

TERMS AND CONDITIONS

These are the Terms and Conditions on which Kyogle Community Gym (“the gym” or “we” or “us” or “our”) is willing to provide membership to the Fitness Business to you. Any variation to these Terms and Conditions must be in writing and signed by our authorised officer.

THIS IS AN IMPORTANT DOCUMENT – PLEASE ENSURE YOU READ IT CAREFULLY THIS IS PART OF YOUR CONTRACT

1. Contract Rectification

We have seven (7) days after the formation of the Contract to rectify any error or miscalculation provided in the Contract.

2. Cooling Off Period

After applying for membership, you have a seven day period (“**Cooling Off Period**”) during which you may cancel your membership. Notice must be given in writing. A refund equal to the Membership Fee and any additional amounts paid minus the Administration Fee and the cost of any fitness services already supplied will be applicable. If you terminate your Contract after the Cooling Off Period, different conditions will apply. The following termination clauses outline your right to terminate the Contract and any fees payable in such circumstances.

3. Termination without fixed contract

You may terminate the Contract with immediate effect at any time by providing us with written notice.

No fees will be applicable for terminating in accordance with this clause and should you wish to re-establish your membership at a later date, you will be required to lodge a new membership application and pay any fees, as applicable, at the time of application.

4. Termination within the Minimum Term on fixed contract

You may terminate the Contract without additional fees prior to the expiry of the Minimum Term with immediate effect by providing us with written notice if:

- we make changes to the Contract which adversely affect you (please refer to clause 7);
- we breach our obligations to you (please refer to clause 8);
- you become subject to medical incapacity (please refer to clause 9); or
- you otherwise become entitled to do so under consumer legislation.

5. Termination on expiry of the Minimum Term on fixed term agreement

If you have a **Fixed Term Agreement**, it will terminate automatically upon expiry of the Minimum Term.

6. Term and Termination of Weekly Payments

If you have a **Weekly Payment Agreement**, you are entitled to receive the services specified in the Membership Application for each Supply Period for which you have paid Membership Fees in advance. If you have a Weekly Payment Agreement, you may provide written notice of termination giving us 14 days notice. The Contract will then terminate at the conclusion of the Supply Period which is currently two weeks after you provide notice. If you have paid in advance for further Supply Periods after termination, you will be refunded the amount paid for those further Supply Periods.

7. Termination when Changes made to Terms and Conditions

You are entitled to terminate the Contract with immediate effect at any time by providing us with written notice if:

- we make amendments to these Terms and Conditions and you do not continue to use the Fitness Business as contemplated by clause 28; or
- higher Membership Fees applicable to your membership are introduced.

No fees will be applicable for terminating in accordance with this clause apart from the Administration Fee, Membership Fees for the time you have been a member and any additional fees for fitness services already supplied.

8. Termination where we Breach our Obligations

If we are in breach of our obligations under the Contract and we have not remedied that breach within a reasonable time after you have notified us of our breach in writing, you are entitled to terminate the Contract with immediate effect at any time by providing us with written notice. No fees will be applicable for cancelling in accordance with this clause apart from, to the extent not impacted by our breach, the Administration Fee, Membership Fees for the time you have been a member and any additional fees for fitness services already supplied.

9. Termination for Medical Reasons

You may terminate the Contract with immediate effect at any time by providing us with written notice if you produce

supporting documentation to our reasonable satisfaction to demonstrate medical incapacity. In that event, you will only be charged the Administration Fee, Membership Fees for the time you have been a member and any additional fees for fitness services already supplied.

10. Termination for Relocation or Convenience

You may terminate the Contract with immediate effect at any time by providing us with written notice without cause or if you relocate to an area not proximate to the Fitness Business. However, in that event, unless we are in breach of our obligations under the Contract, you will be charged the Administration Fee, Membership Fees for the time you were a member and any other fees payable for any further fitness services already supplied. You may transfer your membership to someone who is or is not a member.

11. Fitness Business Rules

You must ensure you read, understand and abide by these Terms and Conditions and the Fitness Business Rules as attached or which are notified to you through signage, hand-outs, verbal communications or Facebook.

12. Right of Exclusion

We can refuse entry to the Fitness Business, cancel your membership and/or terminate the Contract without warning or notice for inappropriate threatening or harassing behaviour, damaging equipment or facilities or use of illegal or performance enhancing drugs in the Fitness Business.

