

# Membership Agreement

## Identifying parties

Workout Zone Pty Ltd "Us" "Our" "We" Member/Members "You" "Your"

### 1. Cooling Off

1.1 This agreement is subject to a 7 day cooling off period. You can cancel this agreement within 7 days from the start date by giving us written notice. The start date is the date you sign this agreement (unless we agree to later date). Your written cancellation can be given to us personally, by post or by e mail.

1.2 If you cancel your Membership within the 7 day cooling off period you will be liable for the Access Pass Fee and fees for any services or products already supplied. Any period of unused Membership Fees will be refunded.

### 2. Minimum Age

2.1 For safety and security reasons you must be at least 18 years old to become a Member. Alternately 16 years of age with consent and signature of a parent/guardian and must be present during the sign and induction process.

### 3. Direct Debit Membership Fees

3.1 Direct Debit Membership Fees will continue to be debited from your account until you cancel the arrangement by notifying us in writing/email with 30 days notice or we cancel the arrangement. If you end this Agreement or stop the automatic debit arrangement in a way not described in this Agreement, you may be liable for damages for breach of contract.

3.2 Our third party biller Membership Fees are payable on a 2 week Billing Period. You must pay Membership Fees in advance until your Agreement ends.

**3.3 Direct Debit Payment Agreement:** Membership Fees will be charged via our third party biller - our third party biller (not us). You will be provided with a copy of Direct Debit Payment Agreement of the Biller which applies to any direct debit services. The Direct Debit Payment Agreement, which we are not a party to, is entirely separate to this Agreement.

**3.4 Authority to deduct Fees:** By nominating a credit or debit account, you authorise our Biller, to deduct from that account all Fees and other charges you are responsible for under this Agreement. You must keep your account details up to date.

**3.5 Late or rejected direct debit payments:** You must ensure there is enough money in your nominated account on the usual payment date.

**If there is not enough money in your nominated account on the usual payment date, or there is another reason that your account was unable to be debited you will be charged our third party biller's dishonour Fee.**

Our third party biller dishonour fee is set by our third party biller and we have no control over or receive any of part of this fee. You authorise our Biller to deduct any unpaid arrears outstanding on your account. Your bank or credit provider may also charge you a fee for overdrawing your account if you do not have enough money in your account when payment is due.

3.5 If you do not pay a Fee or other amount you owe when due, we can suspend your Membership until all amounts have been paid.

3.6 Fees and charges continue to accrue during a suspension.

### 4. Suspending Your Direct Debit Membership:

4.1 Your membership can temporarily be suspended, for a minimum of 2 weeks and up to a maximum of 2 months in any 12 month period.

4.2 Each suspension period must start and end on a direct debit cycle date.

4.3 The suspension fee is \$5 per fortnight billed on regular direct debit dates.

4.4 You must give two weeks written/email notice so that we can contact the third party billing company (our third party biller).

4.5 Your account must not be in arrears.

4.6 We may agree to suspend your membership longer than the maximum 2 month period for travel, medical or hardship reasons but you must give us proof (such as supporting documents) to our reasonable satisfaction.

### 5. Cancelling your Direct Debit Membership:

5.1 You must provide 30 days written/email notice to cancel this Agreement. Please note, the access fee key fob/wristband is non-refundable.

### 6. Reactivating your Direct Debit Membership:

6.1 If you cancel your membership and then re-join, a reactivation fee of \$20 will apply. The full access fee of \$40 applies if a new key fob/wristband is required.

### 7. Suspending Your Pre-Paid Membership:

7.1 Your membership can temporarily be suspended for a minimum of 2 weeks and up to a maximum of 2 months in any 12 month period.

7.2 There is no suspension fee for pre-paid memberships. You must give two weeks written/email notice. We can not backdate suspensions.

7.3 We may agree to suspend your Membership longer than the maximum 2 month period for travel, medical or hardship reasons but you must give us proof (such as supporting

documents) to our reasonable satisfaction.

