Program Membership Terms and Conditions

MQ Sport and the Macquarie University Sport & Aquatic Centre are trading names of U@MQ Ltd ABN 27 125 926 169, a controlled entity of Macquarie University.

U@MQ Limited (U@MQ) is a controlled entity of Macquarie University. It administers the Sports & Aquatic Centre (“Centre”) and the Macquarie University Sport Fields and grounds (“Sport Fields”) (together, the “Facilities”) on behalf of Macquarie University. On acceptance of the Terms and Conditions of this Membership Agreement, the person seeking membership will be referred to as a “Member” and will have the usage rights and obligations as set out below. In this Membership Agreement, the term “Parent” refers to the legal parent or guardian of a child or of a person over 18 years of age with a physical or mental disability who lacks capacity to understand the risk warning on the Membership Application Form (“incapable person”). The Parent of an incapable person enters into this Membership Agreement on his or her own behalf and as agent for each incapable person named on the Membership Application Form.

1. MEMBERSHIP

Membership commences on the date stated on the Membership Application Form. The Member must present their membership card or photo identification to gain entry. Members will be charged a $2.50 fee to replace lost or stolen membership cards. Membership is personal to the Member and memberships cannot be assigned or transferred to another person. The General Manager, or their nominated representative, reserves the right to cancel this Membership Agreement and request return of this membership card at their discretion.

2. ANNUAL REGISTRATION FEE

Gymnastics and Martial Arts Members must pay the annual registration fee to U@MQ, who will in turn submit the fee to the relevant NSW gymnastics and martial arts governing bodies. This registration fee must be paid at the time of joining the Program and renewed on an annual basis as outlined by the governing body as part of the Member’s current Direct Debit.

3. CHANGES TO MEMBERSHIP

All requests for changes to Memberships (including contact details) must be made in person at the Administration Desk at the Centre or online. U@MQ will communicate with the Member or Parent primarily by email and/or SMS. Members and Parents must inform U@MQ promptly if their contact details change.

U@MQ will not process membership changes including but not limited to cancellation requests over the phone.

4. FEES
Membership fees are set out in the Membership Application Form.

U@MQ periodically reviews its membership terms and conditions and membership fees and inclusions. U@MQ will provide at least fourteen (14) days’ notice prior to any proposed change in membership terms and conditions, fees and inclusions by posting such changes on its website or by emailing the Member or Parent at the contact email on record. If the Member or Parent does not wish to accept the changes to the membership terms and conditions they may terminate the membership with immediate effect in the manner provided in clause 7.

If Members have been provided discounted fee rates because they meet the conditions of U@MQ from time to time and subsequently cease to meet those terms and conditions, U@MQ may, without notice, debit from the Member’s account or invoice the correct fees.

5. COOLING OFF PERIOD

All U@MQ membership and registration fees are refundable during a “Cooling Off Period” of seven (7) days beginning on the date the Membership Agreement is signed. If the membership is cancelled during the Cooling Off Period, the cost of the total pro-rated payment, less the value of any goods or services received, will be refunded. The Cooling Off Period does not apply where a membership is renewed.

6. MISSED LESSONS

Refer to the Missed Lesson Policy at www.campuslife.mq.edu.au. U@MQ reserves the right to update and amend its Missed Lesson Policy from time to time.

Non-attendance for an eight (8) week consecutive period may result in membership termination at the discretion of the Manager – Sport Program. Attempted contact with the Member or Parent with regard to membership and/or cancellation will be made via phone and/or email prior to cancellation.

Members will not be given a refund of fees for services missed prior to the cancellation.

7. CANCELLATIONS & REFUNDS

After fulfilling the minimum 12 weeks of a Program, Members or their Parents may, by providing a minimum 15 days’ notice and completing a Cancellation Form at the appropriate Administration Desk, cancel the membership. U@MQ will not process a cancellation request if the Member is in arrears.

