



Terms and Conditions

1. Definitions and interpretation

In these terms and conditions, the following terms have the corresponding meaning unless stated otherwise:

Australian Consumer Law means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Us, we, our and EMF refers to EMF Investment Holdings Pty Ltd ACN 632 133 914 and each of our subsidiaries and Related Bodies Corporate (as defined within the *Corporations Act 2001* (Cth)).

2. Becoming a member of EMF

- 1.1 If you are intending to join an EMF gym or facility (**Club**), you should read and understand these terms and conditions (**Terms**) before you complete our membership form.
- 1.2 The membership agreement between you and the Club comes into effect once a membership form has been completed by you and accepted by a duly authorised officer of the Club.
- 1.3 These Terms apply to all members and other casual clients using a Club's facilities.
- 1.4 Our Terms are always available via our website, located at www.emfpc.com.au.

2 Access to your Club

- 2.1 Provided that you:
 - (a) remain a member of your Club with an up-to-date account; and
 - (b) comply at all times with these Terms (as updated from time to time),you are entitled to use the facilities of the Club during the Club's normal opening hours.
- 2.2 We reserve the right to collect your personal contact information and photo for identification purposes upon initiation of your membership.

- 2.3 If you are issued with a membership tag, this must be shown on entry to the Club. Access to the Club may be refused if you do not have your tag or if you cannot provide adequate evidence of your identity and membership.

3 General Terms and Conditions

- 3.1 We reserve the right to amend our Terms at any time. As noted above, the most up-to-date version of our Terms is available on our website. All changes to our Terms will be displayed in the Club at reception and via our website prior to implementing the relevant changes.
- 3.2 If you behave in a manner considered by us (in our sole discretion) to be unacceptable, we reserve the right to refuse entry to you and to cancel your membership. Unacceptable behaviour may include but is not limited to disruptive or threatening behaviour, causing damage to Club premises or equipment, abusive language to staff or other members, dropping weights or the use of any illicit substance.
- 3.3 To access the Club's 24/7 feature, you must have a valid membership tag, which will be provided to you after you have attended your safety induction.
- 3.4 Should you lose or damage your membership tag, you will be subject to a replacement fee. Our tag replacement fee differs depending on the type of membership tag originally issued to you. Replacement fees generally range from \$20 - \$50.
- 3.5 Members are not permitted to use their membership tag to allow other individuals (whether members or not) access to the Club. Members are also not permitted to lend their membership tag to any other individual (whether a member or not).
- 3.6 If you lose or forget your membership tag, you must not ask another member to allow you entry to the Club.
- 3.7 Should you allow another person to enter the Club by following you in, you will be subject to a



\$99 tailgate fee. All 24-hour doors are monitored by surveillance and tailgating is checked each day by staff.

3.8 A towel must be used on all seated or laying pieces of equipment. Clean, fully enclosed sports shoes must be worn at all times within the gym portion of the Club for health and safety reasons. In consideration of our other members, we require that:

- (a) a singlet or t-shirt to be worn at all times; and
- (b) all clothing be clean and tidy and must not feature any offensive print.

3.9 Children 13 years and under are not allowed within the Club at any time unless such children are attending childminding services or authorised kid's classes/programs, or unless otherwise approved by management.

3.10 We will contact members occasionally regarding important information relating to their membership by using the contact details provided to us at sign up. It is the responsibility of each member to ensure that their contact information is kept up to date to prevent important communications being lost.

4 Your health and physical condition

4.1 By accepting these Terms, you warrant to us that you are in good physical health and condition and that you are not aware of any medical or other matter that might be detrimental to your health, safety, comfort or physical condition:

- (a) as at the time you have joined the Club; and
- (b) each subsequent time you enter the Club and utilise the facilities present there or undertake training with any of the Club's personal trainers.

4.2 You acknowledge and agree that we have relied upon your above warranty when agreeing to allow you to become a member of the Club.

4.3 You acknowledge and agree that you must notify us of any conditions that may impede or prevent you from using our facilities safely or as they are intended. You further acknowledge and agree that it is your responsibility to ensure all of our staff and any trainer whom you work with is aware of any relevant condition effecting you. If

we require you to provide us with evidence from your doctor that you are in sufficient physical health and condition to participate in activity, you acknowledge and agree that:

- (a) you are responsible for obtaining and delivering such evidence to us; and
- (b) we may refuse to allow you to participate in a relevant activity until medical clearance has been received.

