

Membership Agreement

This Membership Agreement ("Agreement") is entered into as of the date of execution (the "Effective Date"), digitally or otherwise, by and between the undersigned ("Student") and CFM Fitness LLC, a California limited liability company dba CrossFit Merced ("CrossFit Merced").

FITNESS PROGRAM MEMBERSHIP AGREEMENT SERVICES. By entering into this Agreement, Student shall be given access to those CrossFit Merced classes and fitness programs with respect to Student's membership package, which shall be carried out by CrossFit Merced according to its sole discretion. Student shall be eligible to partake in any and all activities in accordance with his/her respective membership package. CrossFit Merced shall maintain the right to revise, modify, and/or terminate certain non-material aspects of its program(s) and schedule throughout the term of this Agreement. This is NOT an agreement for a specific number of classes, seminars, or coaching lessons during the agreed upon period.

PAYMENT & BILLING: Student shall make timely payment either in full in advance or by monthly payment by cash, check, or credit/debit card, provided however, that monthly payment by debit/credit card shall be made by auto-payment according to CrossFit Merced's standard procedures. Student's initial payment may be prorated; subsequent payments may be initiated by CrossFit Merced on or about the first day of each month of the term. In the event CrossFit Merced, is unable to process Student's payment from the designated account provided by Student, CrossFit Merced may use any of the other payment account information provided to CrossFit Merced as many times and as often as is reasonably necessary to recover the unpaid payment and service obligations of Student as set forth herein. Notwithstanding any applicable discounts, fees, and surcharges, standard rates for Student's memberships are as follows:

- Yearly "PAID IN FULL" Membership shall be paid at the commencement of Student's Membership in the amount of \$1,200.00.
- Yearly "CONTRACT" Membership shall be paid in twelve (12) monthly installments of \$119.00, for a total amount of \$1,428.00.
- Monthly "MONTH-TO-MONTH" Membership shall be paid in monthly installments of \$149.00.
- Other services including without limitation, CFM Kids, Boot Camp, Yoga, Nutrition, etc., shall be paid according to the terms set forth by CrossFit Merced for such.

DISCOUNTS. Discounts for Student's membership are offered and applied according to the sole discretion of CrossFit Merced. CrossFit Merced may charge Student's account for reimbursement of discounts improperly applied to Student's membership based on any misrepresentation of Student. Standard discounts are as follows:

- "FAMILY" discount may apply a 10% reduction in Student's membership fees in the event Student's membership account is linked with another active CrossFit Merced member which lives in the same household as Student, provided however, that (i) each membership account must be active, without "holds", and not in default; (ii) linked family accounts shall be paid together by only one person of such household; and (iii) each family member in a linked account remains jointly and severally liable for the past and future payment obligations of its other family members.
- "PUBLIC SAFETY" discount may apply a 20% reduction in Student's membership fees in the event Student is **ACTIVE DUTY** military, fire protection, and/or law enforcement, provided however, Student must (i) be a sworn officers of a government agency, and (ii) present valid ID.

TERM AND RENEWAL: The term of Student's membership, whether for an extended term or on a month-to-month basis as set forth above, shall be automatically renewed at the end of each term and successive renewal term, unless Student provides written notice of non-renewal or earlier termination of Student's membership as set forth herein. Notice of non-renewal shall be

submitted at least 30 days prior to the end of the term of Student's membership in signed writing in the form as designated by CrossFit Merced. In the event of a change of membership by Student, the term of Student's new membership will commence on the date of such change and shall renew automatically as set forth above according to the provisions of such new membership.

SURCHARGES: Student agrees that CrossFit Merced shall have the unilateral right to include and/or add reasonable surcharges to Student's monthly payment obligations, including without limitation, (i) a \$20 charge for payment that is 10 days past due, (ii) service fees incurred for electronic transactions from third party processors in connection with Student's electronic payment, and (iii) a \$5 handling charge for any payments made by check.