If the Member has a medical condition precluding participation in the Program for a minimum four (4) consecutive weeks, the Member may cancel the membership (including during any minimum 12-week period for the Program), by providing notice to U@MQ within a week after the first missed lesson, together with a medical certificate by a doctor stating that the Member’s medical condition renders the Member unfit to participate in the Program and stating the period of time during which the Member will be unfit.
Members will not be given a refund of fees for services missed prior to providing a medical certificate.

8. PERMISSION TO PHOTOGRAPH

Members and Parents must not take photographs or video footage of other Members during Program lessons unless they have the prior approval of the Manager – Sport Programs.

9. BEHAVIOUR WITHIN THE CENTRE

While in or near the Facilities, Members and Parents must comply with U@MQ's Terms & Conditions of Entry, Facilities signage and the directions of Facilities staff.

U@MQ reserves the right for its staff to refuse entry, cancel a membership or direct Members and Parents to leave the premises (which they must do promptly) if they do not behave in a responsible manner, are under the influence of drugs and/or alcohol, or do not adhere to the U@MQ Terms & Conditions of Entry, Facilities signage or directions from staff.

Members and Parents will not be given a refund of fees if they are or the incapable person is refused entry or their membership is cancelled because of their inappropriate behaviour in or near the Facilities.

10. CLOTHING

Appropriate clothing must be worn at the Facilities at all times. Use of the Health Club, Social Sport and Group Fitness Classes require enclosed shoes. A towel must be used in the Health Club. Appropriate swimwear must be worn in the pools.

11. OUTSTANDING FEES

Direct Debit Membership is ongoing and will be charged fortnightly on a Thursday unless the membership is cancelled in accordance with these terms and conditions, in which case the cancellation provisions apply. Membership fees must be paid regardless of Centre usage.

Members must have sufficient funds in their nominated account and must provide U@MQ with a direct debit authority for all membership fees and, in the case of martial arts and gymnastics Programs, annual registration fees. Members must provide U@MQ with updated account information if the information changes.

U@MQ may charge a $7.50 failed payment fee for each unsuccessful debit transaction as well as dishonour fees charged by U@MQ’s financial institution, in addition to any charges it receives from the Member’s financial institution. If Members have outstanding debts, they may be denied access to the Facilities and/or Program lessons.
U@MQ will take reasonable steps to contact Members or Parents if a direct debit payment is not made. U@MQ will implement re-debit measures as necessary to recover any outstanding debts. U@MQ will continue to debit from the nominated account even in circumstances where the membership is cancelled, until all debts have been paid.

U@MQ may, at its discretion and without notice, cancel a membership if fees are in arrears. The amount owing may be passed on to a debt collection agency for recovery. Any costs associated with this are at the Member’s or Parent’s expense. If Members or Parents have a query regarding payments, U@MQ will use reasonable endeavours to respond within five (5) business days.

12. VARIATION/UNAVAILABILITY OF FACILITIES OR SERVICES

U@MQ reserves the right to vary, add, or eliminate from time to time any of the particular facilities, entitlements or services. U@MQ is not liable if the Facilities or a particular facility or service is unavailable at any particular time, including due to a prior booking, mechanical breakdown, fire, act of God, condemnation, catastrophe or any other reason. Members and Parents must not hold U@MQ responsible or liable for such occurrences.

13. PARKING

U@MQ does not control the parking facilities near the Centre and accepts no responsibility if parking is not available.

Members and Parents must obey all traffic signs and parking terms and conditions in or around the Facilities.

14. LOCKERS

U@MQ does not accept responsibility for items which are lost or stolen from lockers or other areas in or around the Facilities.

To the maximum extent permitted by law, the liability of U@MQ for any loss or damage to the property of Members, incapable persons or Parents that may arise from any cause (including the negligence, or any act or omission of U@MQ or its employees, servants, agents, or independent contractors), is excluded.

To the extent that the liability of U@MQ under this clause 14 cannot be excluded, the liability of U@MQ is limited in accordance with clause 21.

