

Terms & Conditions

MEMBERSHIP AGREEMENT

This membership agreement (“Agreement”) is effective as of the date written above and forms a binding contract between PureFitness LLC, on behalf of itself and its direct and indirect subsidiaries and affiliates operating under the PureGym, PureFitness or Matrix brands (“PureFitness”), and its members, (“You,” “I,” or “me”). Please read this Agreement carefully as it contains, among other material terms, automatic renewal provisions (14(b)), assumption of risk provisions (3-8), and a binding arbitration agreement with a class action waiver (23-29).

I acknowledge and agree that the following are incorporated by reference and made a part of this Agreement as if they were fully set forth herein: (a) the rules, regulations and schedules posted at the club or posted on PureFitness website (which PureFitness may modify from time to time at its discretion), and (b) PureFitness Privacy Policy (available at <https://www.purefitness.com/privacy-policy/>), (which PureFitness may modify from time to time at its discretion) (collectively, the “Incorporated Agreements”). This Agreement and the Incorporated Agreements constitute the entire agreement between PureFitness and me relating to the subject matter hereto and supersedes any oral or other written understanding. In the event of a conflict between the terms of this Agreement and the terms of the Incorporated Agreements, the terms of this Agreement supersede and control.

IMPORTANT NOTICE FOR MEMBERS

New York State law requires certain health clubs to have a bond or other form of financial security to protect members in the event the club closes. This club has posted the financial security required by law.

YOU MAY ASK A REPRESENTATIVE OF THE CLUB FOR PROOF OF THE CLUB’S COMPLIANCE WITH THIS LAW. YOU MAY ALSO OBTAIN THIS INFORMATION FROM THE NEW YORK STATE DEPARTMENT OF STATE, DIVISION OF LICENSING SERVICES, 162 WASHINGTON AVENUE, ALBANY, N.Y. 12231.

THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR PAYMENT OPTIONS

Depending on the membership options available at your Home Gym, and unless you are buying a Day Pass or a monthly/no-commitment membership, you may make payments on an installment basis. In deciding whether to make your payments on an

installment basis, you should be aware that if the club closes, although the club will remain legally liable for a refund, you may risk losing your money if the club is unable to meet its financial obligations to members.

Day Passes and monthly/no commitment memberships must be paid in full on the date of purchase.

IMPORTANT TERMS

1. **Membership Eligibility.** I am over the age of 16 and a resident of the above-listed state. If I am under the age of 18, I understand that my membership will not commence until my parent or legal guardian completes a Parent Waiver and Indemnification Form.
2. **Membership with PureFitness.** I wish to become a member of PureFitness. In exchange for giving me the benefits of a PureFitness membership, including the Use of PureFitness Premises and Services (defined below), I agree to all of the terms and conditions in this Agreement, including, without limitation, the automatic renewal provisions, assumption of risk provisions, and the binding arbitration agreement with a class action waiver. I understand that I cannot transfer this Agreement to anyone else.

ASSUMPTION OF RISK

3. **Use of Premises and Services.** I understand that use of PureFitness premises, facilities, equipment, services, App, activities or products (“Use of PureFitness Premises and Services”) can include but is not limited to (a) use of the PureFitness premises on an unstaffed and unmonitored basis; (b) use of a special entry system, studios, fitness floors, fitness equipment, bathrooms, locker rooms, saunas, other semi-private areas for personal training consultations, lockers, entryways, sidewalks, parking lots, parking garages, vending machines, hydro-massage chairs, recovery and meditation areas, and all other facilities, equipment, and area in or around the PureFitness premises; (c) participation in group fitness classes (including yoga and cycling) and weight loss or nutritional programs; (d) use of services and participation in activities off PureFitness premises, including but not limited to running, cycling, mountain biking, personal training, group fitness, athletic events, educational programs, wellness programs, travel programs, and field trips; (e) the use of independent personal trainers on the PureFitness premises; (f) the use of the PureFitness App, including for managing my membership, entry to the PureFitness premises, account services, and workouts; and (g) all other programs, activities, classes, sessions, seminars,

workshops, assessments, events, amenities, or benefits that are sponsored, endorsed or operated by PureFitness on or off its premises.

