



GOLD'S GYM®

MuscleMakers, Inc., MuscleMakers II, Inc., MuscleMakers III, LLC & MuscleMakers V, LLC
Licensees of Gold's Gym Franchising, Inc.

P.O. Box 5789

Albany, NY 12205-0789

Membership Agreement

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of sex or marital status. The agency that administers compliance with the law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

CONSUMERS RIGHT TO CANCELLATION-YOU MAY CANCEL THIS CONTRACT WITHOUT PENALTY OR FURTHER OBLIGATION WITHIN THREE (3) DAYS FROM THIS DATE... Notice of cancellation shall be in writing subscribed by the buyer and mailed by registered or certified U.S. mail to the seller at the address specified above. Such notice shall be accompanied by the agreement forms, membership cards and any other documents or evidence of membership previously delivered to the buyer. All monies paid pursuant to such contract shall be refunded within 15 business days of receipt of such notice of cancellation. If the buyer has executed any credit or loan agreement to pay for all or part of the health club services, any such negotiable instrument executed by the buyer shall also be returned within 15 days.

ADDITIONAL RIGHTS TO CANCELLATION UNDER NEW YORK LAW

You may also cancel this contract 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 six months; 2) If you die, your estate shall be relieved of any further obligation for payment under the agreement not then due or owing; 3) If you move your residence more than 25 miles from any health club operated by seller; 4) If the services cease to be offered as stated in the contract. All monies paid pursuant to such contract cancelled for the reasons contained in this subdivision shall be refunded within 15 business days of receipt of such notice of cancellation; provided however that the seller may retain the expenses incurred and the portion of the total price representing the services which buyer has consumed or wishes to retain after cancellation of the contract. In no instance shall the seller demand more than the full contract price from the buyer. If the buyer has executed any credit agreement to pay for health club services, any such negotiable instrument executed by the buyer shall also be returned within fifteen days. Please see contract for required "Cancellation" and "Freeze" procedures (#6 and #7)

THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR PAYMENT OPTIONS...

You may make payments on an installment basis or in a single payment. Paying the full amount may be less expensive, but may involve financial risks to you. Read this notice carefully before making a decision. New York State Law requires certain health clubs to post a bond or other financial security to protect members in the event the club closes. This club has posted the financial security required by law. 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 might risk losing your money if the club is unable to meet its financial obligations to members.

EFT (Electronic Funds Transfer) - All EFT accounts are subject to the following conditions:

(1) The items shall be drawn on or about the date or dates of the Payment Schedule. The transactions on your bank statement will constitute receipts for payment on your account.

(2) If the regular payments set forth on the Payment Schedule should vary in amount, you are entitled to notice at least 10 days before each payment of when it will be made and how much it will be. However, by executing this preauthorization, you choose to instead get this notice only when the payment would differ by more than \$50.00 from the most recent payment.

(3) By executing this agreement, you acknowledge your awareness that certain disclosures required by the Electronic Funds Transfer Act and its regulations are available for your review at the Company's website: www.abcfinancial.com under terms and conditions.

(4) The privilege of making payments under this arrangement may be revoked by the Company if any item is not paid upon presentation.

(5) If this preauthorization payment arrangement is revoked for any reason, this does not release you from your obligation (Payment Schedule).

(6) 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.

AUTOMATIC RENEWAL: Provided that Member is not in default of this contract and subject to the terms and conditions hereof, the membership will automatically renew on a month to month basis for the rate indicated below. Monthly membership dues are subject to future increase if Rate Guarantee Option is declined. Membership renewal terms may be cancelled by either party at any time provided a 30-day written notice is delivered to ABC Financial Services. Member is required to deliver written notice directly to ABC Financial Services.

CLUB ENHANCEMENT FEE: A yearly fee of \$25 per contract will be collected. This fee will be used for general maintenance and/or equipment purchases at the Club's discretion. This fee will be collected on or about: November 11th: If agreement start date is between June 1st and October 31st. June 11th: If agreement start date is between November 1st and May 31st. PAYGO Members: The fee will be collected on PAYGO Members' yearly anniversary.

