

General Terms and Conditions

Authorised July 2020

1. Introduction

- 1.1. If under 18, this form must be read, understood and signed by a parent or guardian. Please note that all Fastrak Fitness training services, programs, guides, meal plans, detoxes, registration forms and anything that we offer as a paid or free service will be governed by this document.
- 1.2. Welcome to Fastrak Fitness. To ensure that Fastrak Fitness is able to provide a safe and comfortable environment for all members and staff, please assist us by ensuring that you comply with the following conditions. We ask you to only sign the membership Agreement if you understand and agree with these conditions. The information outlined in these terms and conditions can and will be used in the event of a discrepancy.
- 1.3. By signing these Terms and Conditions ("**Agreement**"), you are acknowledging and agreeing:
 - a) You have been given a copy of this Agreement and agree to abide by the rules of the membership;
 - b) You are medically sound to undertake a normal course of exercise; and
 - c) You use the studio facilities at your sole risk and responsibility and that you are aware that exercise is physically demanding and participation in some activities may pose a risk to your health.

This Agreement also relates to the member's authority to debiting agents nominated by Fastrak Fitness to directly debit the nominated bank account or credit card for any instalments or fees due under the terms and conditions of this Agreement and signed Direct Debit request.

2. Definitions and Interpretations

- 2.1. In this Agreement, unless the contrary intention, the reference to:
 - a) The singular includes the plural and vice versa;
 - b) A party includes those party's legal personal representative heirs and agents;
 - c) You and member refers to the name in which the membership account has been created, which at times may differ to the party paying for the membership, and includes the parent or guardian of the members if the member is under the age of 18 years.
 - d) **Home studio** means the Fastrak Fitness studio location where you signed this Agreement.

3. Membership Queries

- 3.1. All queries and comments about the services provided under this Agreement should be directed to the home studio via the studios contact details listed on the website. All queries and comments about the direct debit billing service should be directed to your Fastrak Fitness home studio. The member acknowledges that EziDebit has been engaged by Fastrak Fitness to collect all the fees due under this Agreement if paying by way of direct debit, and also acknowledges that all rights to the studio under this Agreement are able to be enforced by EziDebit as if it were the studio without any involvement on the part of the club or the consent of the member.

4. Studio Access and Arrival Time for Your Session

- 4.1. All members must arrive 10 minutes prior to the start of a session. If late to a scheduled session, the member acknowledges that the session will conclude at the pre-scheduled time. If arriving in excess of 10 minutes late then the studio holds the right to cancel the session with 100% of session debited. All sessions must be paid prior to commencing exercise. In the event of an outstanding amount, the member is responsible to pay the balance prior to the commencement of the session.

5. General conditions of entry

- 5.1. To assist us in maintaining a safe and comfortable environment for all members and staff, you are required to abide by the following conditions and failure to abide by these conditions may result in the suspension or termination of your membership. Fastrak Fitness holds the right to decline service and membership to any member.
- 5.2. Entry will be refused or you may be requested to leave the studio if you are using abusive or threatening language or behaving in a threatening way or you are under the influence of drugs or alcohol, non-smoking. Fastrak Fitness is a non-smoking premise. Illegal activities are not permitted in the studio, including and not limited to the use or sale of steroids or performance enhancing drugs.
- 5.3. Children: minors under the age of 18 years may be eligible for a membership subject to Fastrak Fitness's guidelines and the following general terms and conditions. The minor must complete medical waiver in the presence of a legal parent or guardian and the minor must comply with all safety requirements of the studio as communicated to the member from time to time. The minor's membership may be cancelled for any inappropriate behaviour or failure to comply with safety requirements.

6. Membership Entitlement

- 6.1. Membership at Fastrak Fitness entitles you to work out once or twice per week in line with your membership payments. Additional charges will be incurred for additional sessions. Fastrak Fitness holds the right to make changes to the facilities at any time.

7. Membership obligations

7.1. Membership at Fastrak Fitness requires you to:

- a) Update your contact details with your studio when they change;
- b) Comply with all guidelines in this Agreement;
- c) Pay all agreed fees;
- d) Ensure sufficient funds are available to cover all fees;
- e) Advise us in advance if your bank account or credit card is closed or changed; and
- f) Inform us in advance if there are any risks to your health if you participate in fitness services and if required seek approval from your doctor or general practitioner.

