



**Welcome to Vida Fitness**  
*"Your fitness community"*

**MEMBERSHIP FORM - TERMS & CONDITIONS**

Terms & Conditions of Vida Fitness membership agreement. This document outlines the rights and responsibilities relating to the Members entitlements during the Membership period to use the facilities and services. It also relates to the member's authority to Stripe to directly debit the nominated credit card for any installments or fees under the terms and conditions of the membership agreement.

**Introduction**

This is a membership form under which you agree to become a member of Vida Fitness. When you sign this form, you are entering into a legally binding agreement. This agreement (your membership) is made up of the terms contained in this form including the membership details below (details) plus any special conditions and the attached Terms and Conditions (Terms).

This form sets out your rights to use our exercise facilities and services, and the obligations you have to comply with as a member. Your responsibilities under this agreement, including the payment of membership fees, do not depend on how often you use the facilities and services. You promise to tell us if at any time you believe that you may not be able to comply with your obligations under this agreement, including the payment of fees, so we can discuss your options with you. What is set out in this agreement overrides any statements made by you or us before you signed the agreement. Accordingly, you should now read through this entire form carefully to make sure that it fully reflects your expectations and ask us or seek advice if you are unsure whether any particular statements that you have relied on are part of this agreement.

If your membership is for a **Fixed Term**, it automatically terminates at the expiry of the Minimum Term and so a new agreement will be required if you require services after that time.

If your membership is **Ongoing**, it is a periodic agreement that will continue after the Minimum Term until either you or we terminate it in the way described in the agreement. If an automatic direct debit arrangement is in place, membership fees will continue to be debited from your credit card or account until you or Vida Fitness cancels the arrangement by notifying your bank or credit provider. If you terminate the agreement or stop the automatic debit arrangement in a manner not described in the agreement, then you may be liable for damages for breach of contract.

**This agreement is subject to a 48 hour cooling off period.**

## TERMS & CONDITIONS

### 1. Plain terms

These Terms use fairly plain language, so we want to make sure that some of the words and concepts used are easily understood. For instance, we have included clause headings as a guide but these do not form part of this agreement. Certain recurring words are defined in the details and elsewhere in this agreement and other forms of those words have equivalent meaning.

### 2. Cooling off period

If you change your mind shortly after applying for membership, you may have an opportunity to cancel. You will need to let us know in writing within the time specified in the details for it to be effective. We will charge the joining fee (if applicable) and fair amounts for fitness services we have already provided, but will otherwise refund you any other amounts you have paid to us within 7 days. If you wish to end your membership otherwise, different terms apply as set out in these Terms .

### 3. Responsibility for members under 18

By signing on behalf of a child, the parent or guardian agrees to be responsible for ensuring the child exercises safely, pays their membership fees and otherwise follows these Terms.

**Our minimum age:** You must be at least 14 years old to become a member.

**Joining aged 14–15:** If you are under 16, a parent or guardian must sign your membership agreement and pre-member screening. You can then: use cardiovascular equipment, take part in group fitness classes, supervised resistance training. You may not do unsupervised resistance training. You must not use the gym outside of the staffed hours.

**Joining aged 16–17:** If you are 16 or 17, a parent or guardian must co-sign your agreement and pre-member screening. You may then do unsupervised resistance training once a qualified staff member has assessed and written and supervised an initial resistance training program for you. You must not use the gym if you are the only person in the gym.

### 4. Safety first!

The health and safety of members is important to us. This clause sets out some of the things we require of you to help achieve that objective.

#### (a) Your physical condition

A safe and effective exercise program is dependent upon accurate health and fitness profiling. It is therefore essential that you tell us in writing all relevant personal health and fitness information both before (through our pre-membership screening or otherwise) and during the course of any exercise program or other activity. You also agree to notify us of any significant changes to your physical condition during the period of your membership.

You promise that information you disclose to us will be true and accurate and not misleading in any way. You must not attend and use the facilities and services whilst you are suffering from any illness, disease, injury or other condition that could present a risk to the health or safety of other members and guests or yourself.

If you happen to use the facilities and services before disclosing relevant health information to us, you promise that you are in good physical condition and you do not know of any reason why you may not be able to exercise safely. If you feel unsure that you can make this promise, we ask that you do not use the facilities and services until we have completed your health and fitness profile.

#### (b) Proper use of equipment

We will provide you with an induction consultation with a team member before using the facilities and services which we you must attend before use. In any case, you promise to take care when using the facilities and services and make sure that you use the facilities and services including equipment appropriately and safely. If you are ever not sure how to operate any equipment properly, please ask a team member before you use it.