4. Potential Risks. I understand that the dangers, hazards, and risks possible in my Use of PureFitness Premises and Services (“Risks”) may include but are not limited to (a) slips, trips, collisions, falls, and loss of footing or balance, including “slip and falls” and falls from fitness equipment and on floors in areas (such as locker rooms, showers, saunas etc.) that develop wet or damp conditions necessarily incidental to their operation; (b) injury from exercise; (c) misconduct or negligent acts of other members, PureFitness employees, independent personal trainers, or individuals at the premises; (d) equipment failure, malfunction or misuse; (e) theft, loss, misuse or damage, of property or information, including from lockers, vehicles, equipment, files or systems; and (f) other accidents or incidents that may result in injury or damage to me.
5. Potential Injuries. I understand the potential injuries or damages resulting from such Risks may include, but are not limited to major or minor personal, physical, bodily, emotional, mental, economic, property or other types of injuries or damages (“Injuries”) to me, including but not limited to (a) death; (b) paralysis, brain damage, heart attacks, strokes, disfigurement, heat stress and/or heat stroke, dehydration, rhabdomyolysis, concussions, hearing loss, torn or damaged muscles or ligaments, broken bones, allergic reactions, burns, sprains, bruises and scrapes; (c) aggravation of pre-existing injuries or medical conditions; (d) pain and suffering; (e) loss of consortium, love, affection, comfort, companionship, or care; (f) emotional distress, embarrassment, humiliation, or shock; (g) lost wages or lost earning capacity; (h) lost, stolen, misused or damaged property or information; and (i) any other disability, impairment, incapacity, injury or damage.
6. Access During Staffed and Unstaffed Hours. I understand that my Use of the PureFitness Premises and Services are permitted during hours when all or part of the premises may be unmonitored and/or unstaffed. I accept and assume all the following terms, conditions, and Risks:
 - (a) Hours of Operation. I agree that I am responsible for knowing the staffed and unstaffed hours of operation at the premises, which are subject to change at any time. Staffed hours are available at the entrance to the premises and on the PureFitness website at <https://www.puregym.com/us/gyms/ny>.
 - (b) No On-Site Assistance During Unstaffed Hours. I am aware there will be no PureFitness staff present during unstaffed hours. I acknowledge that there could be a potential delay in response to a request for assistance during hours

when there is no oversight by PureFitness on-site. I further acknowledge that during unstaffed hours, to the extent provided, any assistance PureFitness may provide to me would be rendered through the use of remote and/or telephone communications. I agree that I will not use the premises during unstaffed hours if I have a medical condition that could pose a risk to me when I exercise.

- (c) Training Responsibly. I understand that PureFitness does not provide supervision, instruction, or assistance for the use of the facilities and equipment. I agree that I will not attempt exercises I am unfamiliar with or overexert or exercise beyond my own abilities.

7. Health and Safety.

- (a) The Condition of My Health. I represent that I am healthy enough to engage safely in the Use of PureFitness Premises and Services during staffed and unstaffed operating hours, and that I have had the opportunity to talk to a doctor prior to Use of PureFitness Premises and Services, which PureFitness strongly recommends. If I have any pre-existing medical conditions, I may be pregnant, or I am breastfeeding, I represent that I have consulted with a doctor before I begin the Use of PureFitness Premises and Services, including those provided in the PureFitness App. If I have a pre-existing medical condition which will benefit from regular exercise, I represent that my doctor has approved my planned activity. I agree that if my health changes or I become more vulnerable to injury, I will adapt or stop my Use of PureFitness Premises and Services accordingly. I understand that PureFitness is relying on my representations regarding my health in deciding whether to give me access to the Use of PureFitness Premises and Services.
- (b) Emergency Care. I acknowledge that PureFitness does not and will not provide medical advice and that its staff are not medically trained. I agree to remove myself from Use of PureFitness Premises and Services if I observe any hazardous, unsafe, dangerous or defective condition. I also agree to stop the Use of PureFitness Premises and Services if I am incapable of engaging in such use safely, or if required or instructed to do so by PureFitness and its independent contractors and designees. To the extent provided, if any, I consent to emergency care by PureFitness. I acknowledge that I am responsible for my own conduct, health and safety and that PureFitness is not responsible for any medical expenses incurred by me in connection with the Use of PureFitness Premises and Services.

8. My Assumption of Risk. I understand that Risks and Injuries in the Use of PureFitness Premises and Services (collectively, “Risks of Injury”) may be caused, in whole or in part, by the negligence of PureFitness, me, other members, and/or other persons. I FULLY UNDERSTAND, AND VOLUNTARILY AND WILLINGLY ASSUME, THE RISKS OF INJURY.

PAYMENT AUTHORIZATION AND REFUNDS

9. Membership Dues. “Membership Dues” consist of all dues applicable to the membership including, without limitation, any Daily, Monthly, or Fixed Term (defined below) membership fees, the Annual Maintenance Fee, and other administrative fees permitted by this Agreement. The Membership Dues are due and payable in advance on the day I purchase a Day Pass, or on the first of day each month that my membership remains in effect. My obligation to pay Membership Dues is not dependent upon my usage of PureFitness premises, my participation in PureFitness programs, or the availability of or access to all of PureFitness premises. PureFitness reserves the right to modify the amount and terms of payment of Membership Dues and any other fees, including service, late or invalid payment fees, all of which dues and fees may be increased in PureFitness sole discretion. If PureFitness elects to increase the price of any dues or fees, I understand that PureFitness will give me thirty (30) days notice of any upcoming price increase. PureFitness must advise me when the price increase will take effect and how much my membership or fees will cost after the increase. During this period, I will have my usual right to cancel my membership and this Agreement in accordance with the cancellation terms and conditions set forth below in Sections 14 and 15. If I do not cancel my membership and this Agreement by the date given to me in the notice, I understand and agree that the price of my membership will be increased in accordance with the notice.
10. My Payment Authorization. I authorize PureFitness or its agents on its behalf to automatically and without notice charge my designated credit/debit card or draft from my designated checking/savings account (together “EFT”), as applicable, for the Joining Fees, Day Passes, and/or the first month's Membership Dues, and on a monthly basis thereafter for any and all amounts due and owing to PureFitness, including my then-current month's Membership Dues (including the Annual Maintenance Fee), any outstanding portions of my Joining Fees or Membership Dues, any late fees or other administrative fees, and any collection costs and payments that I owe for the submission of invalid payment instruments. I waive written notice of an increase in any amount to my monthly EFT attributable to other fees, dues, costs or charges that PureFitness collects via my EFT, including its resubmission of declined transactions during or after

cancellation of my membership. In addition, the following fee and payment terms apply:

- (a) **Joining Fees.** I understand that the Joining Fee (if one is payable) and first month's membership fees will be collected from me by debit/credit card at time of purchase. I agree to pay the Joining Fees to obtain this membership. The second EFT for monthly Membership Dues only will be collected one (1) month after I join, unless I joined prior to my gym opening in which case it will be collected one (1) month after the gym opens. Subsequent EFTs for monthly Membership Dues will be collected monthly thereafter. Each payment made is not refundable under any circumstances, except as required by law. I understand that if this membership is cancelled, new Joining Fees may be due to obtain a new membership.
- (b) **Annual Maintenance Fee.** I understand that along with payment for my first month of membership and annual thereafter, PureFitness will collect an Annual Maintenance Fee.
- (c) **Other Administrative Fees and Penalties.** PureFitness may impose additional administrative fees if there are changes or upgrades to my membership. In addition, PureFitness may impose penalties for violations of Gym Policies (as defined below).
- (d) **Early Activation.** No Membership Dues beyond the first month's Membership Dues will be due and payable until after the PureFitness premises for which this membership has been purchased has opened, unless I or the primary member on this membership has chosen to use an active PureFitness premises. If this membership is activated early, the fourteen (14) day money back guarantee will begin upon the opening of the PureFitness premises for which this membership has been purchased, but, if the fourteen (14) day money back guarantee option is exercised, I will receive only the Joining Fees and first month's Membership Dues. Any early activation of this membership to use an existing PureFitness premises will require the payment of an early activation fee equal to the difference between the then-current Joining Fees at the existing PureFitness premises and the Joining Fees for this membership listed above.
- (e) **Dishonored Payment.** If any Direct Debit is returned unpaid or if any other form of payment is not honored for whatever reason, unless I have stopped payment in accordance with my rights as set forth in the Electronic Funds Transfer Act, I understand that PureFitness is not liable for any fees charged by my financial institution in the event a payment request is returned as

uncollectable. If, despite PureFitness having notified me of a missed payment, further payments are missed, PureFitness reserves the right to, at its sole election, either suspend or cancel my membership, upon written or email notice. PureFitness may present an option to reduce the administration fee if the outstanding amount is paid online within seven (7) days of becoming due. During any period of suspension or delinquency pending cancellation of my membership for nonpayment, I understand that my membership remains in effect such that I am responsible for payment of Membership Dues and other fees, dues, costs or charges to my EFT as authorized above. I understand that I will be responsible for all costs associated with the collection of any past due amounts associated with my Membership, including reasonable attorney's fees, costs, or other collection fees to the fullest extent permitted by applicable law. In the event that I am due a refund, I authorize PureFitness or its agents on its behalf to refund my EFT. I understand that if any outstanding Membership Dues remain unpaid by the end of the billing period, PureFitness will refer the matter to its collections agency, Aldous & Associates, LLC. At that point, I will be required to settle the outstanding balance directly with the agency. I understand that the agency may apply additional fees.

11. Certification of Credit/Debit Card Ownership. I certify that I am the cardholder of the credit/debit card, or owner of the authorized bank account, described above as the EFT. I agree to pay and specifically authorize PureFitness or its agents on its behalf to charge the EFT for all transactions pursuant to this Agreement. My authorization and card/account information may only be changed or cancelled in writing by me as the cardholder. However, I authorize PureFitness to use any services made available by card issuers or financial institutions which automatically update my card information and prevent disruptions due to account changes, such as an expired card or reissued card, and to continue billing the card in accordance with the terms of this Agreement. I may opt-out of this service at any time by utilizing my online account or by contacting member services via email or chat.

CANCELLING YOUR MEMBERSHIP

12. CONSUMERS RIGHT TO CANCELLATION. YOU MAY CANCEL THIS AGREEMENT WITHOUT ANY PENALTY OR FURTHER OBLIGATION WITHIN FOURTEEN (14) DAYS FROM THE DATE OF YOUR AGREEMENT. To exercise this cancellation right, you must notify PureFitness in accordance with Section 15 below. Notice should be accompanied by a copy of your Agreement, as well as any membership cards or key-fobs or other membership documentation given to you by PureFitness. Within ten (10)

business days after PureFitness receives notice of such cancellation, it will refund all amounts previously paid under this Agreement to my EFT.