### 8. Cancelling your Pre-Paid Membership:

8.1 You can not cancel a pre-paid membership unless during the 7 day cooling off period. Refunds are not given for remaining membership time or for the access pass key fob/wristband and services already supplied. Your Membership cannot be transferred to another person.

### 9. Reactivating a Pre-Paid Membership:

9.1 A \$20 reactivation fee is applied when a pre-paid membership has expired longer than 2 months. The full access fee of \$40 applies if a new key fob/wristband is required.

### 10. Other Fees

10.1 Access Fee: Key Fob \$40, Wristband \$40 (including replacement)

Reactivation Fee: \$20 (Reactivating a membership with an existing keyfob/wristband)

Guest Fee: \$15 per casual visit (Done in staffed hours only)

**Tailgate Fee: \$150.00 (Maximum)**

**letting someone into the gym under your access is NOT allowed**

**10.2 Fee increases:** Fees may change from time to time including Membership Fees and all other Fees. We will make reasonable efforts to tell you of any Fee changes.

### 11. Other services

11.1 Other services, including personal training services, offered at the Club by contractors, licensees and others which are offered separately to services provided under this Agreement. You will need to pay applicable fees directly to the providers of the services and agree to separate terms and conditions. We are not responsible for these third party provided services including fees or any associated costs, claims or refunds. Only providers pre approved by the Club may offer services within the facility.

### 12. Joining, Access And Reciprocity

12.1 When you join our Club, you will need to give us information and provide us with photographic identification. If you join under a particular offer, such as a corporate offer, you will also need to give us proof that you are eligible for that offer.

12.2 On joining you will need to purchase a Access Pass (Key fob or wristband) that will let you access and use our Club and the Facilities and Services. The access key fob or wristband is non refundable.

**12.3 Your Access Pass:** You will need your Access Pass to access the Club and must scan in each time you use the Facilities and Services.

12.4 If you lose or forget your Access Pass you may access the Club during staffed hours if you show photo ID to Club staff but this will be at the discretion of the Club. You should not ask or expect another person to let you into a Club at any time.

12.5 You must not let anyone else into a Club without the approval of Club staff or let anyone else use your Access Pass. If you break this term, you may be charged the Tailgate Fee and/or your Membership may be suspended or cancelled.

12.6 If your Access Pass is lost or stolen you must let us know immediately and buy a replacement for \$40 in 14 days or you may be refused access to the Club.

### 13. Health And Safety And Acceptable Conduct

**13.1 Your physical condition:** When you sign this Agreement and each time you use the Facilities and Services, you must ensure you are in good physical condition and know of no medical or other reason why you should not exercise. If unsure, you should not use the Facilities and Services until you have sought appropriate medical guidance and been given the go-ahead.

13.2 You agree to give us all relevant personal health and fitness information both before and during the course of any exercise program or other activity. You also agree to complete our Pre- Exercise Questionnaire. In some cases, responses you give will require that you get medical guidance before exercising. You acknowledge that pre-exercise or other screening is no substitute for medical advice and does not guarantee against injury or death.

13.3 You must not use the Facilities and Services if you are suffering from any illness, disease, injury or other condition that could be a risk to your health or safety or that of other Members and others.

13.4 We may suspend or cancel your Membership if we have reason to suspect that you have not complied with clause 13.

**13.5 Orientation:** You will be required to participate in a Member orientation to familiarise you with the Facilities and Services before you use them.

**13.6 Proper use of equipment:** You promise to take care to use the Facilities and Services safely and properly. If you are ever not sure how to operate any equipment properly, you agree to ask Club staff first.

**13.7 Guests:** You may bring a guest into a Club but only if they register with Club staff first, during staffed hours, pay a Guest Fee and meet our other reasonable conditions. For example, they will need to be the Minimum Age, show photo ID, complete the Pre-Exercise Questionnaire and other standard forms.

13.8 Club Rules form part of this Agreement so you must make sure you read, understand and follow them at all times. Club Rules apply to everyone using the facilities and services. They are displayed in the Club.