You acknowledge that we require a two-week cancellation notice in writing (email) to stop your direct debit, otherwise your membership will automatically continue. It is your responsibility to ensure the notice has been received by Fastrak Fitness in good order for us to process your request. You acknowledge a failed Direct Debit payment will incur a \$10.00 administration fee to rectify the payment. To start a membership a deposit of 1 session is required.

8. Session Pack Entitlement

8.1. Purchasing a session pack entitles you to 10 or 30 EMS sessions to be used at your own discretion. It is advised to take 48 hours rest between sessions. You are to use the sessions within the set expiry date as displayed on the website and in Annexure A to this Agreement. There will be no refunds given for unused sessions after expiry. Fastrak Fitness holds the right to make changes to the facilities at any time. Fastrak Fitness holds the right to change the expiry date of the exact same plan you signed up and enforce this expiry date if you decide to resign for that plan.

9. Special conditions for certain memberships and annual leave

9.1 If there are special conditions or benefits relating to your membership type, these will be displayed on the website and form part of your membership Agreement. If your membership or joining promotion entitles you to free time, you will not be charged your weekly fees for the use of the club during the specified period of free time, and you agree that the term of your membership shall be extended by the specific period of free time. Members on a membership are entitled to a free time once a year for their annual leave up till 8 weeks. This will be offered only once a year and the term of the minimum time of membership shall be extended by the specific period of free time.

10. Overdue fees and revocation of membership entitlements

10.1 All entitlements and entry into Fastrak Fitness is revoked if a member's account is in arrears. If your automatic direct debit reverses or is returned to us by your financial institution the following process will apply:

10.2 Fastrak Fitness will attempt to contact you about the retrying of the debit. If the debit remains outstanding it will be processed within 14 days of the reversal with any reversal

and late fees that apply. If you fail to pay us the fees by the due date, we are entitled to refuse you entry to the club. If unpaid fees remain outstanding and after attempts to rectify the arrears your membership may be forwarded to a collection agency for further action. The cost of the collection agency will be your responsibility. Fastrak Fitness reserves the right to vary the process set out in this clause by providing you with one-month advance written notice of any changes.

11. Session expiration

11.1 Fastrak Fitness requires all weekly sessions to be booked in advance whereby failure to arrive to appointment or provide insufficient notice may result in a session being cancelled with 100% fee processed. Late cancellation (100% fee processed) of a session will occur in the instance you do not arrive for your session or provide equal to or less than 4 hours' notice. Early cancellation (0% fee processed) applies when Fastrak Fitness is provided with more than 4 hours'. Notice is to be made by way of phone or written confirmation to your Fastrak Fitness home studio, contact details of your studio can be found on the Fastrak Fitness website. Sessions expiry variations are outlined in individual membership options and differ based on frequency of payment and/or membership category.

12. Payments by Direct Debit

12.1 If paying by direct debit the member agrees to pay the instalment amount at the agreed payment frequency until this Agreement is terminated in accordance with Fastrak Fitness's cancellation terms. Should there be any arrears in payments, the member authorizes nominated provider (e.g. EziDebit) to debit the outstanding balance in order to bring the account up to date.

13. Cancellation / Termination & Transfer of membership by the member

13.1 A cancellation request should be provided to your studio as follows. During the cooling off period, your membership is subject to a 48 hour cooling off period whereby any fees taken will be refunded in full. During the 7-day early exit, the member is able to cancel further debits. However, all fees paid will not be refunded. The cooling off period applied to all new memberships only and does not apply to membership renewals. The cooling off period starts from the date the Agreement is signed and ends at close of business 48 hours later.

13.2 Cancellation of contract expires at the end of business 7 days later. Cancellation during cooling off can be done by contacting your home studio via the studio contact details as listed on the website. For permanent sickness or physical incapacity, Fastrak Fitness requires a medical certificate stating that you cannot utilise any fitness services or facilities because of your permanent illness or physical incapacity. Should a member present with a contraindication listed under Fastrak Fitness's medical contraindications policy then a medical certificate must be supplied stating the contraindication advising medical grounds to cancel the membership. Should a member be diagnosed with a contraindication, then the contract will be cancelled immediately with no fee.

13.3 If cancelling for the reason of moving away, Fastrak Fitness will request utility bills stating the new address with the member's personal details available on the supplied the

document. Cancellation based on relocation will be approved if the member has moved more than 60 kilometres from the closest Fastrak Fitness location. Should documentation be supplied, Fastrak Fitness will cancel the contract with no fee due. Fastrak Fitness may agree to cancel the members upon payment of a cancellation fee if paid in full at time of cancellation request.