15. COPY OF MEMBERSHIP AGREEMENT

Upon acceptance of an application for membership, U@MQ will provide the Member or Parent with a copy of the Membership Agreement. If the Member or Parent loses their copy, U@MQ may provide the Member or Parent with another copy but the Member or Parent must:
16. OUT OF LESSON ACCESS

Swim School members are entitled to access the pools one (1) hour before their lesson. Guests of members, including parents supervising children six (6) years and older must pay a casual entry fee. One (1) parent of members aged five (5) years and under is allowed entry free of charge when their child attends a program lesson, in line with U@MQ’s Keep Watch Policy. Access and use of additional facilities must be paid for.

17. CIVIL LIABILITY ACT 2002 (NSW)

This clause 17 applies only to harm as that term is defined in the Civil Liability Act 2002 (NSW). In this clause 17, “recreation services”, “recreational activity”, “parents” and “incapable person” have the meanings given to those terms in the Civil Liability Act 2002 (NSW).

Members and Parents of incapable persons acknowledge that participation in the Program supplied by or on behalf of U@MQ or at the Facilities, is at the Member’s or incapable person’s own risk.

It is a term of this Membership Agreement for the provision of recreation services that Members or incapable persons participate in the Program at their own risk.

18. AUSTRALIAN CONSUMER LAW (Cth)

Sections 60, 61 and 62 of the Australian Consumer Law at Schedule 2 of the Competition and Consumer Act 2010 (Cth) contains guarantees in relation to provision of services to consumers that the services will be:

a. provided with due care and skill;

b. fit for any particular purpose that the consumer has made known as the purpose for which the consumer is acquiring the services; and

c. supplied within a reasonable time (“Consumer Guarantees”).

This clause 18 applies only to liabilities out of which a party may lawfully contract pursuant to section 139A of the Competition and Consumer Act 2010 (Cth) and is not intended to apply to (i) any liability other than a liability in section 139A(3) of the Competition and Consumer Act 2010 or (ii) significant personal injury caused by reckless conduct.
In this clause 18, “recreational services” has the meaning given to that term in the Australian Consumer Law. Subject to this clause 18, it is a term of this Membership Agreement that the Consumer Guarantees are excluded and are without effect in relation to those recreational services.

19. MEMBER AND/OR PARENT’S WARRANTY

By signing this application for membership, Members or Parents of incapable persons warrant that they or the incapable persons are physically and mentally sound and are not suffering from any condition, impairment, disease, infirmity, or other illness that would prevent their participation in the Program at the Facilities.

Members and Parents acknowledge that:

a. they have been informed by U@MQ of the need for a physician’s approval for participation in a Program;

b. it is their sole responsibility to obtain an examination by a physician prior to participation any Program;

c. They or the incapable person have either had a physical examination and been given their physician’s permission to participate in a Program, or if they have chosen not to obtain a physician’s permission prior to participating in a Program, they or the incapable persons are participating in the Program at their own risk.

20. COMMON LAW RELEASE

This clause 20 applies only to liabilities out of which a party may lawfully contract and which are not the subject of clauses 17 and 18.

The Member or Parent of an incapable person now and forever releases U@MQ from all and any liability from personal injury and death howsoever arising, including in tort (including negligence), contract or pursuant to statute and waives any rights he or she may have at any time to bring a claim for the same.

21. MAXIMUM LIABILITY OF U@MQ

The liability of U@MQ for loss or damage (not being a liability the subject of clauses 17, 18 and 20) howsoever arising in connection with the presence of a Member, incapable person or Parent at or about the Facilities or for the supply of goods or services is limited, including in tort (including in negligence), contract or pursuant to statute, to:

a. In the case of goods, five (5) times the costs of the goods, or if the cost of the goods cannot be ascertained, five (5) times the market price of equivalent goods;

b. In the case of services, five (5) times the costs of the services, or, if the cost of the services cannot be ascertained, five (5) times the market price of equivalent services; and
c. In any other case, $2,500.