13. **ADDITIONAL RIGHTS TO CANCELLATION.** You may also cancel your membership and this Agreement for any of the following reasons: (1) if upon a doctor's order, you cannot physically receive the services because of significant physical disability for a period in excess of three months, as evidenced by a signed letter from your doctor or other reasonable proof of your significant physical disability; (2) if you die, your estate shall be relieved of any further obligation for payment under this Agreement not then due and owing, as evidenced by a death certificate or other reasonable confirmation of death; (3) if you move your residence more than twenty-five (25) miles from any premises operated by PureFitness, as evidenced by reasonable proof of your new residency; (4) if you are called to serve full-time active duty in the United States Armed Forces; or (5) if the services cease to be offered as stated in this Agreement, i.e., they are no longer available or substantially available as stated in this Agreement due to PureFitness' permanent discontinuance of operation or substantial change in operation. You may exercise these rights to cancel your Membership and this Agreement by notifying PureFitness in accordance with Section 15 below. PureFitness will accept cancellation of your Membership and this Agreement within three (3) business days after it receives notice of such cancellation. Within ten (10) business days after PureFitness receives notice of such cancellation, it will refund to my EFT any prepaid unused Membership Dues, less any outstanding amounts which may be owed to PureFitness hereunder. For the avoidance of doubt, any Joining Fees I paid will not be refunded if I cancel my membership and this Agreement under this Section 13.

14. **Other Cancellation Rights.**

(a) **Day Pass.** If I am buying a Day Pass, I understand that it is non-refundable.

(b) **Memberships Paid Monthly.** For all memberships that are paid on a monthly basis, I understand that I may cancel my membership and this Agreement within the first three (3) business days after the first automatic renewal month takes effect or at any time thereafter by providing PureFitness at least thirty (30) days advance notice of termination in accordance with this Section 14(b) and with Section 15 below. Within ten (10) business days after the effective date of my cancellation, PureFitness will refund to me the pro rata amount of any prepaid unused Membership Dues. Notwithstanding the foregoing, I agree that any Joining Fees I paid will not be refunded if I cancel my membership and this Agreement under this Section 14(b).

- (i) No Commitment Memberships. If I am buying a monthly/no commitment membership, the membership will automatically continue on a month-to-month basis and my membership dues will continue to be automatically billed at the current rate each month until my membership is cancelled by PureFitness or by me in accordance with the terms and conditions of this Agreement.
- (ii) Annual/Commitment Memberships. If I am buying an annual/commitment membership that is paid monthly, by signing this Agreement, I am committing to an initial membership period of twelve (12) months (the “Initial Membership Period”) which I cannot cancel without penalty, except for limited reasons in accordance with Section 13 above or pursuant to this Section 14(b). I agree that if I cancel my annual membership prior to the expiration date (“Expiration Date”) of the Initial Membership Period, at the time of cancellation I will be required to pay a \$60 plus VAT buy-out fee. If I am a Corporate member, my \$60 plus VAT buy-out fee will be waived. In the event that I want to cancel my membership at the Expiration Date, I must provide notice to PureFitness at least thirty (30) days prior to the Expiration Date. In the event I do not notify PureFitness at least thirty (30) days prior to the Expiration Date, or in the event that I want to continue my membership after the Expiration Date, then my membership and this Agreement will automatically renew at the end of the Initial Membership Period and continue thereafter on a month-to-month basis and my membership dues will continue to be automatically billed at the current rate each month until my membership is cancelled by PureFitness or by me in accordance with the terms and conditions of this Agreement.

HOW TO CANCEL YOUR MEMBERSHIP

- 15. I may cancel this Agreement by any of the following methods: (a) by written notice delivered by e-mail to PureFitness at info.USDitmars@puregym.com; (b) by logging into my account via the PureFitness website; (c) in-person at my Home Gym; or (d) pursuant to Section 37 of this Agreement. I must ensure cancellations are received by PureFitness no later than thirty (30) days before the date of my next Membership Dues payment.

FREEZING YOUR MEMBERSHIP

- 16. You may temporarily suspend or “freeze” your membership if you are medically unable to use any gym. If you are unable to use any gym due to medical reasons, PureFitness may require you to provide a signed letter from your doctor or other

reasonable proof that you are medically unable to use any gym. Non-medical freezes are subject to PureFitness's approval and an additional fee, as specified herein. You may request a one-time, non-medical freeze of your membership account for up to a maximum of three (3) months within each Twelve-Month Period (as defined below). PureFitness has the discretion to approve or reject the request, and a non-medical freeze will not be effective unless it is approved in writing by an authorized representative of PureFitness. During any period in which your membership account is frozen for non-medical reasons, you will be charged \$10 per month (prorated for any partial month falling within the freeze period). You will not be eligible to freeze your membership account for any reason while you have any outstanding balance or your membership account is not otherwise in good standing with PureFitness. You are not allowed to access or use any PureFitness gym while your membership account is frozen. If you check-in during your freeze period, PureFitness may reactivate your membership account and immediately commence to bill your account for your regular Membership Dues. Further, only your basic gym membership will be suspended during your freeze period. Any locker rental fees and/or other fees for services as well as expiration dates for personal training sessions are not suspended during any freeze. Freeze requests shall be made in-person in your Home Gym or via e-mail to info.USDitmars@puregym.com. "Twelve-Month Period" means each succeeding twelve (12) calendar month period commencing with the effective date of your membership; provided that if the effective date of your membership is not the first day of a calendar month, then the first Twelve-Month Period shall be deemed to begin on the first day of the calendar month following the effective date. PureFitness reserves the right to modify its freeze policy from time to time at its sole discretion.