13. Payment of Fees

Payment by the internet: You acknowledge that, if you choose the weekly payment agreement, payment will be made in advance via internet transfer to the account details provide with Summerland Credit Union. You acknowledge that you have been provided with a copy of the Summerland Credit Union Bank account details for direct credit. You can cancel your weekly payment by giving us 14 days written notice. You may contact us by phone on 02 66322551.

14. Administration Fee

The Administration Fee is a fee used for all set up costs of a new or a renewing membership. The Administration Fee is not refundable, even if you choose to cancel your Membership Application during your Cooling Off Period.

15. Membership Fee Increase

If you have a **Fixed Term** or a **Weekly Payment Agreement** then, subject to your rights in clause 7, we reserve the right at any time after the Minimum Term of the Contract, to increase the Membership Fees to be charged. If we increase Membership Fees we will provide at least two weeks prior notice of the increase by post, SMS or email to the addresses provided by you in the Membership Application. We will not use this right to vary the terms on any special offer which applies to you.

16. Suspension

Membership suspension is available provided that all amounts payable for your membership are paid up to date. You can suspend your membership for travel, medical or other reasons permitted by the Rules upon provision of satisfactory supporting documentation. All suspensions must be applied for in writing to us at least fourteen (14) days prior to the commencement of the suspension period. Credit payments will only be suspended for the direct credits that fall within the suspension period.

17. Damages/Personal Injury

Warning: Whilst in the Fitness Business you may suffer injuries including broken bones, soft tissue injuries and joint injuries. Any injuries suffered by you may occur as a result of weights striking you, collision with equipment or other members or as a result of you slipping on wet flooring.

Limitation of Liability, Release and Indemnity: We will, unless excused from liability by operation of statute, compensate you for death, personal injury, illness or property damage caused by gross negligence on our part and for loss and damage to your personal property arising from our failure to supply services to you with due care and in a manner fit for the purpose which is reasonable to expect in all the circumstances. In consideration of the grant of membership to you, entitling you to engage in fitness activities, you hereby otherwise:

- agree, to the extent permitted by law, to not hold us liable for any actions, suits, proceedings, claims, demands, losses, damages, penalties, fines, costs and expenses however arising that you may have had but for this clause arising from or in connection with your involvement in fitness activities in the Fitness Business or using our facilities, services or products;
- agree that you will indemnify us to the extent permitted by law in respect of all actions, suits, proceedings, claims, demands, losses, damages, penalties, fines, costs or expenses however arising as a result of or in connection with your involvement in fitness activities in the Fitness Business or from using our facilities, services or products.

18. Risk Management

To mitigate risk and ensure that you correctly operate or use any of our facilities, services, products or equipment, including the adjustments of levels or settings on any equipment, you are required to undertake an instructional consultation with a member of our staff before use.

19. Responsibility for Damage

You are solely responsible for any damage which you may cause to the Fitness Business, its facilities, services, products or equipment, if such damage is caused by your wilful act and/or negligence.

20. Disclosure of your Physical Condition

Provision of a safe and effective exercise program is dependent upon accurate health and fitness profiling. You

agree to disclose to us all relevant personal health and fitness information both prior to and during engagement in any exercise program, service or facility we provide to you, as a part of your membership. This is inclusive of any health risk assessment, initial and periodic fitness assessment and relevant information or recommendations provided by your medical or allied health practitioner/s. You further warrant and represent that you will not use the Fitness Business or any of our facilities, services or products whilst you are suffering from any infections or contagious illness, disease or other ailment or whilst you are suffering from any physical ailment such as open cuts or sores or minor infections where there is a risk, however small, to other members and guests.

21. Change of Details

You must keep us promptly informed of any change of address, phone contact numbers, email address, bank account and credit card details for payment and any other personal information that is relevant to your membership with us.

22. Contractors

Contractors and franchisees may provide services at the Fitness Business. Fees for such services are paid directly to the contractors and franchisees. We take no responsibility for the fees paid to these contractors and franchisees. You hereby agree not to hold us liable and you agree to indemnify us and keep us indemnified for any claims suffered by you as a result of an act or omission by a contractor or franchisee in the Fitness Business.

23. Assignment

You must not assign any rights or benefits under these Terms and Conditions unless you have obtained our prior written consent. We may assign or transfer any rights or benefits under these Terms and Conditions at any time without notice to you. However, we will remain liable to meet our obligations to you under these Terms and Conditions and the Contract.

24. Intellectual Property

These Terms and Conditions do not give you any intellectual property rights in the Fitness Business, or in our facilities, services or products.

