



## TERMS & CONDITIONS OF THE PROVISION OF FITNESS SERVICES

### 1. Definitions

The following words have the following meanings throughout this document:

<b>Fee</b>	the amount of \$ _____ payable on the _____ in each and every month during the Term.
<b>Gym</b>	the gymnasium and associated facilities located at the premises at 5009-50 Ave
<b>Gym Rules</b>	the rules of the Gym as amended from time to time in our discretion.
<b>Membership</b>	your membership to the Gym pursuant to this document (and Member has a corresponding meaning).
<b>Notice</b>	means any notice in writing, given in person, by email, facsimile or post to the parties' last known or last notified address or contact details.
<b>Plan</b>	any training, dietary or other plan we may develop for or with you.
<b>Policies and Procedures</b>	our policies and procedures as amended from time to time our discretion.
<b>Privacy Policy</b>	our privacy policy, as amended from time to time in our discretion.
<b>Term</b>	the fixed period of _____ from the date of this document.
<b>us, we, our</b>	.....QUALITY FITNESS STUDIO _ _ _ _ _

### 2. Application and Membership

- (a) By completing the Application for Membership which this document accompanies, you agree to the terms and conditions stated in this document.
- (b) Completing an Application for Membership and agreeing to be bound by this document does not entitle you to Membership. The conditions in clause 5 will apply and we will have ultimate unfettered discretion as to whether you become or remain a Member.
- (c) It is a condition of applying for and maintaining Membership to the Gym that you continue to agree to be bound by this document.
- (d) The Gym Rules, Policies and Procedures and Privacy Policy, copies of which are available at [www.qualityfitnessstudio.com](http://www.qualityfitnessstudio.com) or by emailing [info@qualityfitnessstudio.com](mailto:info@qualityfitnessstudio.com), are incorporated into this document and you agree to be bound by them and to comply with them during the term of the agreement between us comprised by this document. They do not however bind us.



- (e) As a Member, we will provide to you with access to the Gym and its facilities within its usual hours of operation, unrestricted access to trainers at the Gym and personal training services tailored to you.
- (f) Membership does not provide you with professional services such as exercise physiology, personal training and the like, which can be provided at an additional cost by referral to relevant professionals in such areas.

### **3. Payment**

- (a) You must pay all fees associated with your Membership, and when the Fee falls due throughout the entire Term.
- (b) We will endeavor to contact you to inform you of any overdue payments however, it remains your responsibility to ensure that any direct debits are able to be made from your nominated account.
- (c) Where any payment is dishonoured, an amount of \$25.00 must be paid by you to cover the agreed costs associated with each dishonour.
- (d) If there are multiple failures to meet your payment obligations under this document, but without prejudicing our right to recover any overdue payments, your Membership may be suspended or terminated by us by notice to you.
- (e) Where any payment due to us is not paid in full and by the due date, we may deny you access to the Gym or certain personal training or other services in our discretion.
- (f) We may charge you interest on any amount due to us but unpaid at the rate of 10% per annum.
- (g) All costs and disbursements incurred by us in recovering payment or in protecting or enforcing our rights under this document, including legal costs and disbursements are payable by you on the indemnity basis.

### **4. Access by non-members**

- (a) You are not permitted to bring a non-member into the Gym or to provide any Plan to a non-Member. Plans are developed specifically for each Member and are personal to that Member. We maintain all intellectual property rights, including but not limited to copyright, in any Plans.
- (b) If you breach clause 4(a), you accept all liability for any indemnify us from and against any and all claims that the non-Member invitee guest of yours may make against us in relation to any cost, loss, damage, liability or expense that he or she may suffer, including that which may arise directly or indirectly due to our negligence.

### **5. Physical condition**

- (a) It is a condition of Membership that you, prior to using the Gym, may be required to complete and pass a physical assessment to our satisfaction. The purpose of the physical assessment is to assist us to assess your individual needs, assist us to identify exercises suitable to your needs, develop any Plan and to aid in injury minimization.
- (b) If you have any health or medical concerns now or after you join as a Member, you must discuss them with your doctor before applying to join as a member, using the Gym or implementing any Plan.
- (c) It is your responsibility not to use any equipment or to undertake (or refrain from undertaking) any activity which may adversely affect or exacerbate any medical condition of yours.