GYM ACCESS AND PIN ABUSE POLICY

17. Gym Policies; Membership Termination or Suspension by PureFitness. I understand that PureFitness retains complete control over all matters affecting or relating to its members and memberships, including but not limited to membership levels and types, access, prices, dues, fees, premises, facilities, equipment, services, products, programs, activities, classes, sessions, seminars, workshops, assessments, events, amenities or benefits, all of which are subject to change at any time without notice. I will comply with PureFitness policies, procedures, rules, and regulations ("Gym Policies"), whether set forth on paper, verbally, in gym signage, or provided via email, mobile application, via the PureFitness website. PureFitness may change, modify or otherwise alter any Gym Policies at any time without notice. I understand that PureFitness may in its sole discretion cancel or suspend my membership or any aspect thereof, including

but not limited to applicable guest privileges, for any reason, including but not limited to any conduct by me or my guest(s) that violates any Gym Policies or that PureFitness determines to be improper, inappropriate, or contrary to its best interests, and that I will not be entitled to a refund of Membership Dues in the event of such cancellation or suspension.

18. Gym Access. As a condition of my Use of the PureFitness Premises and Services, I agree to the following: a) Use of a PIN number and Access Device. I understand that upon initiation of my membership, I will be assigned a PIN number or Access Device. An “Access Device” is the device, key-fob, or any other relevant security hardware device with built-in authentication equipment, issued or otherwise provided to me by PureFitness to enable me to securely access the premises in accordance with the terms of my membership. Only one device can be registered to an account at any time, and if I lose or misplace the device, I must contact member services to remove the device immediately. b) My PIN number / Access Device can only be used by me. I understand that my PIN number / Access Device is issued solely for my use, as my membership is personal to me and only covers my use of a gym. I am responsible for keeping my PIN number / Access Device secure and confidential at all times. The PIN number / Access Device remains PureFitness property at all times (unless agreed otherwise and evidenced in writing). c) Use of PIN numbers and Access Devices are monitored. In the interests of the safety and security of all PureFitness members, I understand that use of PIN numbers and access is monitored and individuals using PIN numbers / Access Devices. I consent to such monitoring and I understand that I may be asked to provide proof of identification at any time in the sole discretion of PureFitness. d) PureFitness may investigate whether a PIN number / Access Device has been misused. I understand that if PureFitness believes that my PIN number / Access Device has been used by another individual or individuals PureFitness or its designees may (in its sole discretion) decide to conduct an investigation. If PureFitness elects to conduct an investigation, it may: (a) inform me, via email, that it believes my PIN number / Access Device has been used by another individual or individuals and ask me to provide reasonable assistance to investigate the matter; and (b) following the investigation PureFitness will contact me, via email, to inform me of the findings and PureFitness' proposed course of action, which may include one or more of the steps set out in Section (e) below. e) PureFitness' right to charge a penalty and/or cancel my membership. If I unreasonably refuse to cooperate with the investigation, or following the investigation PureFitness have reasonable grounds to believe that my PIN number was used, with or without my knowledge and/or consent, by another individual or individuals, depending on the particular circumstances of each case,

PureFitness reserves the right to take one or both of the following steps, which are in addition to any other legal rights that PureFitness may have: (a) apply a penalty charge to my Membership Dues (and increase my EFT payment(s) accordingly) which shall be calculated as the daily membership charge (that applied at the time of use) for each occasion on which my PIN number was used by that individual/those individuals; and/or (b) in the event of serious misuse of my PIN number (for example, my PIN number has been used on repeated occasions and/or by more than one individual) to notify me, via email, that PureFitness is cancelling my membership effective immediately without a refund. f) My responsibility for another's conduct. I understand and agree that if my PIN number / Access Device is used by someone other than myself, or if I allow unauthorized entry following my entry to the premises (known as tailgating) in addition to PureFitness rights in Section (e) above, I understand that I am solely responsible for the conduct of the individual(s) while on the premises.

19. Privacy Policy. Your privacy is important to us. Please read PureFitness Privacy Policy (<https://www.purefitness.com/privacy-policy/>) for information regarding how PureFitness collects, uses, and discloses your personal information (including through the use of CCTV) and the privacy rights available to you when you use PureFitness premises and services. I acknowledge that I have the right to request the deletion of personal information PureFitness has collected from me, subject to certain exceptions, by contacting info.USDitmars@puregym.com. By using PureFitness premises and services, I accept and agree to the practices the Privacy Policy describes. When PureFitness updates the Privacy Policy, it will post any changes on the PureFitness website and the PureFitness Mobile app. My continued use of PureFitness premises and services will be deemed my acceptance of the updated Privacy Policy.
20. Temporary Closures. I understand that there may be occasions where PureFitness has to close all, or part of, the gym of which I am a member. I understand that PureFitness will make commercially reasonable efforts to let me know of such closures in advance of them taking place, unless the problem is urgent or an emergency. PureFitness will use all commercially reasonable endeavours to ensure that such closures are outside of peak visiting hours and are kept to a minimum, in both duration and frequency.
21. Force Majeure. PureFitness shall not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under these terms that is caused by any event that is outside of its reasonable control.