25. Privacy Statement and Acknowledgement

During the process of entering into the Contract with you and during the term of the Contract we will obtain access to certain types of your personal information, such as information relating to your health and financial position. We will only use, disclose or deal with such information in accordance with our Privacy Statement. A full copy of our Privacy Statement is attached.

26. Governing Law

These Terms and Conditions are governed by, and you agree to submit to, the laws applicable in the state or territory of Australia in which the Contract was formed.

27. Variation

We may, subject to your rights in clause 7, alter these Terms and Conditions or the Rules at any time upon thirty (30) days written notice. All use of our Fitness Business and its facilities, services and products after the date specified in such notice will be subject to such altered Terms and Conditions or Rules. If you continue to use our Fitness Business and its facilities, services and products after the date such alterations become effective or otherwise demonstrate by your conduct that you agree to the altered Terms and Conditions or Rules, you will be deemed to have agreed to the altered Terms and Conditions or Rules.

28. Your Obligations

You acknowledge that the Consumer Credit Code does not apply to these Terms and Conditions.

If, at any time:

- you believe that you may not or may be unable to perform or comply with your obligations under these Terms and Conditions;
- you are unable to pay your Membership Fees, including any instalment of Membership Fees, as they fall due for payment;
- a cheque received from you is dishonoured;
- you are or become bankrupt; or
- your Membership Fees are overdue and are not paid in accordance with these Terms and Conditions in circumstances where we have not breached our obligations under the Contract,

you agree that:

- you will immediately notify us that one or more of the above notifiable events has occurred and you will keep us notified on a monthly basis until such notifiable event no longer exists;
- we have no obligation and will cease to allow you to use any of our services or products available to you under your membership while a notifiable event exists;
- we may terminate the Contract with immediate effect by providing you with written notice;
- we may request payment in advance for the remainder of the term of your membership; and
- we have no obligation to respond to any offer you make to extend or renew your membership while a notifiable event exists.

29. Severability

If any part of this Contract is or becomes illegal, void or unenforceable, this does not invalidate the rest of this Contract.

30. Photos

A digital photo will be taken and uploaded into the gym database for the sole purpose of identification.

31. Consent to use your image

You understand that photos, films, videos or audio recordings are sometimes taken of Members for promotional purposes. Your permission will first be obtained if this is done. By signing this Agreement, you agree to allow your image, recording or likeness to be used for any legitimate purpose by us and you assign your rights in any of these materials to Kyogle Community Gym.

32. SECURITY

24 Hour CCTV cameras

Our premises have CCTV security cameras recording 24-hours a day (excluding the toilet block) and may have remote video guarding services. This system is used for security purposes but does not guarantee against harm. You should contact us if you have questions on this.

Emergences

We 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.

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

Be cautious

You must be cautious when entering, leaving the premises and using the gym and you must wear security lanyards when appropriate, for example, if exercising alone or outside Staffed Hours.

Following Directions

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

33. Other

As noted in clause 32 camera recording is used in the gym (except in toilet block).

Members and guests are not allowed to take photos and/or videos in the gym unless specific permission is granted by us.

34. Your Fob Key

You will need your Fob Key (or access card) to access the gym 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 the gym during Staffed Hours if you show photo ID to gym staff but this will be at the discretion of the gym staff. You should not ask or expect another person to let you into the gym at any time.

You must not let anyone else into the gym without the approval of gym 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.

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 gym access. A Replacement Fob Key Fee will apply.

Fob & Tailgate Fees

A Replacement Fob key (or access card) is \$30.

The Tailgate Fee is \$100.

35. Orientation

You may be required to participate in a Member orientation to familiarise you with the Facilities and Services before you use them. This orientation may be in the form of a video.

36. Commercial Activity

You acknowledge that engaging in any commercial or business activities in the gym, such as offering training services or selling goods in the gym 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.

RULES OF THE FITNESS CENTRE

1. All members must complete and sign a membership application before using the fitness centre and its equipment.
2. All members must sign in with their Kyogle Community Gym membership Fob (or access card) upon entering the fitness centre.
3. Proper fitness attire is required. Street clothes (jeans, khakis, etc.) are not allowed. **Appropriate shirts and shoes must be worn at all times in fitness areas.** Sandals and flip-flops are not appropriate footwear.
4. Everyone is expected to practice proper Fitness Centre etiquette. Examples include:
 - o Returning all equipment to the proper location after each use (re-rack weights).
 - o Wiping down all pads and surfaces after working out.