13.9 If you break any of the Club Rules we will respond in a way we consider fair and appropriate. For example, in less serious cases, we may give you a warning but in serious cases or where you have repeatedly broken Club Rules we may suspend or cancel your Membership. If your breach causes us or another person costs, loss or damages, you agree to pay for these.

**13.10 Commercial activity:** You acknowledge that engaging in any commercial or business activities in the Club, such as offering training services or selling goods in the Club is prohibited unless we grant you written permission to do so. If we do give you

written permission, we can revoke this at any time.

**13.11 Action for risky or inappropriate conduct:** If you behave in a risky or seriously inappropriate way, for example, if you threaten or harass others, damage equipment, distribute or use illicit substances, or train other Members without our authorisation, appropriate action will be taken. For example, your Membership may be immediately suspended or cancelled (with a Cancellation Fee potentially applying) and/or we may refer the matter to appropriate authorities. If your conduct causes us or another person costs, loss or damages you agree to pay for these.

**14. Security and 24 hour CCTV**

14.1 Club premises have CCTV security cameras recording 24-hours a day (except in bathrooms) and may have remote video guarding services. This system is used for security purposes but does not guarantee against harm. You should contact the Club if you have questions on this.

14.2 **Emergencies:** Clubs have an emergency panic button for safety and security reasons and to alert a security company in emergencies, for example, if you are, or feel, threatened or need medical help. You must understand how emergency apparatus works and agree to use it only in an emergency.

14.3 If you deliberately use emergency apparatus inappropriately, you agree to pay for any costs, loss or damages incurred because of this inappropriate use.

14.4 Clubs may also have an emergency or crisis response procedure displayed which must be followed in emergencies.

14.5 **Be cautious:** You must be cautious when entering, leaving a Club and using the Club and when appropriate, for example, if exercising alone or outside Staffed Hours.

14.6 **Following Directions:** You agree to follow any reasonable direction of Club staff relating to health, safety or security matters or related matters.

**15. Privacy and your personal information**

15.1 From when you apply for Membership, you will need to provide us with, and we will have access to personal information about you, including information relating to your health and finances.

15.2 **General consent:** By signing this Agreement, you consent to us collecting, using, disclosing and dealing with your personal information in accordance with our privacy policy.

15.3 **Other:** CCTV camera recording is used in Clubs (except in bathrooms). Members and guests are not allowed to take photos and/or videos in Clubs unless prior specific permission is granted by the Club.

**16. When we can end this agreement**

16.1 In addition to our other rights under this Agreement, we may cancel your Membership if you breach any obligation under this Agreement that can't be fixed or if you breach an obligation that can be fixed but you do not fix it in a reasonable time.

16.2 If we cancel your Membership under clause 16.1, you will be liable for Fees incurred, i.e. your Membership Fees for the time you were a Member (calculated on a pro rata basis), the Access Pass Fee and Fees for services already supplied. We may also charge a Cancellation Fee and recover costs, loss or damages caused.

16.3 You promise you are not bankrupt or insolvent and are able to pay applicable Fees at the time of signing. You agree that you will tell us promptly if you believe you will be unable to pay your Membership Fees for an extended period. We may cancel your Membership if you become bankrupt or insolvent.

16.4 If we cancel your Membership under clause 16.3 you will be liable for Fees incurred, i.e. your Membership Fees for the time you were a Member (calculated on a pro rata basis), the Access Pass Fee and Fees for services already supplied.

**17. Changes to your agreement**

17.1 We may sometimes make changes to this Agreement, including our Club Rules. If we do this, we will try to do this fairly and by giving you a chance to cancel your Membership if you are adversely affected by the change and do not agree to it. We will make reasonable efforts to tell you of any change in advance and when it will take effect. Subject to other Terms, the effective date will generally be at least 30 days from the date we tell you about the change unless it is not practical for us to tell you at this time. Your Membership will be amended from the effective date.