### **(c) Gym Etiquette - Rules of good behaviour**

We display rules that apply to everyone using the facilities and services in order to promote health and safety and the protection of property (Gym Etiquette). A copy of our Gym Etiquette will be displayed on our website and on signage within the gym. Please make sure that you read our Rules carefully and ask us if there is anything you are not sure about.

We may occasionally update our Rules to further promote health and safety or to make other improvements. We will seek to tell you of any changes as set out below, though we expect you to keep familiar with the current version of our Rules by reading our website and signage on a regular basis.

If you break our Rules, the response we take will be at our reasonable choosing and we will try to exercise this right fairly by giving you a warning if we consider the failure is less serious. In this regard however you acknowledge that health and safety of all users and protection of property is very important. Accordingly, if we reasonably consider the failure to follow our Rules is serious or persistent we may suspend or even cancel your membership with immediate effect.

### **(d) We can refuse you entry**

We can refuse you entry to the facilities and services or cancel your membership immediately if you behave in a way that is seriously risky or inappropriate, such as if you threaten or harass others, deliberately or recklessly damage equipment or facilities or if you use or distribute illegal or performance enhancing drugs.

### **(e) Please follow our directions**

You agree to follow any reasonable direction of a member of our staff relating to health and safety or any other matter.

## **5. We take your privacy seriously**

### **(a) Our privacy policy**

From when you apply for membership we will have access to personal information about you, such as information relating to your health and finances. We will protect this information and only use, disclose or deal with this information in accordance with our Privacy Policy. The latest version of the Privacy Policy will be available on our website.

Your privacy is important to us. The data collected from you will not be sold, exchanged, transferred, or given to any other company for any reason whatsoever, without your consent. The email address you provide may be used to send you information, respond to inquiries, and/or other requests or questions.

### **(b) Video monitoring**

We may use video monitoring in our facilities for health, safety and security reasons. If you have any queries in relation to the use of monitors operating in and around our facilities please contact us.

### **(c) Please keep your contact details up to date**

You promise to tell us promptly if you change your address, phone number, email, bank account, credit card information for payment or if there is a change to any other personal information relevant to your membership with us. This includes any matters that affect the health or safety of you or others.

### **(d) Photography & Video Images**

I acknowledge that Vida Fitness may film, use video analysis and photography during programs, lessons and events. I acknowledge and agree that this usage, including for marketing & promotion purposes, is without compensation or notice to myself. Images may be used on our website, social media and other promotional material.

## **6. What you get when you join**

From the Start Date you are entitled to the membership benefits and use of the facilities and services that apply to the Membership Type you selected.

## **7. When can you put your membership on hold?**

You may temporarily suspend your membership for travel or medical reasons if all amounts payable for your membership are paid up to date and, if your membership is for a Fixed Term, it has more than two weeks left to run. You will need to produce satisfactory supporting documentation when you apply for a suspension. You must apply for a suspension as soon as possible after you become aware of the relevant circumstances. We are

entitled to charge you the suspension fee for processing your application. In any 12 month period, we are not obliged to suspend your membership on more than two occasions or for more than three months in total. While your membership is suspended, the term will be extended and we will freeze any direct debit payments that fall within the suspension period.

## **8. Ending your membership**

For the purposes of any requirements in this agreement to tell us in writing or give us written notice, we will accept notification by email or post.

### **8.1 On or after expiry of the Minimum Term**

If your membership is for a Fixed Term, you do not need to do anything, as it will automatically end when the Minimum Term expires. We will seek to remind you before the end of your membership in these circumstances in order that we can discuss renewal of your membership.

If your membership is Ongoing, it will continue after the Minimum Term unless you tell us in writing at any time before the expiry of the Minimum Term that you do not wish your membership to continue. We will seek to remind you before this time.

If your membership is Ongoing and you have not told us that you wish your membership to end at the expiry of the Minimum Term, you can terminate any time after the end of the Minimum Term by giving us at least 14 days prior written notice. Any unused membership fees after the required notice period will be refunded.

Where neither you nor we terminate this agreement, any unpaid fees will need to be paid by you and in addition to our other rights we may have including our taking action to recover the outstanding payments.

### **8.2 Other ways that you can end your Membership**

You can also cancel your membership where: (When no cancellation fee will apply)

- we don't keep our end of the deal (please see paragraph (a) below);
- you become subject to medical incapacity (please see paragraph (b) below);
- we make changes to this agreement that adversely affect you (please see clause 13);
- you otherwise become entitled to do so under consumer legislation; (When a cancellation fee may apply)
- you relocate or simply wish to cancel for any other reason (please see paragraph (c) below);

#### **(a) If we don't keep our end of the deal**

You can cancel your membership by written notice to us if we breach any of our obligations under this agreement and we have not remedied that breach within a reasonable time after you have given us a written request that we do so.