- Sharing equipment. If you are doing multiple sets, allow others to use the equipment between your sets. Do not rest on equipment between sets, and adhere to the time limits of equipment set by the fitness centre.
 - Practicing personal hygiene by using deodorants and wearing clean workout clothes.
 - Avoiding the fitness centre if you feel ill or believe you have a contagious illness.
5. Not using profanity or shouting. Offensive language will not be tolerated.
 - Using the equipment properly. If you need instruction, please contact a staff member
 - Not interrupting personal trainers who are working one-on-one with a member.
 - Being on time for scheduled classes and leaving the fitness centre *before closing time*.
 6. All furniture and equipment should be used properly and left in good condition for others.
 7. Fitness centre employees are not responsible for personal property that is lost, stolen, or damaged due to vandalism or any other cause.
 8. No food or drink (other than water) will be consumed in the fitness centre other than in designated eating areas. Water must be in spill-proof containers.
 9. Smoking is prohibited inside the gym, and in the areas immediately outside the doors.
 10. Posted or regulated time limits for using the fitness centre's facilities and equipment will be respected. In periods of heavy use, staff members may ask you to limit your time in a particular area to allow other members to use the facilities and equipment.
 11. Do not touch the stereo or office equipment.
 12. Do not enter the reception area.
 13. Gym users must be over 14 years of age. Gym users aged 14-17 are restricted from using free weights and are not allowed access during unstaffed hours.
 14. Fourteen to seventeen year old members may only use the gym when a volunteer or qualified instructor, employed by the gym, or other authorised third party is present.
 15. Out of consideration for other gym users, mobile phones are discouraged from use in the gym.
 16. No alcohol is to be consumed within the gym, or within the Showground precinct.
 17. Gym users are not allowed to train under the influence of alcohol or drugs. Anyone under the influence of alcohol or drugs will be asked to leave the gym immediately.

Weight Lifting and Exercise Equipment Areas

The following rules apply to users of the fitness centre's weight-lifting and exercise equipment areas:

1. For safety reasons; bags, jackets, and coats are not allowed in the weight-lifting or exercise equipment areas. All items should be placed in the racks and pigeon holes provided, or left at reception.
2. There is a maximum of 20 minutes per session on any cardiovascular equipment during peak hours. Multiple sets on the circuit machines are prohibited during peak hours.
3. Each piece of equipment used must be wiped clean after use.
4. Users must return bars/weights to their proper place/racks immediately after use.
5. Weight belts are not allowed on exercise equipment if the buckle makes contact with the equipment upholstery.

6. Keep hands and feet clear of moving parts while machine is in use. Never put hands or feet under weight stacks. Place hands and feet only on the hand grips and foot pads provided.
7. Do not operate equipment if it has loose or damaged parts. Report repair needs to the staff. Do not make repairs yourself.
8. Do not drop weight stacks, plates, dumbbells or other free weight equipment.

These rules are designed to make the fitness centre a safe and enjoyable place for all members. Violations of these rules can result in suspension or termination of your fitness centre membership.

These rules may be modified or amended at any time without prior notice.

PRIVACY STATEMENT

Kyogle Community Gym (“we” or “us” or “our”) respects your privacy and we are committed to the protection of personal information. We follow the National Privacy Principles in the Privacy Act 1988 (Cth).

The purpose of this Privacy Statement is to let you know how we collect, use and disclose personal information.

Collection

We collect personal information so that we can provide you with our services and products and to manage our activities. We only collect personal information that is relevant and where necessary.

The type of personal information we collect will depend upon the reason for its collection. Generally, for the provision of health and fitness services this may include address and contact details, date of birth, next of kin, health service provider details and medical record details. If you are interested in our services and products, the type of information we collect will include financial details.

We collect personal information about you in a number of ways including:

- directly from you, such as when you:
 - contact us about our services or products;
 - fill in an membership application form;
 - subscribe to our newsletters or mailing lists;
 - enter your personal details on our website or Facebook page (for example during registration or application for membership);
 - provide information by phone or in documents sent by fax or email;
 - enter promotions, competitions or giveaways; or
 - make a payment or donation to us;
- from other health professionals;
- from organisations which we might be working together with when providing you with services or products;
- from your representatives including guardians, trustees, executors and attorneys;
- from publicly available sources of information;
- from credit-reporting and fraud-checking agencies and credit providers for credit related purposes such as credit worthiness, credit rating, credit provision and financing;
- from our own records of your dealings with us; or
- when legally required to do so.

