

MEMBER ASSUMPTION OF RISK AND RELEASE

I understand the risk of injury from gym activities and using any gym equipment is significant, including the potential for permanent paralysis and death, I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS, both known and unknown. I acknowledge that this is an UNSUPERVISED GYM and I assume all risks associated with using exercise equipment and exercising alone without the aid and presence of gym staff on the premises. I HEREBY RELEASE, INDEMNIFY, AND HOLD HARMLESS FIT44, ITS OWNERS AND EMPLOYEES WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, LOSS OR DAMAGE to person or property that may arise out of or in connection with my use of any of the equipment or the facilities of the gym or any incident that occurs while using such facilities, or otherwise related to my membership. I expressly agree that this release is intended to be as broad and inclusive as permitted by applicable law and if a portion of this release is held invalid, the balance shall remain in full force and effect. This release shall apply to my heirs, assigns, personal representatives and any other next of kin. I understand that FIT44 is relying on this release in agreeing to enter into this Agreement. I HAVE READ THE RELEASE OF LIABILITY AND ASSUMPTIONS OF RISK AGREEMENT, FULLY UNDERSTAND ITS TERMS AND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT. ADDITIONAL TERMS AND CONDITIONS – I hereby confirm that I am aware of and agree to the terms and conditions of this document. NOTICE: ANY HOLDER OF THIS AGREEMENT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER

AUTHORIZATION FOR PRE-AUTHORIZED PAYMENTS

I hereby authorize the Designated Billing Company selected by FIT44 to draw items (checks, electronic fund transfers, charge card) for the purpose of paying the membership dues, including any late fees or service fees, as well as other purchases, via the financial account connected to my membership agreement.

Subject to the following conditions: (1) The items shall be drawn on or about the date or dates of the Payment Plan. The transactions on your bank statement will constitute receipts for payment on your account. (2) If the regular payments set forth on the Payment Plan should vary in amount, you are entitled to receive notice at least 10 days before the payment is due, when it will be made and how much it will be. (3) The privilege of making payments under this arrangement may be revoked by FIT44 if any item is not paid upon presentation. (4) If this pre-authorization payment arrangement is revoked for any reason, this does not release you from your obligation (Payment Plan). (5) A service fee will be assessed and drafted for any check, draft, credit card, or order returned for insufficient funds or any other reason. A late fee will be assessed and drafted should any monthly payment become past due.

ADDITIONAL TERMS AND CONDITIONS

RIGHT TO REFUSE SERVICE: FIT44 hereby reserves the right to refuse service.

DEFAULT AND LATE PAYMENTS: Should you default on any payment obligation as called for in this agreement, FIT44 will have the right to declare the entire remaining balance due and payable and you agree to pay allowable interest, and all costs of collection, including but not limited to collection agency fees, court costs, and attorney fees. A default occurs when any payment due under this agreement is more than ten days late. Should any monthly payment become more than ten days past due, you will be charged a late fee. An additional service fee will be charged for any payment returned for insufficient funds or any other reason.

RIGHT TO CHANGE DESIGNATED BILLING COMPANY: FIT44 hereby reserves the right to change the Designated Billing Company at their discretion and without warning. If such a change is made, the full terms and conditions of

this agreement will continue to apply and you agree to authorize the new Designated Billing Company to continue drafting your account.

ARBITRATION: All disputes (except small claims under \$1,000) will be settled by binding arbitration before a single arbitrator under the authority of the Federal Arbitration Act, conducted by and in accordance with the rules and procedures of the American Arbitration Association. The arbitration will take place in Nemaha County, Nebraska unless otherwise agreed. The decision of the arbitrator will be final and binding on all parties and may be enforced by a judgment entered upon the arbitration award by any state or federal court in this state.

MEMBERSHIP FREEZE POLICY: If you have a term membership (i.e. 12-month, etc.) you may freeze time on your membership for a medical reason. Freezes can be from 30 to 90 days at a time. We may ask for documentation to verify your situation. Freezing time on your membership does not stop your membership payments. You are still liable for your original payment schedule. Once you resume any usage of the gym, the freeze will terminate. Time of any freeze will be credited to the end of your membership's original term.

MAINTENANCE OF FACILITIES: FIT44 may be temporarily closed for periods of up to 2 weeks each year for maintenance purposes. FIT44 reserves the right to add a periodic facility maintenance charge. If a Facility Maintenance Charge is implemented in the future, you will be given a minimum of a 60 day notice of the amount owed and due date. You authorize the Designated Billing Company to automatically draft this amount along with your regular membership dues.

MEMBER OBLIGATIONS: (1) MEMBER agrees to abide by all FIT44 policies, follow the directions of the staff regarding safety and security issues, and to treat the staff and other MEMBERS with courtesy. (2) MEMBER agrees to pay monthly dues on time, including notifying FIT44 promptly if banking or credit card information used for automatic payment changes, or to be charged a declined payment fee and/or a late fee per delinquent payment. (3) MEMBER agrees to pay all costs of collection incurred by the holder of this agreement if this account becomes more than 60 days past due. (4) MEMBER agrees to continue to fulfill the financial obligation of this agreement, except as allowed below.

BUYER'S RIGHT TO CANCEL

1. If you wish to cancel this contract, you may cancel by making or delivering written notice to FIT44. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign this contract. The notice must be delivered or mailed to: 1116 J Stree Auburn, NE 68305. If canceled within three business days, you will be entitled to a refund of all monies paid.
2. The contract may be cancelled if the buyer dies or becomes physically unable to use a substantial portion of the services for 30 or more consecutive days. If the buyer becomes physically unable to use a substantial portion of the services for 30 or more consecutive days and wishes to cancel his contract, he must provide FIT44 with a signed statement from his doctor, physician assistant, or nurse practitioner verifying that he is physically unable to use a substantial portion of the gym services for 30 or more consecutive days. Upon receipt of notice of the buyer's intent to cancel, FIT44 shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in subsection 6 below. In the case of disability, FIT44 may require the buyer to submit to a physical examination by a doctor, physician assistant, or nurse practitioner agreeable to the buyer and the gym within 30 days of receipt of notice of the buyer's intent to cancel. The cost of the examination shall be borne by FIT44.
3. FIT44 retains the right to cancel or suspend the membership of any person for any reason. If such cancellation or suspension is made due to violation of the gym policies, violation of terms of this contract, or due to damage rendered by you or your guests, you will remain responsible for the financial obligations of this contract as well as

a cancellation fee of \$50. In the case where the facility or its contents are damaged, you will furthermore be responsible for the repair or replacement thereof.

4. The buyer shall notify FIT44 of cancellation in writing, by certified mail, return receipt requested, or personal delivery, to the address of the gym as specified in the gym contract.

5. If the customer has executed any credit or lien agreement with FIT44 or its representatives or agents to pay for all or part of gym services, any such negotiable instrument executed by the buyer shall be returned to the buyer within 30 days after such cancellation.

6. If you cancel after the three business days, FIT44 may retain or collect a portion of the contract price equal to the proportionate value of the services or use of facilities you have already received. All refunds for cancellation of membership shall be paid within 30 days of the gym's receipt of written notice of cancellation by the buyer and calculated by: A. Dividing the contract price by the term of the contract in days; B. Multiplying the number obtained in subdivision A by the number of days between the effective date of the contract and the date of cancellation; and C. Subtracting the number obtained in subdivision B from the total price paid on the gym contract.

7. Any payments due prior to cancellation taking effect will still be due and payable. Your account must be current before any cancellation will take effect. To cancel for any of the above reasons, send or deliver a written notice to FIT44.

ELECTRONIC SIGNATURE DISCLAIMER

Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.