22. GENERAL

a. Interpretation

In this Membership Agreement:

· Words in the singular shall include the plural and vice versa save as the context may otherwise require;

· “Person” includes an individual, corporation, partnership, joint venture or other association and words importing a gender include every gender;

· References to a person includes that person’s executors, administrators, successors and permitted assigns, and, in the case of a trustee, include any substituted or additional trustee;

· A reference to any legislation or to any section of provision of any legislation includes any statutory modification or re-enactment of or any statutory provision substituted for that legislation, section or provision and ordinances, by-laws, regulations and other statutory instruments issued under that legislation, section or provision;

· The words “include,” “includes” and “including” and any cognate terms are to be read as if followed by the words “without limitation”; and

· The rule known as the contra proferentem rule does not apply to the construction or interpretation of this Membership Agreement or any provision in it.

b. Governing Law and jurisdiction

This Membership Agreement is governed by the law in force in New South Wales and the Member, and/or the Parent of an incapable person submits to the non-exclusive jurisdiction of the courts of New South Wales and all courts competent to hear appeals from the courts of New South Wales in respect of all proceedings arising in connection with this Membership Agreement.

c. Parent as agent

The Parent of an incapable person enters into this Membership Agreement on his or her own behalf and as agent for each incapable person named on the Membership Application Form and every term of this Membership Agreement (including each waiver and release) is made and given by the Parent on his or her own behalf and as agent for and on behalf of each incapable person. The Parent warrants that he or she (i) has the necessary authority to enter into and agree the terms of this Membership Agreement; (ii) will pass on to each
incapable person the terms of the risk warning set out above; and (iii) has parental responsibility for each incapable person.

d. Waiver

Failure or delay to exercise or enforce, or the partial exercise of enforcement of, a right, power or remedy provided by law or under this Membership Agreement does not preclude, or operate as a waiver of the exercise or enforcement, or further exercise of enforcement, of that or any other rights, power, or remedy provided by law or under this Membership Agreement. A waiver or consent given under this Membership Agreement is only effective and binding if it is given or confirmed in writing.

e. Nothing contrary to law

Nothing in this Membership Agreement is intended to, or is construed so as to limit or exclude a liability which cannot as a matter of law be limited or excluded.

f. Severability

If, at any time, any provision of this Membership Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this will not affect or impair (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Membership Agreement or (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Membership Agreement.

TERMS AND CONDITIONS ACKNOWLEDGEMENT

Membership Agreement Terms and Conditions

I have read and understand all membership entitlements and the Membership Terms and Conditions.

Minimum Term

Direct Debit and Salary Sacrifice Memberships are ongoing fortnightly payment memberships. The minimum term for Program memberships is twelve (12) weeks and will continue until cancelled by me. Membership fees are payable irrespective of my level of use or attendance at the Facilities.

Missed Lesson Policy

I have read and agree to U@MQ's Missed Lesson Policy attached to this form.

Cancellations
I understand that should I wish to cancel a membership after the minimum twelve (12) weeks I must provide a minimum of fifteen (15) days' notice and complete a Cancellation Form. Cancellations will not be taken over the phone.

Supervision

Members aged 12 years and under or Members with a physical or mental disability who lack capacity to understand the risk warning in this Program Membership Application Form ("incapable persons") must be accompanied by a Parent at all times. (This excludes competitive squads: refer to website). Incapable Persons that are not accompanied by a Parent will be supervised at reception until a Parent arrives. The lesson will be forfeited.

Electronic Communication

I authorise U@MQto send operational/promotional messages occasionally to my nominated email account/mobile phone number.

Payments

I understand that my designated credit card or bank account will be debited in accordance with the Membership Terms and Conditions, irrespective of my use or attendance of the Centre or Facilities, until my Membership is cancelled. I/We authorize DebitSuccess Pty Ltd, ACN 095 551 581, APCA User ID Number 184534 to debit my/our account at the Financial Institution identified here through the Bulk Electronic Clearing System (B ECS). This authorization is to remain in force in accordance with the above terms and conditions and I/We have read and agree to be bound by these said terms and conditions.