Where reasonable and practicable, we collect personal information directly from you rather than a third party. In an emergency, we may need to collect information from a family member, friend, carer or other person.

When we collect personal information, we collect it in a way that is lawful, fair and not intrusive.

We do not collect sensitive information about you without your consent.

Use & Disclosure

Except as provided for in the case of our Direct Debit Service Provider below, personal information which we have collected for a particular purpose will not be used for any other purpose, unless the purpose is related to the main purpose for which we collected the information and you would reasonably expect us to use or disclose the information for that other purpose.

Personal information which we collect may be used by us:

- to identify you;
- in providing services or products to you and the administration and management of those services and products;
- to provide you with information about our services and products;
- to develop and improve our services to you;
- for fundraising purposes;
- in undertaking risk assessment and management; or
- in gathering data and disclosing data to third parties such as:
 - insurance brokers and insurers;
 - credit reporting agencies;
 - financial institutions including our own bankers;
 - our professional advisors, including our accountants, auditors and lawyers;

- service providers; and
 - industry groups having a legitimate reason to receive such information,
- as necessary from time to time for our organisation's functions.

Personal information which we collect may be provided to the Direct Debit Service Provider and used by the Direct Debit Service Provider for the purpose of assisting to service its products and for promoting its other products and services.

If you provide us with personally identifiable information, you may receive from time to time, telephone calls, emails or letters containing information about us. You agree to receiving emails and letters from us including information not only on the areas of interest you have indicated but all types of news and information on our services and products. If you do not want to receive them, please contact us. You may be asked to indicate your preference to receiving promotional material, when submitting information to us.

We may employ other companies or individuals to assist us in providing our services, or to provide certain services such as analysing customer lists, providing marketing assistance or consulting services. These third parties may have access to information needed to perform their function but, except in the case of the Direct Debit Service Provider as referred to above, cannot use that information for other purposes.

We do not provide any personal information to any third parties other than where required by law or as set out in this Privacy Statement.

We will not sell, trade or rent your personal information to others. We may provide aggregate statistics on our customers and users of our website to third parties such as advertisers, but these statistics will include no personally identifying information.

We co-operate with law enforcement agencies as required by law. We will also use or disclose personal information if we reasonably believe that it is necessary to lessen or prevent a serious or imminent threat to the life or health of a person.

Security

All reasonable steps are taken to ensure that all information is treated confidentially, kept secure and protected against unauthorised use, modification or disclosure and is maintained only for the purpose for which it is intended. Your email address will not be distributed to any third party apart from the Direct Debit Service Provider.

We use secure data communications technology.

You have the rights given by the *Privacy Act 1988 (Cth)* as amended.

Anonymity

Where possible, we give you the opportunity to deal with us anonymously. We may not however be able to provide you with our full range of services and products if you do not provide us with personal information.

Access

All reasonable steps are taken to correct the information we hold where that information is not accurate, up-to-date and complete.

You have the right to access your personal information to ensure that it is accurate, relevant, up to date and complete. If you believe that any of your personal information is incorrect, please let us know. There is no fee for requesting access to your information, however, we may charge you the reasonable cost of processing your request.

We may decline access to your personal information in special circumstances, such as where allowing you access could put you or another person at risk of harm, infringes on the privacy of another person or if we believe that your request for access is unlawful, frivolous or vexatious.

Intellectual Property

Intellectual property in all material sent to you belongs to, is licensed to or is authorised for use by us. We permit you to print or download extracts from this material for your personal use only. None of this material may be used for any commercial or public use, stored in or transmitted to any other website or distributed in any other form without our prior permission.

Cookies

Cookies that are used in any part of our website will not be utilised for collecting personally identifiable information and will only be used for internal management purposes.

Links

Our website or Facebook page may from time to time contain links to the websites of other organisations which may be of interest to you. If you access linked sites, you do so at your own risk. We do not operate or control these third party sites and we are not responsible for their contents, operation, privacy, accuracy or security policies. This Privacy Statement does not cover any linked sites.

Contact Us

If any personal information you submit changes, please update that information by contacting us.

We may from time to time make changes to this Privacy Statement. The latest version of our Privacy Statement is available upon request. You can also contact us to obtain a copy our Privacy Statement.

Requests for information about our Privacy Statement are welcomed. For further information on our Privacy Statement please contact: Chairperson Kyogle Together, PO Box 751 Kyogle, NSW 2474, phone: 02 66322 551.