13.4 Cancellation cost is outlined within individual membership options but can be categorised as any membership-based option which is subject to a cancellation fee of 50% of remaining value. Plans (10 and 30) are subject to pay the remainder of the value due. Trial packs, plans and memberships are not transferable to any other members or persons.

14. Cancellation after completion of minimum term

14.1 Fastrak Fitness requires you to contact your home studio via the contact details as listed on the website advising of your cancellation request. There will be a notice period of two weeks unless otherwise specified, from the date of cancellation request to the date of termination, during which any payments that fall due must be paid in full. The notice period will exclude suspension or payment break time applied to your membership.

14.2 Any instalments/ fees due at the date of termination (including instalment/ fees which fail due during the notice period) will remain a debt owed to and recoverable by Fastrak Fitness and/or nominated direct debit provider (e.g. EziDebit). You shall not consider that your membership Agreement has been terminated until such time as Fastrak Fitness confirms this in writing. Termination of your membership Agreement will also terminate the direct debit request authority.

15. Ongoing membership Agreements

15.1 You acknowledge that we require a two-week cancellation notice in writing (email) to stop your direct debit, otherwise your membership will automatically continue. It is your responsibility to ensure the notice has been received by Fastrak Fitness in good order for us to process your request.

16. Termination by Fastrak Fitness

16.1 Fastrak Fitness reserves the right to terminate this membership Agreement in accordance with the following conditions:

- a) Failure to abide by any of the criteria listed in the conditions of entry or the items listed in this Agreement.
- b) Action upon a complaint by a club member, employee or contractor of Fastrak Fitness.
- c) The temporary or permanent closure of the studio where a suitable replacement studio is not available for the membership to transfer.
- d) Any other reason in the interests of protecting the health and safety of you or other members.

17. Damage and Personal Injury

17.1 To the extent permitted by law, Fastrak Fitness and nominated direct debit provider (e.g. Fastrak Fitness) excludes any liability to the member in Agreement, tort, statute or in any other way for any injury, damage or loss of any kind whatsoever (including, without limitation, any liability for direct, indirect, special or consequential loss or damage), sustained by the member and/or any other person, or for any costs, charges or expenses incurred by the member, arising from or in connection with this membership Agreement and/or the services/ products provided by Fastrak Fitness and/ or debit success, and/or any act of omission of Fastrak Fitness and/or nominated direct debit provider (e.g. EziDebit).

18. Children on premises

18.1 Children are welcome at Fastrak Fitness. Please note that you remain fully responsible for your children and their actions at all times and under all circumstances before, during & after your session. We require that your children are well behaved and do not disturb other clients during their training. Children are to remain in the upstairs area at all times unless under the parent's direct supervision. Your children will be liable for any and all damage to Fastrak Fitness property.

19. Safety, maintenance and service demand

19.1 We give you warning that, whilst on our premises and during your Fastrak Fitness training sessions, you may suffer injuries including broken bones, soft tissue injuries and joint injuries. These injuries may occur as a result of you slipping on wet flooring, collision with equipment or other members. If you suffer an injury during your training session, it is your responsibility to notify your instructor immediately so that first aid treatment can be administered.

19.2 From time to time, Fastrak Fitness may be required to make changes to the operation of the premises, these may include:

- a) Changing the operating hours to suit demand changed the availability of facilities or services within the studio
- b) Close off part of the premises for maintenance or safety reasons; and
- c) Changing the conditions of entry.

Where this occurs Fastrak Fitness will provide reasonable notice on the studio's social media sites and/or by written notice.

20. CCTV & Privacy Policy

20.1 You acknowledge and understand that closed circuit television will be installed within each studio and surrounds as a strategic component for the team member, member and contractor safety and crime and misconduct prevention. You consent to being filmed under CCTV for these purposes and understand that Fastrak Fitness will only use and store your image in accordance with its privacy statement and CCTV policy.

20.2 Your personal information (as that term is defined in the privacy Act 1988, will only be used by Fastrak Fitness or nominated direct debit provider (e.g. EZIDEBIT) to provide you with the services contemplated by this Agreement. Fastrak Fitness's privacy statement can be obtained from its website www.fastrakfit.com

21. Entire Agreement

21.1 This Agreement and its annexures, the DDR service Agreement (if paying by direct debit), and any special terms and conditions listed on the website consist of the entire Agreement, understanding and arrangement (express and implied) between the member, Fastrak Fitness and nominated direct debit provider (e.g. EziDebit) relating to the subject matter of this Agreement and supersedes and cancels any previous Agreement, understanding and arrangement relating thereto whether written or oral. The issuer of the billing service is currently EziDebit.