No fees will be applicable for cancelling in accordance with this clause apart from, to the extent not impacted by our breach, the joining fee, membership fees for the time you have been a member calculated on a pro-rata basis and any outstanding fees for other services already supplied to you.

**(b) You can cancel for medical reasons**  
You can end your membership by telling us in writing if you cannot exercise for the remainder of the Minimum Term due to an illness or a physical incapacity and you produce supporting documentation to our reasonable satisfaction.

In that event, you will only be charged the joining fee (if applicable), membership fees for the time you have been a member calculated on a pro rata basis and any outstanding fees for other services already supplied to you.

#### **(c) If your membership is no longer convenient**

Otherwise, you can end your membership during the Minimum Term with immediate effect at any time by simply telling us in writing. We understand that circumstances change and so you do not need to give any reason. Please note we will consider any request to transfer your membership and may agree to the transfer at our reasonable choosing subject to the satisfaction of reasonable eligibility conditions and your payment of the transfer fee. A cancellation fee will not be charged if we agree a transfer to someone who is not currently a member and they have paid our standard joining fee.

In any case if your membership ends under this paragraph (c), you will be liable for the joining fee (if applicable),

membership fees for the time you were a member calculated on a pro-rata basis, any outstanding fees for other services already supplied to you and, except as mentioned above, the cancellation fee.

### **8.3 When can we end your membership?**

In addition to our other rights under this agreement, we can terminate your membership by written notice to you if you fail to act in accordance with any obligation under this agreement and if capable of remedy you do not remedy the failure within a reasonable time of us giving you written notice requiring you do so. However, we will not seek to end your membership in this way if you have failed to make a payment and we are also in breach of a material condition of this agreement. If we cancel this agreement under this paragraph you will be liable for the joining fee (if applicable), membership fees for the time you were a member, the cancellation fee and any other fees payable for further fitness services already supplied.

On rare occasions we may cancel a membership by written notice to the member without the need to give a reason. If we cancel your membership under this paragraph you will only be liable for the membership fees for the time you were a member and any other fees for other fitness services already provided. No cancellation fee will apply and we will refund your joining fee (if applicable) together with the sum of \$50. You agree that this payment is your sole entitlement to compensation for cancellation of your membership under this paragraph.

### **9. Fees you have to pay for your membership**

The fees you have to pay are specified in the details of this agreement. This clause sets out some further rights and obligations that apply in relation to particular fees.

If you fail to make any payment when due, we can suspend your membership and refuse you access to the facilities and services until all outstanding amounts have been paid in addition to our other rights under these Terms. Fees and charges continue to accrue during the suspension.

#### **(a) Joining fee**

We may charge you a joining fee to cover the set up costs for a new membership. The joining fee is not refundable except in limited circumstances relating to clause 8.2 and clause 8.3.

#### **(b) Membership fees**

If your membership is for a Fixed Term you can pay your membership fees up front when you submit the membership form, or you can elect to pay by equal periodic instalments.

If your membership is Ongoing, membership fees must be paid periodically in advance until your membership ends.

#### **(c) Cancellation fee**

The cancellation fee based on a payout figure equal to the membership fees that you would have paid for the remainder of the Minimum Term as at the cancellation date less 50%.

#### **(d) Fee increases**

We will not increase the membership fees during the Minimum Term. However, we may increase your membership fees or any other fees with effect any time after that. We will make a fair effort to tell you at least 60 days before by writing to you at the last address you gave us (which may be an email address). Where we have done so, you authorise us to increase any debits from your nominated account in line with this increase. We will not use this right to vary the terms of any special offer which applies to you.

#### **(e) Refunds and the Credit Code**

We are entitled to deduct all fees and charges that you must pay under this agreement from any refund we give you. The National Credit Code does not apply to this agreement.

#### **(f) Access via FOB system**

To access the gym in un-staffed hours, members have to pay a \$20 refundable deposit for a FOB door access control. If the member loses the FOB they will be required to purchase a further FOB to replace the lost control. When the membership ends, then the member can get this \$20 fee back on returning of the FOB.

## **10. When you pay by direct debit**

Stripe will be the debiting company used to take your membership payments. All queries and comments about the services provided under this membership agreement should be directed to stripe.

The member acknowledges that Stripe has been arranged by the Vida Fitness to collect fees due under this membership agreement if paying by way of direct debit, and also acknowledges that all rights of Vida Fitness under this membership agreement are able to be enforced by Stripe as if it were Vida Fitness, without any involvement on the part of Vida or the consent of the member.