4.4 You must not use any of the Club's facilities whilst suffering from any contagious illness, disease or infection, or when suffering from any physical ailment, especially if there is a risk to the health or safety of yourself or other members.

5 Use of facilities

5.1 It is your responsibility to ensure that you correctly operate any equipment at the Club. If you are in any doubt as to how to do so, you should consult a member of staff before use.

5.2 If you cause any damage to any equipment or facilities at the Club, you must notify a member of staff. You may be held responsible for the cost of repair or replacement if intentionally using a piece of equipment not as it is designed to be used and you indemnify us against any loss or damage we suffer in this regard.

6 Fees

6.1 All membership and other fees are payable in advance, unless otherwise agreed in writing, and are non-refundable unless legally required under the Australian Consumer Law. When joining the Club, you will become responsible for paying your membership fees for the duration of your membership, as shown in the Membership Form that you sign. Fees are quoted inclusive of GST.

6.2 Payment may be made by direct debit only unless an upfront membership plan is selected. Please be aware that our direct debit merchant will charge \$4.40 per failed transaction attempt. It is your responsibility to ensure you have sufficient funds available to meet the payments requirements associated with your membership.

6.3 If any fees are outstanding, we will be entitled, without obtaining further authority from you, to charge them to your nominated account.



However, we will not do this if you have given us a written notice that a payment is disputed.

7 Fees in default

- 7.1 From 30 June 2023, where any member defaults in the payment of their membership fees on two or more occasions (**Payment Default**), the following provisions will apply.
- 7.2 In the event of a Payment Default, we will have the right to immediately pause your membership and access rights until the outstanding amount has been paid in full (**Membership Pause Period**). During the Membership Pause Period your upcoming membership fees will also be paused and you will instead be charged an amount of \$5 per week, which will be allocated to your outstanding fees until such times as your outstanding fees have been paid in full. Once the outstanding fees have been paid, your regular membership payments and access rights shall resume.

8 Expiry and renewal of membership

- 8.1 Following the expiration of your initial membership term, your membership will continue on a month-to-month basis unless and until you provide us with 14 days' prior written notice of termination. Until such time as you have notified us that you wish to terminate your membership, you will continue to be charged applicable membership fees and will remain liable for the payment of all such fees.
- 8.2 We reserve the right to increase membership prices at the cessation of a contracted period by giving notice to members using the contact methods registered to each member's account.

9 Membership hold

- 9.1 All members are entitled to up to 28 days of hold per 12 Month Membership Term (**Membership Hold**). Any debits due within the dates of the Membership Hold will be reduced to \$1.00 per day. During a Membership Hold, access to your Club will be restricted. Standard membership payments will recommence on the date of your agreed upon return.
- 9.2 For the purpose of this clause 0, **12 Month Membership Term** means each twelve-month period commencing from the date the member

commenced membership with the Club and resetting on the anniversary of that date each year.

10 Cancellation or termination of membership

- 10.1 All memberships agreements are subject to a 7-day cooling off period, commencing on the date you sign your membership form and submit it to us. Any membership cancelled within this period may be subject to an administration fee of up to \$75, plus the cost of any gym use which occurred during the cooling off period.
- 10.2 Membership cancellation forms can be completed and submitted in the Club, or if you are unable to attend, please email your cancellation form to info@emfpc.com.au. As noted above, unless terminated during your cooling off period, we require 14 days' prior notice of the termination of your membership. If you have a payment due within this time, it will be taken from your account in full (except for monthly payments, which will be charged at 50%).
- 10.3 Where memberships are terminated prior to the expiration of the minimum or contracted membership term:
- (a) members under membership agreements commencing prior to 30 June 2023 will be liable to payout 50% of the balance of membership fees owed for the remaining portion of the applicable contracted term; and
 - (b) members who joined with us after 30 June 2023 will be liable to payout 100% of the balance of membership fees owed for the remaining portion of the applicable contracted term.
- 10.4 You agree that the above amounts represent a genuine pre-estimate of the loss and damage we are likely to suffer in connection with your failure to fulfil your obligations under your membership agreement.
- 10.5 Any fees payable by you in respect of the termination of your membership are to be paid in full at the time of your termination request or will be automatically debited from the authorised payment method on file.
- 10.6 If you wish to terminate your membership due to illness or injury, you should submit your request



in writing with supporting evidence (such as a doctor's certificate or statutory declaration) in Club or, if you are unable to attend, please email info@emfpc.com.au and your request will be assessed by the cancellations team.