- (d) You hereby warrant that, to the best of your knowledge, you do not have any physical, medical or other disability or condition which may be adversely affected or aggravated by, or which may result in any sickness, injury (or aggravation to any sickness or injury) or death to you as a result of, your use of the Gym or its facilities or the implementation of any Plan. You must inform us if that changes during the course of your Membership.
- (e) You acknowledge that we do not provide medical advice and if you have any concerns in relation to your health at the start of your Membership or during your Membership that you will consult a qualified medical professional. We may be able to introduce you to such professionals however, we offer no warranty in relation to their services.
- (f) We reserve the right to restrict, suspend or terminate your Membership if we are of the opinion that you are unfit to utilise the Gym or parts of it or to receive any of our services. If your Membership is restricted or suspended for this reason, your Membership will not be reinstated until you provide us with a medical certificate confirming that you are fit to train or if you undertake a further physical assessment, at our election. Your payment obligations will remain.

## **6. Termination**

- (a) You may terminate your Membership at any time subject to clause 6(d)
- (b) We may restrict or terminate your Membership if:
  - (i) we have concern for your health and/or safety;
  - (ii) you do not comply with the terms of this document, you do not follow our Policies and Procedures, you do not comply with the Gym Rules or if you fail to promptly follow any reasonable direction our staff may give;
  - (iii) you fail to make any payments of your Fees or any other amount/s due to us;
  - (iv) we reasonably suspect that you are engaging in illegal activity in the Gym;
  - (v) you engage in improper or harmful conduct or conduct that is or could reasonably be detrimental to other Members; or
  - (vi) we so determine in our absolute discretion.
- (c) Termination shall be without prejudice to the accrued rights of each party.
- (d) On termination, regardless of who instigated it, you will be required to pay to us the Fees that would otherwise have been payable by you for the duration of the Term without deduction or set-off.

## **7. Risk warning and acknowledgment**

You acknowledge and agree that:

- (a) whilst you are at the Gym and whilst you are implementing any Plan, you are at risk of suffering physical harm or personal injury (including but not limited to broken bones, soft tissue injury, joint and cartilage damage, total and permanent disability and death) which can result from:
  - (i) slipping on wet floors;
  - (ii) tripping on stairs or over personal items
  - (iii) being struck by objects;
  - (iv) colliding with equipment or other Members;
  - (v) engaging in strenuous exercise or other activities;
  - (vi) incorrect use of equipment; or
  - (vii) any number of other things.
- (b) any such injury or death may result from your actions, omissions or negligence and/or from the actions, omissions or negligence of others.



- (c) whilst we will attempt to ensure that the Gym and activities undertaken at the Gym or in relation to implementing any Plan are safe, there are some significant and inherent risks involved;
- (d) you are participating in any activities at the Gym (including simply attending the Gym) and in relation to any Plan voluntarily at your own risk and responsibility, thereby exposing yourself to certain risks; and
- (e) you must act reasonably and take all steps reasonably available to you to protect your own interests, including managing all safety risks associated with the operation of the equipment of the Gym, implementing any Plan, following our Policies and Procedures, complying with the Gym Rules and promptly following any reasonable direction our staff may give.

#### **8. No warranties**

- (a) We do not provide any warranties in relation to any of our services or the results or outcome of utilizing our services, attending the Gym or implementing any Plan. The results or outcome are almost entirely in your hands as to the amount of training and dedication you put in to your own performance, your maintaining a healthy lifestyle and eating habits and knowledge to your own body and its strengths and weaknesses.
- (b) Any warranty or condition which would otherwise be implied in any agreement between us or in this document (including, but not limited to, suitability or fitness for purpose, quality etc) is expressly denied and is excluded to the maximum extent permitted by law.