STUDENT'S RIGHT TO HOLD: Student may, for periods of one month, "put on hold" his/her membership, provided however, that Student may not put his/her membership on hold for more than three consecutive months. The request to place Student's membership on hold must be submitted in a signed writing prior to the requested hold dates (no retroactive holds) and must include an end date (or return date) except for as follows: (i) Student is injured or sick and provides CrossFit Merced with a signed doctor's note designating that Student is unfit for CrossFit Merced's programs for a period to extend longer than three months, or (ii) Student is pregnant and/or has had a baby. In both of the preceding cases the return date will be mutually determined based on the recovery and recuperation of Student.

STUDENT'S RIGHT TO CANCEL: Student may not terminate or cancel this Agreement except as follows: (1) If by reason of death or disability, Student is unable to receive CrossFit Merced services for which Student has agreed, Student and Student's estate shall be relieved from the obligation of making payment for services other than those received or obligated prior to death or the onset of disability (subject to signed doctor's note regarding the nature of the disability); (2) In the event Student moves further than 45 miles from CrossFit Merced, Student may terminate this agreement by providing proof of new residence; and (3) Student may cancel his/her membership at any time by paying a cancellation fee equal to 50% of the membership fee prorated to the remainder of the term of this Agreement, provided however, that all discounts given will not be considered in the calculation of the cancellation fee set forth in this subsection. In order to effectuate cancellation as set forth herein, Student shall send a 30 day written notice in the form designated by CrossFit Merced, delivered to CrossFit Merced at least 30 days prior to the cancellation date desired by the way of registered mail or in person to:

CrossFit Merced, Membership Cancellations
900 Loughborough Dr.
Merced, California 95348

Notwithstanding, in the event Student submits any payment, whether as a prepayment or otherwise, CrossFit Merced may refund so much of such sum as can be allocated to programs Student has not yet used according to its sole discretion, but in no event shall CrossFit Merced be so obligated to such refund.

STUDENT'S DEFAULT: Student shall be deemed in default of this Agreement upon the failure to comply with any of the terms and conditions of the Agreement, including without limitation, the obligation to make any payment in the amount and at the times designated herein. Upon default, CrossFit Merced shall have all rights and remedies available, including termination of this Agreement and institution of an action for all applicable damages. If CrossFit Merced delays or refrains from exercising any rights under this Agreement, CrossFit Merced does not waive, nor will CrossFit Merced lose such rights. In the event CrossFit Merced accepts late or partial payments from the Student, CrossFit Merced does not waive the right to receive full and timely payments and other charges due under this Agreement.

VOLUNTARY PROGRAM: Failure to attend CrossFit Merced's Classes does not relieve Student of the obligation to pay the full amount due for such program.

SUCCESSORS AND ASSIGNS: Student agrees that all terms and conditions of this Agreement shall be binding upon the heirs, personal representatives, lawful successors, and assigns of Student. CrossFit Merced may assign its rights and obligations under this Agreement to its successors without consent of Student.

ENFORCEABILITY: The parties agree that if any provision or portion of this Agreement is declared void and unenforceable, such provision or portion of a provision shall be deemed severed from this Agreement, in which case this Agreement shall otherwise remain in full force and effect. Notwithstanding, Student specifically agrees all the terms and conditions are to be enforced by CrossFit Merced and Student specifically waives any statute or other right of any type, which would invalidate the enforceability of any provision or portion of a provision of this Agreement.

GOVERNING LAW: This Agreement shall be governed and enforced in accordance with the laws of the State of California. In the event litigation is necessary to enforce any of the terms and conditions of this Agreement, CrossFit Merced and Student agree that the venue for such action shall exclusively be Merced County, California.

ATTORNEY FEES: In the event either party finds it necessary to commence litigation or other court action to enforce the terms and conditions of this Agreement, the prevailing party in such litigation or court action shall be entitled to receive their actual attorney's fees incurred, together with court costs, and other charges from the other party as a part of any ruling or judgment.

In witness hereof, Student hereby agrees to the terms and provision of this Agreement as of the Effective Date.
