

Debit Success OMG Terms and Conditions

These terms and conditions apply when becoming a member through the Online Membership Gateway only. Please also see Fresh Start Health and Fitness Terms & Conditions.

Last Updated November 2009



TERMS AND CONDITIONS OF THE DEBITSUCCESS CONTRACT

1. INTRODUCTION

This document outlines the rights and responsibilities you have with regard to the ability of Debitsuccess Pty Ltd to directly debit your nominated bank account or credit card for any instalments or fees due by you under the terms and conditions of this Contract and DDR Service Agreement, the terms of which are stated below. Should you have queries regarding your Contract or this DDR form you should in the first instance contact Debitsuccess on 1-800 148 848. All queries regarding the provision of services by the Facility should be directed to the Facility.

2. PARTIES TO CONTRACT

The "Facility" means the organisation providing the service for which the Customer is paying. The "Customer" means the person or party authorising this Contract. "Debitsuccess" is Debitsuccess Pty Limited, PO Box 577, Mt Waverley, Vic, 3149, Phone: 1800 148 848, E-mail: customerservice@Debitsuccess.com. All communication relating to this Contract is to be sent directly to Debitsuccess. The Customer acknowledges that Debitsuccess has been contracted by the Facility to collect the Instalments due under this Contract, and also acknowledges that all rights of the Facility pursuant to this Contract are able to be enforced by Debitsuccess as if it were the Facility without any involvement on the part of the Facility or the consent of the Customer.

3. PAYMENTS

The Customer agrees to pay the instalment amount at the agreed payment frequency until this Contract is terminated in accordance with clause 4 below. Should there be any arrears in payments the Customer authorises Debitsuccess to debit the outstanding balance in order to bring the account up to date.

4. TERMINATION OF CONTRACT

The Customer may terminate this Contract before the expiry of the minimum term or payments if all the instalments and fees due up to the date of termination are paid, and in addition the cancellation fee as specified on the front of this Contract is paid to Debitsuccess. If a cancellation fee has not been specified as part of the Special Conditions then this contract may not be cancelled before the expiry of the minimum term or payments. After the expiry of the minimum term or payments, and after all instalments and fees due have been paid in full, should the box on the front of this Contract requesting termination at minimum term be marked then this Contract shall automatically terminate. Should the membership type selected as part of this online signup be indicated as ongoing in nature, then this Contract shall continue indefinitely until such time as the Customer requests Debitsuccess, after the expiry of the minimum term for it to terminate.

Any instalments/fees due at the date of termination (including instalments/fees which fall due during the notice period) will remain a debt owed to and recoverable by Debitsuccess. There will be a period of notice of 30 days unless otherwise specified by the Facility between the date of request and the date of actual termination during which any payments due must still be paid in full. The Customer should contact Debitsuccess if they have not received written confirmation of the termination within the 30 day period. The Customer shall not consider that this contract has been terminated until such time as this is confirmed in writing to the Customer by Debitsuccess (not more than 14 days after the termination date). Termination of this Contract will also terminate the Direct Debit Request Authority.

5. BREACH OF CONTRACT

The Customer, Debitsuccess and the Facility each hold reciprocal rights of termination for a material breach of any term or condition of this Contract. The Contract will be terminated upon receipt of written notice outlining the relevant breach.

6. ADMINISTRATION FEE

A one-off fee of \$10.00 is payable to Debitsuccess by the Customer on authorising of this Contract.

7. PRIVACY

A Customer's "personal information" (as that term is defined in the Privacy Act 1988 (Cth)) will only be used by Debitsuccess to provide you with the services contemplated by this Contract. Debitsuccess' Privacy Statement is to be found on its website www.Debitsuccess.com.

8. LIABILITY

To the extent permitted by law, Debitsuccess hereby excludes any liability of Debitsuccess to the Customer in contract, tort, statute or in any other way for any injury, damage or loss of any kind whatsoever (including, without limitation, any liability for direct, indirect, special or consequential loss or damage), sustained by the Customer and/or any other person, or for any costs, charges or expenses incurred by the Customer, arising from or in connection with this Contract and/or the services/products provided by Debitsuccess, and/or any act or omission of Debitsuccess.

9. CREDIT/DEBT REPORTING AGENCIES

Upon default by the Customer in regard to any obligation under this Contract and failure to remedy the default after notification by Debitsuccess, the Customer authorises Debitsuccess to notify any debt collection/credit reporting agency of the default. Should this occur then at Debitsuccess' sole discretion it may terminate the contract at which time the full outstanding balance for the remainder of the minimum term or payments (including any current arrears) shall be due in full. The Customer authorises Debitsuccess to add to the outstanding debt a fee of \$50 and an amount equivalent to 25% of the full outstanding balance (being Debitsuccess' expenses reasonably incurred in collecting the debt) upon initial referral to the debt collection/credit reporting agency.

10. PROVISION OF SERVICE

Change of location (if within 7 km of the previous location) or ownership or the name of the Facility does not absolve the Customer of responsibilities under the terms and conditions of this Contract.

