination will be effective on the date that GFS sends Written Notice. You are liable for all financial obligations until that date. If you are a PIA Member, GFS will not refund any unused portion of your fees.

(d) Upon termination of your membership by GFS, you will cease to have access to the Studio, and GFS has the discretion to deny you access to any "GFS" branded Studio. Any money owing to GFS when your membership ends, remains immediately due and payable and GFS will deduct the amount outstanding from any refund, which you may be eligible. If there is not enough money to cover the amount owing to GFS, you must pay the balance of the amount owing.

(e) Upon termination of your membership by your election, you may continue to use the Studio for any period that you have paid in advance. You will cease to have access to the Studio once any period you have paid in advance expires.

(f) Termination or expiration of this Agreement shall be without prejudice to the rights of each party against the other in respect of anything done or omitted under this Agreement prior to such termination or expiration.

18. Termination and Unauthorised Cessation of Direct Debit

(a) If you terminate the Agreement or stop the automatic debit arrangement in a manner not described in the Agreement, then you may be liable to GFS for any unpaid fees, or fees incurred by GFS.

19. Assignment

GFS may assign or novate its rights under this Agreement at any time without prior consent.

20. Risk Warning

(a) GFS warns that whilst you are on our premises using our Studio and recreational 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) Incorrect use of equipment or Studio,

(b) You acknowledge that any such injury may result not only from your actions but also 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 GFS 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.