RISK WARNING: CIVIL LIABILITY ACT 2002 (NSW)

1. In this Membership Application Form, the term “Parent” refers to the legal parent or guardian of a child or of a person with a physical or mental disability who lacks capacity to understand this risk warning (“incapable person”) and who is named as a Member on the Membership Application Form. The Parent of an incapable person enters into this Membership Agreement on his or her own behalf and as agent for each incapable person named on the Membership Application Form.

2. Members and Parents of incapable persons are warned that participation in sport, fitness, swimming and exercise classes (“health & fitness activities") at the Macquarie University Sport & Aquatic Centre (“Centre”) and the Macquarie University Sport Fields and grounds (“Sport Fields”) (together, the “Facilities”) or use of the Facilities are “recreational activities” or “dangerous recreational activities” as those terms are defined in Part 1A, Division 5, of the Civil Liability Act 2002 (NSW).
3. Members and Parents are warned that participation in the health & fitness activities exposes them and/or the incapable person to risk of personal injury and death including by falls, injuries arising from physical combat or team sports, and water immersion.

4. Members and Parents understand and acknowledge that they have been given a risk warning by U@MQ under the Civil Liability Act 2002 (NSW), for and on behalf of themselves and/or the incapable person, that, during all times that they and/or the incapable person are participating in the health & fitness activities or are on or about the Facilities, they and/or the incapable person are doing so at their own risk.

5. Members and Parents warrant that they and/or the incapable person are physically fit and able to engage in health & fitness activities.

6. Members and Parents understand and acknowledge the recommendation of U@MQ that they and/or the incapable person consult a medical practitioner prior to the commencement of any health & fitness activities.

PRIVACY NOTIFICATION

U@MQ Ltd is a controlled entity of Macquarie University and collects personal information on its own behalf and on behalf of Macquarie University. U@MQ Ltd has adopted Macquarie University’s privacy policy. U@MQ Ltd is collecting personal information on this form in relation to your or the incapable person’s application for a Macquarie University Sport and Aquatic Centre Membership. The personal information on this form will be used by U@MQ Ltd primarily for the assessment of the membership application and the administration of the payments and provision of services to you or the incapable person by U@MQ Ltd and Macquarie University. U@MQ Ltd may also use this personal information for alternate administrative purposes that may include auditing, software system support, program evaluation or to facilitate electronic payments. For the same purposes, U@MQ Ltd may disclose your or the incapable person’s personal information to a third party provider of these services that may include LINKS Modular Solutions, LINKSPAY, DebitSuccess, National Australia Bank, Macquarie University and its controlled entities. When storing personal information electronically, U@MQ Ltd may disclose your personal information or that of the incapable person to overseas recipients by virtue of its third party hosting arrangements. These cloud based servers are likely to be located in the United Kingdom, United States or countries within the European Union. Otherwise U@MQ Ltd will not disclose your personal information or that of the incapable person without your consent unless authorised to do so or required by law.

The provision of your personal information or that of the incapable person is voluntary, but if you do not provide the personal information, U@MQ Ltd will not be able to process your or the incapable person’s membership application or administer the membership. You may request access to your personal information or that of the incapable person at any time.

By signing this Membership Application Form, you confirm that you have read the Macquarie University’s privacy policy at http://www.mq.edu.au/about/about-the-university/offices-and-units/campus-life/privacy-policy
DIRECT DEBIT REQUEST AUTHORISATION

This Authorisation is to remain in force in accordance with the Terms and Conditions on this Direct Debit Request, the provided DDR Service Agreement, and I/we have read and understand the same.

Terms and Conditions

DEBITSUCCESS DIRECT DEBIT REQUEST (DDR) SERVICE AGREEMENT This Agreement is designed to explain what your obligations are when undertaking a Direct Debit arrangement involving Debitsuccess. It also details what our obligations are to you and forms part of the terms and conditions of your Direct Debit Request (DDR) and should be read in conjunction with your Member Application.