10.7 We reserve the right to cancel your membership by giving you notice if you fail to pay any fees within 30 days of the due date.

10.8 The termination of your membership will bring the membership agreement to an end but will not affect any rights accrued by either party prior to the termination date.

11 Personal training

11.1 All personal trainers present at the Club are sub-contractors and all fees relating to their services are set by them personally. Personal trainers are not our staff and have privately owned personal training businesses. Any instruction or recommendation made by a personal trainer within our Club is not a reflection of us or our policies or procedures.

11.2 Only personal trainers authorised by us can operate within the Club and utilise our facilities. No member is allowed to bring a third-party trainer into our facilities at any time. Bringing a third-party trainer into the Club may result in suspension or cancellation of your membership.

12 Failure to attend class or personal training session

12.1 Please be aware that any failure to attend a pre-booked class or personal training session will attract a \$10 no show fee, which will be automatically debited from your nominated account.

13 Personal property

13.1 You are responsible for the care and safe keeping of your personal property and valuables while you are on Club premises. We do not accept any liability in connection with the loss of or damage to your personal belongings while you are on Club premises and by accepting these Terms, you agree to release us and hold us harmless in connection with all such matters.

13.2 We recommend you bring no valuables onto our premises. If using available lockers, we

recommend you also

use a lock to secure your personal effects. Property left in lockers for longer than 24 hours will be removed and placed in lost property for claiming. Please be aware that lost property is disposed of or donated every fortnight.

14 Data protection

14.1 Personal information obtained by us concerning you will be kept confidential in accordance with our privacy policy and relevant legal requirements. You can access our privacy policy here <https://emfpc.com.au/emf-privacy-policy/>.

15 Allowing us to use your image

15.1 Please be aware that we film and take photos at our Clubs from time to time for advertising and promotional activities. We may use this across our social media and other platforms. By accepting these Terms, you grant us the right to use any such images or videos for business and promotional material. You also acknowledge and agree that all such material will remain our property and the property of our associated brands.

16 No transfer of membership

16.1 Membership is personal and not transferable, unless prior approval by management has been provided.

16.2 Guests may only be invited to the Club after obtaining authorisation from management or unless authorised by a staff member.

17 Minors

17.1 Members under the age of 18 are not permitted to access the Club or utilise its facilities outside of staffed hours. Valid membership tags issued to members under the age of 18 will be deactivated after hours to automatically deny access to the Club. Members under the age of 18 years must exit the Club at the end of the Club's staffed hours. Any member found to have breached this provision or who is found to have assisted another member to breach this provision may have their membership tag removed and membership terminated by management.

18 24-hour access



18.1 As some of our Clubs allow 24-hour access, there are certain times at which a Club may be unstaffed or unsupervised. Should you choose to utilise the Club or the facilities at the Club during unstaffed or unsupervised periods then, by accepting these Terms and electing to attend the Club at such times:

- (a) you acknowledge and agree that using the Club at such times may mean that you are exposed to a greater risk of harm or injury;
- (b) you warrant that you are competent and sufficiently fit both mentally and physically to utilise the Club and its facilities at such times; and
- (c) you agree to indemnify us and keep us indemnified against any loss, damage, personal injury, death or claim incurred or suffered by us or you in connection with your access to or use of the Club at such times.

18.2 If training alone, it is advised to use the after-hours distress necklace located under the key holder.

19 Gym surveillance

19.1 All of our Clubs are under constant camera surveillance for the protection of each the Club, its facilities and its members.

19.2 The recording of CCTV footage at our Clubs is done in a manner which is compliant with the relevant state legislation of each Club.

19.3 Any footage taken is viewed only by us and our authorised officers for the purposes of monitoring our Clubs and their facilities and for the protection of our members. We reserve the right to keep and use footage for legal proceedings relating to conduct which occurs inside our Clubs.

19.4 We are also required by law to provide copies of requested CCTV footage to police and governing bodies, provided it is requested through the appropriate channels.

20 Pool, sauna and steam room access

20.1 By accepting these Terms, you acknowledge and agree that:

- (a) our pool, sauna and steam room areas (the **Pool Areas**) are not supervised;

- (b) there are no lifeguards present within the Pool Areas; and

- (c) you use our Pool Areas solely at your own risk.