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.

IMPORTANT NOTICE FOR HEALTH CLUB 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 AVE., ALBANY, N.Y. 12231.

DEFAULT AND LATE PAYMENTS: Should you default on any payment obligation as called for in this agreement, the club 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 assessed for any check, draft, credit card, or order returned for insufficient funds or any other reason. If the Member is paying monthly dues by electronic funds transfer (EFT), the club's billing company, ABC Financial Services, Inc., reserves the right to draft via EFT all amounts owed by the member including any and all late fees and service fees. **NOTE: Members paying monthly dues by E.F.T. are subject to \$5.00 per month increase of monthly dues if E.F.T. payment is stopped or changed. This will not affect any other provisions of this agreement.**

Preface

"Member" - Shall mean the "Member" identified on the face of this agreement.

"Other Members" (or Add-On Members) - Shall mean additional members named and/or listed on the agreement in connection with a "couple" or "family" membership having a relationship in friend or family origin, and residing at the same address.

"Agent" - Shall mean "ABC Financial Services", retained by "Gold's Gym", and responsible for the aggregation of Member payments, cancellations, and freezes, or "Another Third Party Agency" responsible for collection of accounts in arrears over 90 days.

"Gold's Gym" and reference to "Seller" - Shall mean "Gold's Gym Fitness Center" located at 20 Mall, 2080 Western Avenue, Guilderland, NY 12084; 1220 Route 146, Clifton Park, NY 12065; 195 Troy-Schenectady Road, Latham, NY 12110; & 480 Balltown Road, Niskayuna, NY 12304. This contract is with Seller, not with Gold's Gym Franchising, Inc. ("GGF") or any of its affiliates. Except as otherwise required by applicable law (for example, Article 26, Section 624(3) of the General Business Law of the State of New York, if Member is a resident of New York), NEITHER GGF NOR ANY RELATED PARTY IS CONTRACTUALLY OR OTHERWISE LIABLE TO MEMBER FOR ANY REASON, BEING THAT SELLER IS LIABLE FOR THE DEBTS AND OBLIGATIONS OF THIS FACILITY. The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to agreement). The agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

[1] Member warrants and represents that Member (and Other Members under the couple and family membership, if these membership are applied for) has no disability, impairment or ailment preventing him/her from engaging in active or passive exercise or activity that will be detrimental or inimical to his/her health, safety, or physical condition if he/she does so engage or participate. This representation is made by Member knowing that Gold's Gym will rely upon same in respect to the issuance of this Membership. Member understands that Gold's Gym is not responsible for Member's actions and if Member is in doubt about any part of his/her fitness training or recreation, Member will consult his/her physician.

[2] Gold's Gym urges all members to obtain a physical examination from their physician prior to exercising or using any exercise equipment. Member should obtain proper training in the use of all equipment since misuse is dangerous. Member recognizes and acknowledges the possible hazards and dangers inherent in any form of physical activity. Member hereby knowingly and voluntarily waives any and all right or cause of action of any kind what so ever arising as a consequence of such physical activity and further assumes all risk of physical injury and liability even if such physical injury resulted as a direct and proximate consequence of the gross negligence of Gold's Gym, it's officers, agents, employees or instructors.

[3] For Members paying dues on a monthly basis pursuant to the Monthly Installment Plan, a membership shall be deemed "lapsed" if such monthly dues installments (and any additional charges and fees, if applicable) are not paid within 15 days of the monthly billing date. In order to reinstate membership, at management's discretion, the member must pay any and all past due balances ("including service fees) as well as any and all current dues and charges payable. In the case of members on a "full payment" or annual plan, a membership shall be deemed lapse one (1) day following the membership renewal date and such membership shall be reinstated upon management's discretion and member's payment, in full, of a full years dues (and appropriate charges) or payment pursuant to an amended or revised payment plan or schedule. A late fee will be charged by Gold's Gym, or its agent for payments received more than ten days after due date. If payment becomes more than 90 days late, the entire remaining balance becomes due in full. Any holder of this consumer credit agreement is subject to all claims and defenses which the debtor could assert against the seller for goods or services obtained pursuant hereto or with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amounts paid. This agreement is subject to all applicable Federal, State, and local laws and regulations.