INITIAL TERMS I/We authorise Debitsuccess Pty Limited (ACN: 095 551 581) APCA User ID 184532 to make periodic debits on behalf of the “Business” as indicated on DDR Authorisation (herein referred to as the Business). I/We acknowledge that if specified by the Business, in addition to the agreed periodic debits set out in the DDR Authorisation, administration/setup, variation, reversal, dishonour, or processing fees may also apply and be debited under the DDR as instructed by the Business.

RELATIONSHIP I/We acknowledge that Debitsuccess is acting as an agent of the Business and that Debitsuccess does not provide any goods or services, and has no express or implied liability in relation to the goods and services provided by the Business or the terms and conditions of any agreement with the Business.

CLEARED FUNDS I/We acknowledge that it is my/our responsibility to ensure that there are sufficient cleared funds in the nominated account by, and at all times on, the due date of the payment (“Day to Debit”) to enable the direct debit to be honoured on the Day to Debit. I/We acknowledge and agree that sufficient funds will remain in the nominated account until the direct debit amount has been debited from the account and that if there are insufficient funds available when the debit is attempted, I/we agree that I/we will be responsible for any fees and charges that may be charged by my/our Financial Institution.

VARIATIONS TO DEBIT TERMS

I/We authorise the Business to vary the amount of the payments from time to time as provided for within the agreement with the Business. I/We authorise Debitsuccess to vary the amount of the payments upon instructions from the Business. I/We do not require Debitsuccess to notify me/us of such variations to the debit amount. I/We acknowledge that variations to the debit arrangement will be directed to the Business. I/We acknowledge that Debitsuccess/Business is to provide 14 days’ notice if proposing to vary the terms of the debit arrangements otherwise than in accordance with an agreed payment schedule.

I/We acknowledge that my/our requests to vary, defer or stop the debit arrangement will be directed to the Business.
CANCELLING THESE DEBIT TERMS

I/we understand that I/we are able to cancel this DDR by requesting this of the Business or the Financial Institution, and I/we acknowledge that cancellation of the authority to debit my/our account will not terminate my/our agreement with the Business or remove my/our liability to make the payments I/we have agreed to.

DISHONOURED PAYMENTS

I/we acknowledge that: - if a debit is returned by my/our Financial Institution as unpaid, I/we will be responsible for any fees and charges for each unsuccessful debit in addition to any Financial Institution charges and collection fees, including and not limited to any fees of solicitors and collection agents appointed by Debitsuccess; and - Debitsuccess may attempt to re-process any unsuccessful payments as advised by the Business and/or add such unsuccessful payment to any future payments.

ACCURACY OF INFORMATION

I/we acknowledge that it is my/our responsibility to ensure that the details entered on the DDR Authorisation are correct and that Debitsuccess is not liable to the extent that any such details are wrong and this causes a required payment to be missed. In addition, where I/we are paying the required payments by credit card and have entered the details of the credit card on the application form, I/we agree that Debitsuccess may continue to debit from a credit card in accordance with the terms of this Agreement to the extent that the credit card has expired, and that it wholly my/our responsibility to provide details of a replacement credit card to Debitsuccess via the Business.

DISPUTES

I/we acknowledge that any disputed debit payments will be directed to the Business. If no resolution is forthcoming, I/we understand that I/we are to contact the Financial Institution.

OTHER AUTHORISATIONS

I/we authorise:

The Debit User to verify details of my/our account with my/our Financial Institution; and

The Financial Institution to release information allowing the Debit User to verify my/our account details.

INFORMATION SECURITY

Debitsuccess agrees that it will make reasonable efforts to keep any of your information contained in the DDR (including account details) and any other information that we have about you confidential and secure, and will ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.

Debitsuccess will only disclose information that we have about you:

to the extent specifically required by law; or

for the purposes of this Agreement (including disclosing information in connection with any query or claim).
Should you have any queries in relation to these terms and conditions contact

DebitSuccess Pty Ltd.

PO Box 577, Mt Waverley, Vic, 3149

Phone: 1800 148 848

E-mail: customerservice@debitsuccess.com.