### **(a) Authorisation to deduct fees**

By nominating a credit or debit bank card, you are authorising us to deduct from that account all fees and other charges for which you may be responsible under this agreement. Accordingly, it is essential that you keep your account details up to date.

### **(b) If your payment is late or rejected**

You are responsible for making sure that there is enough money in your nominated account on the usual payment day or the next working day if that falls on a day when banks do not process payments.

Any bank fees charged to us because of a rejection when we attempt to collect payments from you may be charged directly to you by us (or by the Direct Debit Provider).

If a payment remains outstanding, you agree that, unless we are in breach of our obligations under these Terms, we (or the Direct Debit Provider) may continue to debit the nominated account for the total amount due without notice to you. If the amount owing is more than one periodic membership fee we will seek to contact you first.

### **(c) Direct debits**

If you choose to pay fees by direct debit, then this will be through the Direct Debit Provider named in the details. The Direct Debit Provider may be us (if we are authorised) or a third party provider who is not a party to this agreement and whose only role is to provide direct debit services.

We will provide you with a copy of the terms and conditions that apply to the direct debit services. Those terms and conditions are entirely separate to this agreement and you may have rights and obligations under those terms and conditions. As such, the Direct Debit Provider acting in its capacity as such has no liability to you in connection with your involvement in exercise activities under this agreement.

## **11. Issues with outside providers**

We will seek to make sure those franchisees, contractors and other authorised persons who provide services at the facilities (outside providers) are appropriately qualified before granting them access. Examples of outside providers include such as coaches, physiotherapists, masseurs and personal trainers who may offer additional services from the facilities that are not included with your Membership Type. Please note that outside providers are neither employed by us nor are they our agents, even if they happen to be wearing clothes displaying our name and logo. You will know that they are outside providers because they will require payment of their fee direct from you when you engage them.

This is important because we are not liable for any injury, loss or other claims arising from breach of contract, negligence or otherwise that are suffered by you in connection with any outside provider services, other than to the extent caused by our negligence. In addition, you release us and hold us harmless in relation to any such claims.

We have no responsibility in respect of the fees that you must pay directly to outside providers nor for any associated costs or refunds. However, please advise us if you have a problem with an outside provider and we will try to help if we can. Nothing in this clause limits our liability for the actions of our employees or agents.

## **12. Other services**

There may be other services offered at the facilities that do not form part of your Membership Type but are available for you to purchase separately. These are not part of the services provided under your membership and you will be advised at the time if any additional terms apply to these services.

### 13. Changes to your membership agreement

We may need to make changes to this agreement including our Gym Etiquette & Rules during your membership. However, we will always try to do this in a way that is fair by giving you an opportunity to cancel your membership if you do not agree to the change as described in this clause below.

We will tell you in writing of the proposed change in advance and tell you the date that it will come into effect. This effective date will be at least 30 days from the date of our notification unless it is impractical for us to do so. Your membership will be amended with effect from the effective date. If however, you are adversely affected by the change, you may cancel your membership without payment of a cancellation fee by telling us in writing before that date. Please note you cannot cancel under this clause if we are required to make the change in order to comply with a law or any direction of a competent authority.

### 14. Our liability to you

#### (a) Statutory guarantees

Vida Fitness is an unmanned facility for periods of time and as such if you participate in activities in this facility you are exposing yourself to the potential for serious injury including death. As such you should take note that your rights to sue the supplier if you are killed or injured because the activities were not supplied with due care and skill or were not reasonably fit for their purpose, or are excluded (subject to ACL Exclusion below), restricted or modified in the way set out in or on this notice.

ACL: The Australian Consumer Law (ACL) contained in the Competition and Consumer Act 2010 (Cth) (CCA) provides certain guarantees in sections 60 to 62 (statutory guarantees) which generally require that services supplied to you:

- are rendered with due care and skill,
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier and might reasonably be expected to achieve any result you have made known to the supplier and
- are supplied within a reasonable time (when no time is set).

Permitted exclusion: However, the CCA permits a supplier of recreational services to ask you to accept some limitations on those statutory guarantees. Accordingly, to the extent permitted by section 139A of the CCA, you acknowledge and agree that we exclude all liability to you for death or injury resulting from a failure by us to comply with any statutory guarantee.

In the previous sentence, "injury" means:

- physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- the contraction, aggravation or acceleration of a disease; or
- the coming into existence, the aggravation, acceleration or recurrence of any condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to you that is or may be harmful or disadvantageous to you or the community, or that may result in harm or disadvantage to you or the community.

Reckless conduct: This exclusion of liability does not apply if you have suffered any significant personal injury that is caused by our reckless conduct (within the meaning given to those terms by the CCA).