20.2 By accepting these Terms and electing to utilise the facilities within the Pool Areas, you warrant to us that you have basic swimming abilities and are a sufficiently competent swimmer to use our pool unsupervised.

20.3 You agree to indemnify us and keep us indemnified against any loss, damage, personal injury, death or claim incurred or suffered by us or you in connection with your access to or use of the Pool Areas.

20.4 Please be aware that the Pool Areas are accessible only during staffed hours. For the safety of all members, the use of the Pool Areas outside of staffed hours is strictly forbidden.

20.5 All members are to respect the rights of others whilst using the facilities within the Pool Areas.

20.6 No children under the aged of 16 are permitted to use the facilities within the Pool Areas without either a parent or guardian present or prior approval from management.

20.7 All members hereby acknowledge and agree to abide by the pool safety rules upon entering the Pool Areas.

20.8 All members are to shower before entering the facilities within the Pool Areas and there are to be no unauthorised events and/or activities without prior approval by management.

20.9 Appropriate attire must be worn within in the Pool Areas at all times. If using the sauna or steam room, members must be seated on a towel for hygiene purposes.

20.10 Any members caught using the facilities within the Pool Areas in contravention of these Terms or in a disreputable manner will have their membership immediately cancelled without refund.

21 Altitude rooms



21.1 Altitude rooms within our Clubs are only accessible during staffed hours by members with membership tag access to those rooms.

21.2 These rooms operate at reduced oxygen levels and, before training in these rooms, you must complete an altitude induction and sign an altitude waiver to ensure you are aware of potential risks to your health.

22 Acknowledgement of review of Terms

22.1 By accepting these Terms, you acknowledge and agree that you have read and understood this document.

23 Breach of Terms

23.1 Without limiting any other provision of these Terms, by accepting these Terms you agree to indemnify us and keep us indemnified from and against any loss, damage, personal injury, death or claim which we suffer, pay or incur as a result of:

- (a) your breach of any of the provisions contained within these Terms;
- (b) any warranty you have provided us being untrue at the time you gave the warranty or becoming untrue subsequently.

24 Compliments and complaints

24.1 Compliments and complaints regarding our facilities or service can be made in person at any of our Clubs, sent to our postal address or can be emailed to our customer relations team. The contact details are as below:

Email: info@emfpc.com.au

Post: PO Box 970, Nerang, QLD 4211

25 Notices

25.1 Whenever these Terms refer to a requirement for notice to be given (whether by you or by us), all such notices must be in writing.

26 Waiver

26.1 Any failure on our part to enforce any provision of these Terms or any Club rules shall not be treated as a waiver of the relevant provision or rule, nor shall it affect our right to subsequently enforce the relevant provision or rule.

27 Severance

27.1 If any of these Terms are held by a court to be illegal, unenforceable or invalid, the offending provision will be severed from these Terms and the remaining provisions of the Terms will continue in full force and effect.

28 Law and dispute resolution

28.1 These Terms and your membership are governed in all respects by the law of the relevant state or territory in which your Club is located.

28.2 If any dispute occurs between us, we will act in good faith in an effort to resolve it through direct negotiation with you. If this is unsuccessful, either of us may request that the dispute is referred to mediation in accordance with Office of Fair Trading. Any dispute that is not resolved by negotiation or mediation will be resolved by a court.

Quickpay Direct Debit Service Agreement

1. Definitions

In this Agreement unless the contrary intention appears:

Account means the account held at Your Financial Institution, from which we are authorised to arrange for funds to be debited.

Agreement means this Direct Debit Request Service Agreement between you and us.

Business Day means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.

Debit Day means the day that payment by you to us is due.

Debit Payment means a particular transaction where a debit is made.

Direct Debit Request or **DDR** means the Direct Debit Request between you and us (and includes any Form PD – C approved by us in the transitional period).

Us or **We** (also **us** or **we**) means Quickpay Pty Ltd, whom you have authorised by signing a Direct Debit Request.

You (also **you**) means the customer who signed the Direct Debit Request.

Your Financial Institution is the financial institution where you hold the Account that you have authorised us to debit

2. Debiting your Account

2.1 By signing a DDR, you have authorised us to arrange for funds to be debited from your Account. You should refer to the DDR and this Agreement for the terms of the arrangement between you and us.

2.2 We will only arrange for funds to be debited from your Account:
(a) as authorised in the DDR;

(b) if we have sent to the address nominated by you in the DDR, a billing advice which specifies the amount payable by you to us and when it is due.