11. INCREASE IN FEES

Debitsuccess may at any time AFTER the end of the minimum term, upon sending written notice to the Customer's last known address and giving 14 days notice, increase the instalment amount. If the Customer wishes to terminate this Contract as a result of the increase in the instalment amount, the Customer must notify Debitsuccess in writing within 14 days of the date of the written notice sent by Debitsuccess. The Contract will be terminated upon receipt of this notice. If the Customer does not notify Debitsuccess of its intention to terminate this Contract within such specified time period, then this Contract will remain in force and the increase in the instalment amount will be deemed to be accepted by the Customer.

12. TRANSFERS

The Customer may at the sole discretion of Debitsuccess and the Facility be able to transfer this contract to another person, or to another participating Debitsuccess Facility. Any transfers to a new Facility must be as a result of the relocation of the Customer to another town or city. Should a transfer occur all of the terms and conditions of this contract shall apply except the payments may be adjusted to be in line with those normal charges made by the new Facility. There may be a fee charged for each transfer. Details of any fees payable can be obtained by contacting Debitsuccess on 1-800 148 848.

13. ENTIRE AGREEMENT

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This Contract, the DDR Service Agreement and any membership agreement entered into between the Customer and the Facility (the "Facility Membership Agreement") constitute the entire agreement, understanding and arrangement (express and implied) between the Customer, the Facility and Debitsuccess relating to the subject matter of this Contract and supersedes and cancels any previous agreement, understanding and arrangement relating thereto whether written or oral. In the event of any inconsistency between the term(s) of this Contract, the DDR Service Agreement and the Facility Membership Agreement, (where such inconsistent term(s) specifically relate to the rights and obligations of the Facility, other than the right to unilaterally vary fees payable), the term(s) of the Facility Membership Agreement (which specifically relate to the rights and obligations of the Facility) will prevail only to the extent of such inconsistency.

If any provision of this Contract is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions will not be affected and such invalid, illegal or unenforceable provision is to be severed from this Contract.

TERMS AND CONDITIONS OF THE DEBITSUCCESS DIRECT DEBIT REQUEST (DDR) SERVICE AGREEMENT

1. INITIAL TERMS

Debitsuccess will debit your nominated account for the amounts and at the frequency of payments as agreed between us on the Debitsuccess DDR Contract authorised and accepted by you.

2. CHANGE OF TERMS

In the unlikely event that the initial terms are to change, they can only do so in accordance with your Contract and we must give you at least 14 days notice of the changes including if applicable the new amount, new frequency and next debit date.

3. DEFERRING OR STOPPING A PAYMENT

Should you wish to defer a payment to another date you must contact Debitsuccess before the date of that payment to request the deferment. Deferments are entirely at the discretion of Debitsuccess and will depend on the length of deferment, the current state of your account and your past history. You may request us to stop an individual payment however you will still be liable to make this payment by some other method or your account will become overdue

4. ALTERING THE SCHEDULE

Should you wish to alter the payment frequency or Day to Debit contact Debitsuccess and at our discretion in most instances we will be able to make the changes you require. There may be a fee charged for this service (details of any fees payable can be obtained by contacting Debitsuccess on (1-800 148 848). Any changes made will not affect the total amount you would otherwise have paid over the minimum term of your Contract.

5. SUSPENDING THE PAYMENTS

Suspension of payments may be possible under the terms of your Facility Membership Agreement. Payments may be suspended for a minimum of 2 weeks at a time so long as the total time suspended within the minimum term does not exceed 6 weeks. In order to suspend payments you should contact Debitsuccess at least 3 days prior to the date of the first suspended payment. There is a charge of \$5.00 per week while the contract is suspended unless a different fee is specified on the front of this Contract. Any time spent on suspension will be added onto the minimum term of the Contract so that the sum of the instalments payable for the minimum term or number of payments shall still be payable regardless of any suspension or suspension charges made.

6. CANCELLING THE PAYMENTS

You can cancel this Direct Debit Request Authority by requesting this of Debitsuccess or your bank. Cancellation of the authority to debit your account will not terminate this contract or remove your liability to make the payments you have agreed to.

7. DISPUTES

If you dispute any debit payment, you must notify Debitsuccess immediately. Debitsuccess will respond to your dispute within 7 working days and will immediately refund the amount of the debit if we are not able to substantiate the reason for it. If you do not receive a satisfactory response from us to your dispute contact your financial institution who will respond to you with an answer to your claim within 5 business days if your claim is lodged within 12 months of the disputed drawing, or within 30 business days if your claim is lodged after 12 months from the disputed drawing.

8. NON WORKING DAY

When the day to debit falls on a weekend or public holiday the debit will be initiated on the next working day.

9. DISHONoured PAYMENTS

It is your responsibility to ensure that on the due date clear funds are available in your nominated account to meet the direct debit payment. Should your payment be dishonoured Debitsuccess will debit you an additional \$10 with your next payment and may, if we have not received instructions to the contrary from you, debit both the current due payment and the now overdue payment(s) on the same day. Debitsuccess may debit other fees or costs involved with debt collection in accordance with the terms and conditions of the Contract (refer to clause 9 Credit/Debt Reporting Agencies).

10. ENQUIRIES

All enquiries should be directed to Debitsuccess and should be made at least 1 working day prior to the next scheduled debit date.

11. YOUR OTHER RESPONSIBILITIES

In addition to those already mentioned, you are responsible for ensuring that your nominated account is able to accept direct debits. If it is not, it is your responsibility to provide Debitsuccess with a new account number.