#### (b) State based notices

Please refer to the below ACL Exclusion Notice which contains complementary information about the statutory guarantees and the limitations that we are allowed to place on them. These are without prejudice to the limitations contained in this clause.

#### ACL Exclusion Notice (Victoria Only)

WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that recreational services it supplies to you –

- are rendered with due care and skill; and
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the Australian Consumer Law and Fair Trading Act 2012 (ACL), the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the ACL if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

NOTE: The change to your rights as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. Gross negligence, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 and section 22(3)(b) of the ACL.

#### **(c) General exclusions**

Please note that nothing in this agreement excludes, restricts or modifies any term, condition, warranty, guarantee, right or remedy (including under a statutory guarantee) which cannot lawfully be excluded, restricted or modified.

Otherwise, and except as expressly included in this agreement, all implied terms, conditions, warranties, rights or other additional obligations that can be lawfully excluded are excluded from this agreement. In particular, but subject to the preceding paragraph, we are not liable for:

- negligence; or
- breach of terms implied that services will be provided with reasonable care and skill, at common law that in either case results in your death or injury (as defined in paragraph (a) above) in connection with or under this agreement, but to avoid doubt we do not exclude liability for our reckless conduct.

#### **(d) Loss of property**

You promise that you will not unnecessarily bring valuables in to the facilities and that if lockers are available you will use the lockers to store any valuable property that you bring with you. If we provide secure storage lockers, then this is part of our service to you. However, we are not responsible if someone breaks into your locker and takes your property, other than to the extent we have not complied with our obligations in respect of this service under a statutory guarantee.

Other than as described above, maintaining the security of unattended property in the facility is not part of the service we provide under this agreement. Accordingly, if you choose not to use a locker to securely store your property and leave it unattended in the facilities, we will not be responsible for any loss or damage to your property that occurs.

### **15. Your responsibility for damage**

You agree to pay for any damage to the facilities caused by you or your guests through a wilful act or negligence.

### **16. General legal stuff**

#### **(a) Unexpected events**

We are not liable if you cannot use your membership due to anything beyond our reasonable control. If that failure or delay continues for more than 30 days, then either you or we can cancel this agreement with immediate effect by telling the other in writing. We are entitled to make part or all of the facilities unavailable for up to two weeks during each calendar year to undertake maintenance, repairs or improvements, in which case we will extend your membership by the time you are unable to use the facilities.

#### **(b) Our logo and intellectual property**

No rights in relation to our logo, trademarks or any other intellectual property rights associated with our business, techniques, exercise programs or classes are granted to you under this agreement, except that any exercise program created for you may be used while you are a member for the purpose of your exercise activities.

#### **(c) Transferring this agreement**

We can transfer the rights or benefit under this agreement or sub-contract our obligations under this agreement to a third party at any time without notice to you but in doing so we will make sure that the transferee agrees to honour the terms of your membership.

#### **(d) Severability and waiver**

If a court finds that any part of any term of this agreement is or becomes illegal, void or unenforceable, that part is deleted and this does not invalidate the rest of this agreement. If we do not enforce our rights under this



agreement at any time, it does not mean that we may not do so on future occasions.

**(e) Applicable law**

The law of the State/Territory specified in the details applies to this agreement.

## Vida Fitness Gym Rules & Etiquette

### Vida Fitness Gym Rules & Etiquette

- Respect the privacy of other members
  - No abusive language or threatening behaviour
  - No Alcohol or Drugs may enter the gym
  - No one under the influence of Alcohol or Drugs may enter the gym
  - No smoking in the gym
  - No food is allowed in the gym
  - Bags are not permitted in the gym unless placed in a locker
  - Member Guest and Visitors may only train while the gym is staffed
  - Behaviour & Dress
    - Closed shoes at all times
    - Towels are required at all times in the gym
    - No jeans, work clothes, boots, sandals, thongs, or clothing that is likely to cause offence to others are permitted
  - Length of time on the Equipment
  - Use of mobile phone cameras is not permitted
  - Keep use of phone calls to a minimum
  - Lockers - please be respectful of other people's belongings
  - Members to follow all Health & Safety instructions at all times
  - Children under 18 on the premises
    - All children under the age of 16 must be supervised by an adult at all times
    - All children between the ages of 16 & 18 are advised not to train if they are alone
  - Only approved fitness instructors
  - Training while the gym is not staffed
    - It is recommended that side arms are used on all bench equipment
    - It is recommended that there is no clamping on all bar equipment
    - Distress buttons
  - Weights must be returned to the correct place after use
  - Members must wipe down equipment after use
-