2.3 If the Debit Day falls on a day that is not a Business Day, we may direct Your Financial Institution to debit your account on the following Business Day. If you are unsure about which day your Account has or will be debited, you should ask Your Financial Institution.

2.4 By signing this Agreement, you hereby accept that Quickpay and its associated entities are not liable for any prepayment made on products or services that are yet to be rendered. Any prepayments made are the responsibility of your provider and not Quickpay. If the provider is for any reason is unable to refund any payments you are hereby notified that Quickpay will not be liable for your prepaid funds.

3. Changes by Us

3.1 We may vary any details of this Agreement or the DDR at any time by giving you at least fourteen (14) days written notice.

4. Changes by You

4.1 Subject to clauses 4.2, 4.3, or 0 below you may change the arrangements under a Direct Debit Request by contacting us on 1300 659 537.

4.2 Deferment, cancellation or alteration to the debiting schedule outlined over the page will be considered subject to the terms and conditions of any contract/agreement between you and the payee named over the page.

4.3 If you wish to defer a payment you must notify us in writing at least fourteen (14) days before the next Debit Day.

4.4 Any cancellations made directly with Quickpay do not affect or terminate any contracts, agreements and/or payment obligations you have with the payee named over the page.

5. Your obligations



- 5.1 It is your responsibility to ensure that there are sufficient clear funds available in your Account to allow a Debit Payment to be made in accordance with the DDR.
- 5.2 If there are insufficient clear funds in your Account to meet a direct Debit Payment:
- (a) you may be charged a fee and/or interest by Your Financial Institution;
 - (b) you may also incur fees or charges payable to Quickpay; and
 - (c) you must arrange for the Debit Payment to be made by another method or arrange for sufficient clear funds to be available by an agreed time so that we can process the Debit Payment.
- 5.3 You should check your Account statement to verify that the amounts debited to your Account are correct.

6. Dispute

- 6.1 If you believe there has been an error in debiting your Account, you should notify us directly on 1300 659 537. Confirm the notice in writing to us as soon as possible so that we may resolve your query quickly.
- 6.2 If we conclude as a result of our investigations that your Account has been incorrectly debited we will arrange with Your Financial Institution to adjust your Account (including interest and charges) accordingly. We will also notify you in writing of the amount by which your Account has been adjusted.
- 6.3 If we conclude as a result of our investigations that your Account has not been incorrectly debited, we will respond to your query by providing you with reasons and any evidence for this finding.
- 6.4 Any queries you have about an error made in debiting your Account should be directed to us in the first instance so that we may attempt to resolve the matter between you and us. If we cannot resolve the matter, you may still refer it to Your Financial Institution which will obtain details from you of the disputed transaction and may lodge a claim on your behalf.

7. Accounts

- 7.1 You should check:
- (a) with Your Financial Institution whether direct debiting is available from your nominated Account as direct debiting is not available on all account types;
 - (b) your Account details are correct by checking them against your bank statement; and
 - (c) with Your Financial Institution before completing the DDR if you have any queries on how to complete the DDR.

8 Confidentiality

- 8.1 We will keep any information (including your Account details) in your DDR confidential. We will make reasonable effort to keep any such information we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.
- 8.2 We will only disclose information we have about you:
- (a) to the extent specified by law; or
 - (b) for the purpose of this Agreement (including disclosing information in connection with any query or claim).

9 Notice

- 9.1 If you wish to notify us in writing about anything relating to this Agreement, you should write to the address at the top of the page.
- 9.2 We will notify you by sending a notice in the ordinary post to the address you have given us in the DDR.
- 9.3 Any notice will be deemed to have been received two (2) Business Days after it has been posted.

10 Notice of Disclosure (Privacy Act 1988)

- 10.1 We may give information about you to a credit reporting agency for the following purposes:
- (a) to obtain a consumer and commercial credit report about you; and/or



- (b) allow the credit reporting agency to create or maintain a credit information file containing information about you.

6.5 This information is limited to:

- (a) identity particulars - your name, sex, address (and the previous two addresses), date of birth, name of employer, and drivers license number;
- (b) your application for credit or commercial credit - the fact that you have applied for credit and the amount;
- (c) the fact that we are a current credit provider to you;
- (d) repayments which are overdue by more than 60 days, and for which debt collection action has started;
- (e) advice that your repayments are no longer overdue in respect of any default that has been listed; and
- (f) Information that, in the opinion of us, you have committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with your credit obligations).