22. **Personal Training.** All sales of personal training sessions are final and non-refundable. Personal training sessions expire upon the termination of this Agreement or six (6) months after the purchase date of the sessions, whichever comes earlier, unless prohibited by law or a different expiration date is expressly stated in writing by PureFitness. Personal training sessions do not constitute gift cards, gift certificates, or similar instruments and cannot be redeemed for cash or transferred to another member or guest. Your purchase of any personal training sessions are the purchase of services to be provided by PureFitness, not by any particular trainer, and PureFitness reserves the right to change or substitute your trainer at any time. Fitness results vary by individual and specific results are not guaranteed.

ARBITRATION AGREEMENT WITH CLASS ACTION WAIVER

23. **Mandatory Binding Individual Arbitration.** Except as expressly provided below, PureFitness and I agree that any dispute, claim, case, or controversy (whether based in tort, contract, statute, regulation, ordinance, equity or any other legal theory) between us (whether arising out of or relating to past, present or future acts or omissions) (“Claims”) shall be exclusively resolved by binding arbitration on an individual basis, rather than in court (“Arbitration Agreement”).
24. **Waiver of Class Actions.** PureFitness and I agree that we will assert Claims in arbitration only in our individual capacity, and not as a representative or member of any purported class. We each agree that we will not participate in any class, collective, consolidated, private attorney general or other representative arbitration proceeding. If the foregoing class action waiver (“Class Action Waiver”) or any portion thereof is found to be invalid, illegal, unenforceable, unconscionable, void or voidable, then the Arbitration Agreement will be unenforceable, and the Claim will be decided by a court. Any Claim with respect to the scope of an arbitrator's authority, jurisdiction, or the validity, legality, enforceability, unconscionability, or applicability of this Arbitration Agreement and Class Action Waiver shall be decided by the arbitrator.
25. **Waiver of Jury Trial.** PureFitness and I each waive our constitutional and statutory rights to go to court and have a trial in front of a judge or a jury, and we elect instead to resolve by binding arbitration all Claims.
26. **Waiver of Consequential and Punitive Damages.** I understand and agree that PureFitness, its parents, subsidiaries and other affiliates, and its and their respective officers, directors, employees, contractors, agents, representatives, successors and assigns (the “PureFitness Parties,” each a “Party”) shall not be liable for any incidental, consequential, special, or punitive damages relating to

this Agreement or my Use of PureFitness Premises and Services; provided that the foregoing waiver of liability shall not apply to any losses or damages caused by or resulting from the negligence of any PureFitness Party to the extent prohibited by law. Nonetheless, this waiver is intended by both parties to be as broad in effect as allowed by law and shall cover or include any claim or demand I have, had or ever will have.

27. **Exceptions to Arbitration.** There are only three exceptions to this Arbitration Agreement: (a) either party may bring Claims in small claims court, provided that any such Claims are brought on an individual basis only and are not transferred, removed, or appealed to a court of general jurisdiction, (b) both parties must litigate personal injury Claims in court (for purposes of this exception, personal injury Claims are Claims arising from injury to the physical structure of the human body), (c) either party may seek temporary injunctive relief or other equitable relief in court pending arbitration. A request for interim measures will not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.
28. **Arbitration Procedures.** Either I or PureFitness may initiate an arbitration proceeding, which will be conducted by a single neutral arbitrator. The initiating party has a choice of initiating arbitration before either the American Arbitration Association (“AAA”) (under the AAA Consumer Arbitration Rules) or JAMS (under the Streamlined Arbitration Rules and Procedures), which are both established alternative dispute resolution providers (“ADR Providers”). The JAMS rules are available at www.jamsadr.com. Which particular rules apply in AAA arbitration will depend on how much money is at issue. The AAA rules are available at www.adr.org. If neither AAA nor JAMS is available to arbitrate, PureFitness and I agree to select an alternative ADR Provider to administer the arbitration in this Arbitration Agreement. The arbitrator may supervise the exchange of information prior to the arbitration, keeping in mind the expedited nature of arbitration. The rules of the ADR Provider will govern all aspects of the arbitration, except to the extent such rules are in conflict with this Arbitration Agreement. If the arbitration is initiated by me, the arbitration hearing will be held at the ADR Provider's location that is closest to my Home Gym. Payment of all filing, administrative, and arbitrator fees will be governed by the Arbitration Rules. The arbitrator will issue a written award and reasoned statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have, including the power to award reasonable attorney's fees to the prevailing party. Any award will be subject to judicial confirmation or entry in

any court having jurisdiction. All aspects of the arbitration proceeding, including, but not limited to, the award of the arbitrator and compliance therewith, will be strictly confidential. I and PureFitness agree to maintain confidentiality unless otherwise required by law. However, this confidentiality requirement will not prevent a party from submitting to a court of law any information necessary to enforce this Arbitration Agreement or to enforce an arbitration award.