[4] Rights of Member in event of a lapse. During any period of lapse, no Member shall have any privileges to use any of the facilities of Gold's Gym and such privileges shall not be reinstated until Member's arrears are paid in full as set forth herewithin and upon the approval of Gold's Gym; such approval shall be given or withheld in the sole discretion of Gold's Gym, notwithstanding the payment of arrears in full.

[5] In the case where one family member discontinues his or her membership (regardless of which member it is) the remaining Member would be charged the "1st Family Member" dues rate, if different.

[6] **Cancellation Procedures** All cancellations are processed through Gold's Gym Member Services department, PO Box 5789, Albany, NY 12205. Please contact Member Services in writing by submitting the "Contact Us" form provided on-line at www.goldsmemberservices.com. Disability - The following documentation is needed for cancellation due to physical disability (excluding pregnancy), and will only be accepted if sent by certified mail within 30 days of disability: Doctors note (must include Doctor's address and phone number) stating date and nature of injury/disability, lab reports, continuous doctor's notes. The date of disability for reasons of releasing liability for payment, or entitlement to refund, will be the day on which the documentation is received by the Gold's Gym Member Services Department. Gold's Gym may require that another physician, agreeable to you and Gold's Gym, and at Gold's Gym's expense, examine you. Member/Facility Relocations - Gold's Gym reserves the right to relocate its facilities. If at any time due to a facility relocation or permanent change of residence by a member, member's place of residence becomes more than 25 miles from any facility operated by Gold's Gym, member may at its discretion choose to terminate their membership. Payment on this agreement will be suspended upon legitimate verification that the members address is more than 25 miles from any facility operated by Gold's Gym, (which will only be accepted if sent by certified mail within 30 days of the relocation): Driver's License showing new address; Utility bill in your name at the new address; Mortgage closing agreement; Voters I.D. card; Moving receipt from moving or storage company in your name; Letter from employer with copy of pay stub; Copy of Military orders; Copy of lease agreement with landlord's name and address. Failure to provide the aforementioned proof will hold you liable for the full balance due on your agreement.

Early Cancellation of Term - Cancellation of membership contract for any reasons, excluding the Consumer's Right to Cancel and Additional Rights to Cancel pursuant to New York State Law, will be permitted following a cancellation fee of \$79 or remaining contract dues, whichever is less.

Cancellation of Month to Month Membership - Cancellation of Month to Month Membership for any reasons, excluding Consumer's Right to Cancel and Additional Rights to Cancel pursuant to New York State Law, will be permitted following a written request to cancel to Gold's Gym and a cancellation fee of \$35.

[7] **Membership Freeze** - Members requesting a freeze of membership due to medical injury/disability, pregnancy, or temporary relocation (minimum 60 days to a maximum of 1 year) must submit documentation as those stated in the "Cancellation Procedures" (#6) along with a membership change form and a \$10 service fee at the club, as well as a \$5 per month freeze fee drafted by ABC Financial Services. Approval of a membership freeze is within the sole discretion of Gold's Gym. An approved membership freeze will become effective on the first of the month following notification. If a membership freeze is approved, member is not entitled to use any club facilities during their membership freeze. Any use of the club facilities during a freeze period will automatically void the freeze and re-activate the membership. There is absolutely no retroactive refund of dues or retroactive time credits. Monthly freeze fee of \$5 per month will continue while the membership is on freeze, and the original expiration date will be extended by the amount of time the membership is on freeze. Normal membership dues will resume following the freeze period. Not applicable on dues plans less than \$15 a month.

[8] **Modifications of Facility or Services** - Gold's Gym reserves the right to modify or relocate facilities and/or change certain services, amenities, as well as adjust pricing and/or dues of such products and services it currently offers from time to time without prior notice or member approval.

[9] No deduction or allowance for dues shall be made for member's failure to use Gold's Gym facilities due to vacation, travel, or other personal commitments.