22. Copyright and Confidentiality

22.1 Users of our Website located at www.fastrakfit.com and/or services have access to and may download available materials and resources. All intellectual property rights in materials and resources provided on the Website are owned by Fastrak Fitness or its affiliates or licensors.

22.2 You must not do anything with the materials and resources that is not expressly authorised by this Agreement. Without limitation, you must not modify, adapt, sell, or use the materials and resources for a commercial purpose (such as charging third parties for access to the materials and resources) or personal gain without the prior consent of Fastrak Fitness.

23. Intellectual Property

23.1 All trade names, trade marks, service names, and logos displayed on our website and services are proprietary to their respective owners and are protected by applicable trade mark and copyright laws. These marks may be our registered or unregistered marks or may belong to others and are used on our Website or services with permission of the relevant owner.

23.2 You will not attempt to decipher, disassemble, reverse engineer or modify any of the software, coding or information comprised in the Website; nor will you post to the Website any material which infringes any intellectual property rights of any third party.

23.3 You are not permitted to copy, share or distribute e-courses or content produced by Fastrak Fitness and available through our Website or services.

23.4 By using the Website, you confirm that any content and personal data you submit or post to the Website will not infringe any other person's Intellectual Property Rights or any law.

24. Specific Warning and Disclaimers

- 24.1 Fastrak Fitness makes no representation or warranty as to the reliability, accuracy or completeness of the information contained on our Website or given in the course of our services, or that your use of our services will be uninterrupted or error free.
- 24.2 You should not act on the basis of anything contained on our Website without first obtaining professional advice specific to your circumstances. Never disregard professional health or medical advice or delay the seeking of treatment because of something you have seen on our Website. You must make your own assessment of the information and, if you choose to rely on it, it is wholly at your own risk.
- 24.3 We may, from time to time, change or add to our Website without notice. However, we do not undertake to keep our Website updated and we will not be liable to you or anyone else if errors occur in the information on this Website or if that information is not up to date.

25. General Terms

- 25.1 *Initial term:* Nominated direct debit provider (e.g. EziDebit) will debit your nominated account for the amounts and at the frequency of payments as agreed between us and you.
- 25.2 *Change of term:* in the unlikely event that the initial terms are changed, they can only do so in accordance with your contract and we must notify you at least 14 days prior to changes including if applicable the new amount, new frequency and next debit date.
- 25.3 *Deferring or stopping a payment:* Should you wish to defer a payment to another date you must contact Fastrak Fitness prior to the date of that payment to request the deferment. Deferments are entirely at the discretion of Fastrak Fitness and will depend on the length of deferment, the current state of your account and your past history.
- 25.4 *Altering the schedule:* should you wish to alter the payment frequency or day of debit contact your home Fastrak Fitness studio and at our discretion in most instances we will be able to make the changes as required. Any changes made will not affect the total amount you would otherwise have paid over the minimum term of your contract.
- 25.5 *Cancelling the payments:* you can cancel this direct debit request authority by requesting this of nominated direct debit provider (e.g. EziDebit) or your bank. Cancellation of the authority to debit your account will not terminate this membership Agreement or remove your liability to make the payments you have agreed to.
- 25.6 *Disputes:* If you dispute any debit payment, you must notify your Fastrak Fitness studio immediately. Fastrak Fitness will respond to you within 7 working days and will immediately refund the amount of the debit if we are not able to substantiate the reason for it. If you do not receive a satisfactory response from us to your dispute contact your financial institution who will respond to you with an answer to your claim within 5 business days if your claim is lodged, within 2 months of the disputed drawing, or within 30 business days if your claim is lodged after 12 months from disputed drawing.



- 25.7 *Non-working day*: when the day to debit falls on a weekend or public holiday the debit will be initiated the next working day.
- 25.8 *Dishonoured payments*: it is your responsibility to ensure that on the due date clear funds are available in your nominated account to meet the direct debit payment. Should your payment be dishonoured, nominated direct debit provider (e.g. EziDebit) will debit you an additional \$10.00 with your next payment and may, if we have not received instructions to the contrary from you, debit both the current due payment and the now overdue payment(s) on the same day or before. Nominated DD provider may debit other fees involved with debt collection in accordance with the terms and conditions of the contract.
- 25.9 *Enquiries*: all enquiries should be directed to your Fastrak Fitness home studio and should be made at least two working days prior to the next scheduled debit date.