29. Mass Filings. If my Claim is similar in nearly identical nature to those of at least thirty (30) other individual arbitration claimants, and if those other claimants and I are represented by the same lawyers, or by lawyers who are coordinating with each other, or if PureFitness asserts thirty (30) or more similar demands for arbitration or counterclaims against similarly-situated parties, within a period of sixty (60) days or otherwise close in proximity, PureFitness and I agree that these Claims will be related (“Related Cases”), and this shall be called a “Mass Filing.” The following procedures will apply to a Mass Filing:

- (a) Acknowledgment of Related Cases procedure. If PureFitness or I, or PureFitness or my counsel, files a demand for arbitration that has Related Cases, then PureFitness and I agree that the demand for arbitration shall be subject to the additional protocols set forth in this Section 29. If the parties disagree as to whether a series of filings fits within the definition of Mass Filing above, the ADR Provider shall resolve the disagreement. PureFitness and I also acknowledge that the adjudication of the dispute may be delayed and that any applicable statute of limitations shall be tolled from the time of filing of the demand for arbitration, and pending resolution of the proceedings described in this Section 29.
- (b) Bellwether Arbitrations. Bellwether proceedings are encouraged by courts and arbitration administrators where there are multiple disputes involving similar Claims against the same or related parties. The parties shall select ten (10) individual arbitration Claims (five (5) per side), designated the “Initial Test Cases,” to proceed to arbitration. Only the Initial Test Cases shall be filed with the arbitrator. All other Claims shall be held in abeyance. This means that the filing fees will be paid only for the Initial Test Cases; for all other demands for arbitration, the filing fees (together with any arbitrator consideration of the other demands) will be in abeyance, and neither PureFitness nor I will be required to pay any such filing fees. PureFitness and I also agree that neither PureFitness nor I shall be deemed to be in breach of this Section 29 for failure to pay any such filing fees, and that neither PureFitness nor I shall be entitled to any contractual, statutory, or other remedies, damages, or sanctions of any kind for failure to pay any such filing

fees. If, pursuant to this subsection, a party files non-Bellwether Arbitrations with the ADR Provider, the parties agree that the ADR Provider shall hold those demands in abeyance and not refer them to the arbitrator pending resolution of the Initial Test Cases. Unless the Claims are resolved in advance or the schedule is extended, the arbitrators will render a final award for the Initial Test Cases within one hundred twenty (120) days of the initial pre-hearing conference.

- (c) Global Mediation. Following the resolution of the Initial Test Cases, the parties agree to engage in a global mediation of all the remaining individual arbitration Claims (“Global Mediation”), deferring any filing costs associated with the non-Initial Test Cases until the Initial Test Cases and subsequent Global Mediation have concluded. After the final awards are provided to the mediator in the Initial Test Cases, the mediator and the parties shall have ninety (90) days to agree upon a substantive methodology and make an offer to resolve the outstanding cases. If the Parties are unable to resolve the outstanding Claims during the Global Mediation, the unresolved Claims may then be administered by the ADR Provider pursuant to this Agreement's Batch Arbitration provision below and the arbitrator's fee schedule for mass filings, unless the parties mutually agree otherwise in writing. You and we also acknowledge that any applicable statute of limitations shall be tolled pending resolution of the Bellwether Arbitration and Global Mediation process.
- (d) Batch Arbitration. To increase the efficiency of administration and resolution of arbitrations, you and PureFitness agree that in the event the Bellwether Arbitration and Global Mediation processes described above do not resolve the Claims, the ADR Provider will (i) administer the remaining arbitration demands in batches of fifty (50) demands per batch; (ii) appoint one arbitrator for each batch; and (iii) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award (“Batch Arbitration”). The final award will provide for individual merit decisions for each separate Claimant within the single batch arbitration award. If the ADR Provider will not administer the Batch Arbitration with one set of filing and administrative fees due per side per batch, then the ADR Provider's mass arbitration fee schedule shall apply.
- (e) Opting Out. If my Claim is not resolved as part of the Bellwether Arbitration and Global Mediation process outlined above, the parties shall also have the opportunity to opt out of arbitration and bring the pending Dispute to the state

or federal courts located in New York, unless mandated by law to be filed in another state or federal court. The parties have thirty (30) days from the date of the failed Global Mediation process to opt out. This shall not provide an opportunity for either party to opt out of arbitration for other Claims. I may opt out of arbitration by providing written notice of my intention to opt out to the ADR Provider and to PureFitness at info.USDitmars@puregym.com or pursuant to Section 37 of this Agreement, with a copy to the attorney representing PureFitness in the arbitration proceeding. This written notice must be signed by me, even if it is also signed by my attorney. The written notice cannot be signed by an agent or other representative of mine in lieu of my signature. It must include a statement that I wish to opt out of arbitration within thirty (30) days after the conclusion of the Global Mediation process. PureFitness may exercise its equivalent opt-out right by sending written notice to me or my attorney, agent, or representative if I am represented.