**18. Our liability to you - Statutory guarantees (ACL Australian Consumer Law)**

18.1 Under the ACL we guarantee that the services we supply: are provided with due care and skill; are reasonably fit for any purpose you have told us you are using the services for or told us you wish to achieve/ receive and/or are supplied in a reasonable time. Under certain legislative provisions, however, we can ask you to accept some limitations to the ACL guarantees. If you sign this Agreement, you agree, to the extent allowed by section

139A of the CCA, to exclude or modify our liability to you for death or injury from our failure to comply with ACL guarantees. This exclusion does not apply if your death or injury is caused by our "reckless conduct" (as defined in the CCA).

**18.2 Other implied terms:** Nothing in this Agreement excludes, restricts or modifies any terms, conditions, warranties, guarantees, rights or remedies which cannot lawfully be excluded, restricted or modified. Otherwise, unless expressly included in this Agreement, all implied terms, conditions, warranties, guarantees, rights or remedies that can be lawfully excluded are excluded. In particular, but subject to clause 16.1 and 16.2, we are not liable for death or injury caused by our negligence or breach of implied terms that services will be provided with reasonable care and skill at common law. This does not exclude our liability for reckless conduct.

**18.3 Loss of property:** You promise not to unnecessarily bring valuables into a Club and agree that it is not the obligation of the Club to look after unattended property.

**19. Your responsibility for damage**

19.1 You agree to pay for any loss or damage to the Club or the Facilities and Services caused by you or your guests through a wilful, wrongful or negligent act or as a result of your, or their, breach of this Agreement.

**20. Club closures**

20.1 We may need to close the Club for a period of time, for example, due to an emergency, or if required by a court order or by law.

20.2 We may close our Club up to 14 days in any 30 day period under clause 20.1 and keep charging Membership Fees.

20.3 If we close the Club for between 15 and 30 days under clause 20.1 in any 30 day period, we will automatically suspend your membership with no fees payable by you.

20.4 We may also close the Club for up to 30 consecutive days if it is being refurbished or relocated.

20.5 We will try, but cannot promise we will be able, to tell you about any Club closures in advance.

20.6 **Unexpected events:** We are not responsible if Members cannot use our Club because of an event caused by a natural force (such as a fire or a flood) or a road or building closure or something similar beyond our reasonable control.

If this continues for more than 30 days, then either you or we may cancel this Agreement immediately by written notice. No Fee will apply.

**21. Complaints and feedback**

21.1 If you have any concerns about the Facilities and Services or anything else in relation to your Membership, you should first raise it with Club staff. If you are uncomfortable about approaching, or do not wish to approach Club staff, or are not happy with the response given, you may send a complaint to us at [info@workoutzone.com.au](mailto:info@workoutzone.com.au)

**22. General legal matters**

22.1 **Severability:** If a court decides that any part of this Agreement is or becomes illegal, void or unenforceable, that part is deleted and this does not invalidate the rest of this Agreement.

22.2 **Waiver:** If we do not enforce our rights under this Agreement at any time, it does not mean that we may not do so in the future.

22.3 **Entire agreement:** You agree that we have not made any representations or promises that you have relied on, that are not in this Agreement.

22.4 **Applicable law:** The law of the state of Victoria applies to this Agreement.

**Signing the Agreement:** By signing this Agreement you enter into a legally binding contract with us. This Agreement sets out your rights to use our Facilities and Services and the responsibilities you have to comply with as a Member. These responsibilities, including payment of Membership Fees, do not depend on how often you use our Facilities and Services. What is set out in this Agreement overrides any statements made by you or us before you signed it so you should read through it fully to make sure it reflects your expectations. If you are unsure whether any particular statements that you have relied on are part of this Agreement, or if you have any queries regarding this Agreement, please ask us before you sign.

I/we have read through this Agreement in full and understand my/our obligations under it. By signing here, I/we agree to be bound by the provisions of this Agreement.

Name	Applicant signature	Date
PRINT YOUR NAME	X	

Parent/Guardian - If under 18 years	PRINT NAME	X	SIGNATURE
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