[10] Gold's Gym is a private club. Upon entering Gold's Gym, all members and guests are required to check in at the Front Desk prior to using club facilities. Members must present their I.D. card or key tag at that time. "Guests" accompanied by Members are permitted on a limited basis at the then prevailing guest rates. Guests must be greeted by a membership consultant, register, and fill out a guest waiver. Members are responsible for the behavior of their guests.

[11] Member agrees to be strictly and vicariously liable for any and all damage or injury to person or property occurring on Club premises arising from the wrongful act or omission of the "other members" set forth in this agreement, as well as any guest or guests of member. Member shall also be deemed an endorser and shall be liable on any checks or other negotiable instrument paid by guest which are later dishonored and/or returned for insufficient funds or any other reason.

[12] Minimum age for membership is 12. Anyone under age 16 must be accompanied by a parent or guardian to use the facility. Children 12 years of age and under must be in the child care center unless participating in a scheduled, supervised program, or accompanied by an adult. Children are not permitted on the gym floor without the approval and consent of management.

[13] Management has the right to suspend and/or terminate any membership for non-payment of dues or program fees as agreed, or for solicitation, behavior or any circumstance conflicting with the best interest of Gold's Gym, or other members. Gold's Gym shall have sole discretion in determining what conflicts with its best interests. No refund will be allowed. Management (not members) shall appropriately deal with all employee and member related matters.

[14] Member agrees to abide by all the membership rules, regulations and schedules of Gold's Gym, which may be posted at club or issued orally, and which may be amended from time to time, at Management's discretion.

[15] If any check, charge, or draft payment to Gold's Gym, and/or its agent, is not honored (in addition to the other rights it may have) shall have the right to: (a) Assess a service charge for each check, charge or draft dishonored, and to require reimbursement for cost of collection; (b) Collect the current and past due balance in any subsequent months; (c) Gold's Gym shall also have the right to terminate this agreement.

[16] Members are advised reciprocal arrangements are in effect with Gold's Gym member clubs throughout the world. The specific arrangements vary, so please ask your membership consultant for more information.

[17] Locker rentals are provided for daily use by members. Management reserves the right to remove any articles left in locker overnight and shall not be liable for locker contents. Members are urged to avoid bringing valuables onto Gold's Gym premises. Gold's Gym, its agents or employees shall not be liable for the loss, or theft of, or damage to the personal property of members or guests.

[18] In the case of long term interruption of all services provided by Gold's Gym (ex., fire or other natural or unnatural disasters), Gold's Gym reserves the right to freeze memberships and add the lost time only once services resume.

[19] Soliciting of any kind, including but not limited to the sale of personal training services and sale of supplements within the facility, as well as the designated parking areas, is strictly prohibited without the express written consent of Gold's Gym management. Members in violation of this policy will have all membership benefits terminated without refund.

[20] In the event it is necessary for Gold's Gym to engage the services of an attorney to enforce its rights pursuant to this agreement, due to a breach of this agreement or any wrongful omission of Member, Member agrees and shall be responsible for any and all reasonable attorneys fees incurred by Gold's Gym as a consequence of such a breach or wrongful act of omission.

[21] This Agreement constitutes the entire and exclusive agreement between the parties. Only an instrument in writing may modify any promise, representation understanding and/or agreement pertaining directly to the agreement. No employee or instructor of Gold's Gym is authorized to enter into any independent or supplement agreement with any Member or potential member, unless such agreement is approved in writing by the manager. The partial or complete invalidity or unenforceability of any provision of this contract shall not effect the validity, enforceability and continuing force and effect of any other provision.

[22] **ADD-ONS:** Childcare - Includes unlimited visits per month per child. Enforcement children incur additional fees. Group Exercise - includes unlimited Gold's Group Exercise classes per person, per month. Tanning - Includes unlimited silver level tanning per month per person. Gold level or sunless tanning will incur additional fees. Family Member - Includes monthly rate per person. Membership subject to re-write fee. In all cases see clubs for details.