#### **9. Release and indemnity**

- (a) Any advice, recommendation, information, assistance or service given by us (including any Plan) is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but is provided without any warranty as to accuracy, appropriateness or reliability and we do not accept any liability or responsibility for any loss, cost damage, liability or expense suffered (whether directly or indirectly) from reliance on such advice, recommendation, information, assistance or service. You agree to rely on your own judgment in making decisions concerning your health and wellbeing, your use of equipment in the Gym and the appropriateness of any Plan we may develop for or with you.
- (b) You have no right or cause of action against us or our officers, employees contractors and agents and you release and indemnify us and our officers, employees contractors and agents from any loss, cost, damage, liability or expense, including indirect, consequential and special losses (including but not limited to loss of use, enjoyment, reputation, income or profit), and against all actions, suits, claims and demands against us in relation to the services we provide, any injury or death related to or resulting from your use of or attendance at the Gym and the implementation of any Plan.
- (c) We do not provide any warranties in relation to the gym or exercise equipment manufactured by third parties. Where any damage or injury results from any defect in relation to such gym or exercise equipment, you agree to pursue the manufacturer and/or supplier in relation to any claim rather than us.
- (d) We are not liable to you for any personal property that is damaged, lost or stolen whilst you are at the Gym, including where such property is located in a locker or change room.
- (e) If you cause damage to the Gym or any equipment, you are liable to us for the cost of repair or replacement as is reasonably required.



## **10. Limitation of liability**

To the maximum extent permitted by law and notwithstanding clauses 7, 8 and 9, our liability to you in respect of any loss, cost, damage, liability or expense is limited (even where caused or contributed to by our negligence or breach of any term, condition or warranty stated in this document) in our absolute discretion to:

- (a) refunding the Fees paid;
- (b) resupplying the services or equivalent services; or
- (c) payment of the costs of resupplying the services or equivalent services by another personal trainer of our choice.

## **11. Privacy, video and audio surveillance**

- (a) For security purposes, we may use video and audio surveillance equipment to monitor the Gym (but not the bathrooms or assessment rooms). By accepting this document, you acknowledge that by accessing the Gym, you may and likely will be subject to video and audio surveillance and recording.
- (b) To the maximum extent permissible by law, you waive all rights under the *Privacy Act 1988* (Cth) and consent to the collection, storage and provision of information by us to third parties. Such information may be used for such things as our supplying products or services to you, improving our products or services or for our own marketing purposes. You consent to us using any personal or other information we hold for the purposes of investigating your creditworthiness, including conducting a credit check.
- (c) If an invoice remains outstanding in excess of 45 days, you irrevocably authorise us to provide your particulars and the particulars of the unpaid debt to any credit reporting agency to have the default in payment listed.

## **12. Notices**

You must immediately notify us of any change in your name, address or other contact details. In the absence of such notification, the last address and any contact information we hold in our records is deemed to be your relevant address or way to contact or send notices to you for all purposes including but not limited to service in legal proceedings.

## **13. Waiver and exercise of rights**

Any failure to enforce a right, make an election or exercise a discretion promptly or at all by us will not operate as a waiver or postponement of any right power or remedy which we may have pursuant to this document.

## **14. Independent advice**

You acknowledge that you have obtained or have had adequate opportunity to obtain independent legal advice as to the meaning and effect of the terms and conditions in this document before they were accepted by you.

## **15. Delegation and assignment**

We may delegate or sub-contract the performance of any obligation or assign the benefit of the agreement constituted by this document in our absolute discretion. You may not however assign such benefits or obligations without our consent, which may be withheld in our absolute discretion.

## **16. Force majeure**



Each of us will be released from our respective obligations in respect of this document (except your obligations as to payment and indemnity) in the event of national emergency, war, prohibitive governmental regulations or where any other cause beyond the reasonable control of either of us, including but not limited to strike, riot, lockout, trade disputes, rebellion, fire, acts of God, Government decrees, proclamations or orders for a period of 7 consecutive days or more renders provision of services the subject of this document impossible.

**17. Severance**

If a provision in this document is void, illegal or unenforceable, it must be varied to give effect to the intention of this document or severed without affecting the enforceability of the other provisions

**18. Entire agreement**

This document contains the entire agreement as between the parties in relation to its subject matter. Any previous representations or communications between the parties and any negotiations in relation to this document are merged in and superseded by this document and are of no force or effect. This document may only be varied or replaced by a document in writing duly executed by the parties.

**19. Governing law and jurisdiction**

This document and the transactions contemplated by it are governed by the law of Alberta,Canada.

**20. Acceptance**

By signing below you accept the terms and conditions in this document.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Full name: \_\_\_\_\_

Address:  
\_\_\_\_\_