

This Membership Agreement (the “**Agreement**”) is made between Total-Fitness (the “**Club**”), and the undersigned member (the “**Member**”). This Agreement is made because Member wishes to receive and the Club wishes to provide fitness services in the form of fitness equipment, defined herein, and health club services at the Club’s facility, which facility is located at 6136 Commerce Drive, Mount Gilead, Ohio, 43338.

## **1. Membership, Term, and Payment.**

b. Fee. Your Fee is due upon execution of this Agreement. **Your Membership Fee must be paid monthly and will be due the first of every month of each calendar year.**

# **I. Membership Qualifications**

1. All of the Required Forms must be completed and submitted to the Club prior to the use of any Facility. The Required Forms include (i) this Agreement; and (iv) the Informed Consent and Acknowledgment of Risk. Required Forms are subject to change.

- 3. No children under the age of **14** will be allowed access to the club or its facilities. **All children aged 14 and older must be accompanied by an adult.**

## **II. Member Responsibilities**

You agree to seek instruction from Club personnel in the use of all equipment, including, but not limited to, fitness machines, free weights, and cardio-aerobic equipment, prior to use.

You acknowledge and agree that (i) there are risks associated with any strenuous, athletic or physical activity, the use of exercise equipment, and participation in an exercise program; (ii) use of the Facility and exercise equipment is undertaken by you voluntarily; and (iii) such use may include the risk of serious bodily injury or death.

3. Representation of level of health and fitness. You represent to the Club that you are in good health and have no disability, impairment, injury, disease, or ailment that prevents you from engaging in active or passive exercise or which would cause an increased risk of injury or adverse health consequences as a result of such exercise.

5. You agree that while you are using the Facility to refrain from the use and that you will not be under the influence of any (i) medication that may impair your physical or mental capabilities, (ii) alcohol, or (iii) drugs. You acknowledge and agree that such use or influence may increase the risk of serious bodily injury or death to yourself or others.

7. The use of mobile devices to make voice or video calls is permitted in the lobby area only.

9. No photographs or video may be used for commercial purposes whatsoever.

11. Images containing Total-Fitness intellectual property are subject to all applicable copyright and trademark protections, including, but not limited to, federal and state laws and regulations, and we may prohibit any public-facing use thereof.

13. Total-Fitness does not tolerate discrimination or harassment of any person on its premises on the basis of race, national origin, ancestry, color, creed, religion, sex, sexual orientation, gender, gender identity, age or disability, or any other basis protected by law. Total-Fitness does not tolerate verbal or physical harassment of any member for any reason.

By agreeing to this membership agreement, you acknowledge that you are responsible for the safety use of the Facility and the equipment.

1. MEMBER'S RIGHT TO CANCELLATION. YOU MAY CANCEL THIS AGREEMENT WITHOUT ANY PENALTY OR FURTHER OBLIGATION BY SUBMITTING IN WRITING A CANCELLATION LETTER VIA EMAIL TO ERICA@TOTAL-FITNESS.ORG, OR BY VISITING TOTAL-FITNESS HEALTH CENTER AT 6136 COMMERCE DR, MOUNT GILEAD, OHIO, 43338 WITHIN 30 DAYS OF CANCELLATION. IF YOU CANCEL YOUR SUBSCRIPTION PRIOR TO THE END OF YOUR SUBSCRIPTION PERIOD, YOU WILL BE ENTITLED TO CONTINUE TO ACCESS YOUR TOTAL-FITNESS SUBSCRIPTION THROUGH THE END OF YOUR CURRENT SUBSCRIPTION PERIOD. AT THE END OF YOUR SUBSCRIPTION PERIOD, YOU WILL IMMEDIATELY LOSE ALL ACCESS TO ANY PREMIUM CONTENT OR FEATURES PROVIDED THROUGH YOUR TOTAL-FITNESS SUBSCRIPTION, AS WELL AS THE DISCONTINUATION OF THE MONTHLY CHARGE ON THE NEXT BUSINESS CYCLE OF THE FOLLOWING MONTH.

Your notice of cancellation shall be accompanied by the Required Forms, including this Agreement, your key fob, and any other documents or evidence of membership previously delivered to you.

2. The Club reserves the right to cancel this Agreement and terminate your Membership or other privileges granted by this Agreement in the event of a Member Default. A Member Default includes (i) your failure to comply with any of the Club Rules; (ii) intentional or negligent misrepresentation of information contained in this Agreement, or; (iii) failure to make timely payment of your obligations under this Agreement. A terminated Member shall remain fully liable to the Club for all Fees and any other expenses payable to the Club.

#### **No Refunds**

## **IV. Internet Policy**

1. No Responsibility for Content. Member should be aware that there may be some information on the Internet or otherwise available through the Internet Access which may be offensive, or which may not be in compliance with laws of certain jurisdictions. Total-Fitness assumes no responsibility for the content contained on the Internet or made available by others and shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content by the member. Total-Fitness assumes no obligation to monitor transmissions made on the Internet Access.

3. Use Restrictions. Member shall not use the Internet Access for: (i) any purpose which is in violation of any copyright, trademark, patent or trade secret rights of any person; or (ii) any purpose which is in violation of any state or federal laws or regulations presently existing or hereinafter enacted.

5. Unacceptable Personal Use. Any personal use of IT resources that disrupts or interferes with Total-Fitness business, incurs an undue cost to Total-Fitness could potentially embarrass or harm Total-Fitness, or has the appearance of impropriety is strictly prohibited. Personal Use that is strictly prohibited includes, but not limited to, the following:

b) Illegal Copying: Downloading, duplicating, disseminating, printing or otherwise using copywriting materials, such as software, texts, music and graphics, in violation of copyrighted laws is strictly prohibited.

d) Accessing Sexually Explicit Material. Downloading, displaying, transmitting, duplicating, storing or printing sexually explicit material is strictly prohibited.

f) Gambling or Wagering. Organizing, wagering on, participating in observing any type of gambling event or activity is strictly prohibited.

2. Assignment. You may not assign, resell, or transfer to any other person or entity the rights allowed or obligations required by this Agreement.

4. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Ohio.

6. Attorneys' Fees. In the event either party institutes legal proceedings against the other for breach of or interpretation of this Agreement, the party against whom a judgment is entered will pay all reasonable costs and expenses relative thereto, including reasonable attorneys' fees of the prevailing party at pre-trial, trial and all appellate levels.