(f) Enforcement of Section. A Court of competent jurisdiction shall have the power to enforce Section 29, including by injunctive, declaratory, or other relief.

30. Governing Law. This Agreement and Arbitration Agreement shall be governed by, construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the laws of New York without giving effect to New York's principles regarding conflict of laws. Except for Claims that PureFitness or I submit to binding arbitration pursuant to the Arbitration Agreement, all claims, disputes and matters arising out of my Membership or this Agreement will be submitted exclusively to the jurisdiction of the federal and state courts of competent jurisdiction located in New York, New York, and PureFitness and I each hereby irrevocably consent to the jurisdiction of such courts and waive all objections thereto.

OTHER TERMS AND CONDITIONS

31. Electronic Communications. I understand that PureFitness may contact me via telephone, email, text message or other means from time to time using the contact information that I have provided to PureFitness. I expressly consent to receive such communications and messages from PureFitness, including messages to advertise or promote products or services, and messages related to my transactions or relationship with PureFitness, including membership, membership changes, billing and automatic payment processing issues, my purchases of products or services, or amendments to this Agreement. By

providing PureFitness with my contact information and signing this Agreement, I am giving my express written consent to receive these communications from PureFitness and its designees, to the extent permitted by applicable law, including, without limitation, the Telephone Consumer Protection Act and the Fair Debt Collection Practices Act. I understand that I can also limit the communications PureFitness may email to me by following the instructions in PureFitness advertisement/promotional emails to opt-out of receiving future marketing communications, or by emailing PureFitness at info.USDitmars@puregym.com.

32. **Image and Likeness Release.** I understand that PureFitness may take photographs, audio or video recordings, or testimonial accounts that may contain the name, image, voice, likeness or account of me (collectively “images”) during the Use of PureFitness Premises and Services. I hereby irrevocably consent to and grant PureFitness the exclusive, worldwide, perpetual, royalty-free and otherwise unlimited right to use, copy, modify, distribute, publicly display and perform, publish, transmit, remove, retain, repurpose, and commercialize any and all such images (and the right to sublicense such images through unlimited levels of sublicensees) in any and all media or form of communication whether now existing or hereafter developed, without obtaining additional consent, without restriction or notification, and without compensating me in any way, and to authorize others to do the same. Without limiting the foregoing, I hereby consent to PureFitness use of the images for commercial and promotional use, including on corporate or employee social media. PureFitness may change, modify, rearrange, add, delete or otherwise alter such images. I waive any right to inspect, approve, or edit such images as used by PureFitness and waive any claims based on the right of publicity or similar theories.
33. **Guests.** I agree that if my membership permits me to bring a guest, my guest's use of the PureFitness premises is subject to the rules, regulations, fees, and schedules for such persons as may then be in effect. I further agree that PureFitness reserves the right to limit the number of times any one guest can use a PureFitness premises and reserves the right to exclude any guest whose use of the facility, in the sole opinion of PureFitness, would be detrimental to PureFitness or any of its members. I agree that all guests must sign in at the PureFitness premises and present photo identification prior to using the PureFitness premises. PureFitness reserves the right to set or modify restrictions and access rules for guests.
34. **Non-waiver.** I agree that if PureFitness takes no action or regarding my breach of this Agreement, such failure to enforce will not constitute a waiver and will

not preclude PureFitness from enforcing the terms of this Agreement strictly at a future date.

35. Transfers. I agree that PureFitness may assign this Agreement and its rights and obligations thereunder to a third party on notice to me. Notwithstanding the foregoing, PureFitness will not assign this Agreement or its rights and obligations thereunder to a third party that is not located on the same premises as my gym without my written consent. I understand that I have no right to assign this Agreement to any third-party.
36. Severability. I agree that this Agreement, including, without limitation, the assumption of risk provision and the Arbitration Agreement with class action waiver, is intended to be as broad and inclusive as permitted under applicable law. If a court declares any part of this Agreement unenforceable, invalid or void, that part alone shall be severed from this Agreement, and the entire remainder of the Agreement, including any partially enforceable provision, shall be fully binding and enforceable to the maximum extent permitted by applicable law.
37. Notices. Except as otherwise expressly provided herein, if I wish to contact PureFitness in writing, or if any clause in these terms requires me to give PureFitness notice in writing, I understand that I may send this to PureFitness by e-mail at info.USDitmars@puregym.com, via the PureFitness website, in addition to any other manner provided by this Agreement or state law. PureFitness will confirm receipt of this by contacting me by email. Written notices can be mailed to PureFitness at the following address: 6701 Frontier Road, Springfield, VA, 22150.
38. Other provisions. I am not relying on any oral or written promises, representations, statements, covenants or warranties, other than those set forth herein, to induce me to sign this Agreement. This Agreement may be amended at any time by PureFitness upon such notice, if any, as may be required by law.