

## **MEMBERSHIP TERMS AND CONDITIONS**

### **1. Overview**

1.1 In this Agreement:

1.1.1 "You" means you, the member.

1.1.2 "Us" or "we" means South East Leisure Pty Ltd ACN 649 134 761 of Heatherton Road and Cleeland Street, Dandenong, 3175, VIC, Australia.

1.2 "Facilities" or "Facility" means Dandenong Oasis, Dandenong Stadium, Noble Park Aquatic Centre and Springers Leisure Centre.

1.3 This Agreement sets out the terms and conditions of your membership of the Facility.

### **2. Membership**

2.1 Your membership commences with us on the Start Date. During the term of your membership, you may access and use the Facility in accordance with your Membership Type and this Agreement.

2.2 Your membership of the Facility under this Agreement:

2.2.1 is subject to the terms and conditions of this Agreement.

2.2.2 is subject to any limitations and exclusions applicable to your Membership Type.

2.2.3 does not entitle you to any access or use of any other goods or services from us or any third party – such as personal training services.

### **3. Duration of your membership**

3.1 Commencement this Agreement will start on the date of signing up to this agreement and continue until the end of the Full Term as set out in section 3.2.

3.2 Expiry

3.2.1 If your Membership Type is Paid in Full, this Agreement will expire at the end of the Paid in Full Term.

3.2.2 If your Membership Type is 'Direct Debit', this Membership will automatically continue after the end of the direct debit minimum term on an ongoing basis until terminated by you or by us.

#### **4. Cooling Off Period**

4.1 You may terminate this Agreement during the Cooling Off period by giving us written notice. The Cooling Off period is the first 7 days from your start date.

4.2 If you terminate this Agreement during the Cooling Off Period:

4.2.1 this Agreement will be terminated on the date your written notice is received by us.

4.2.2 we will refund to you the amount you have paid to us under this Agreement.

#### **5. Changes to your membership**

5.1 Changes to this Agreement

5.1.1 We will give you at least 14 days written notice of any changes to this Agreement and the date they are to take effect.

#### **6. Payments**

6.1 Fees

6.1.1 If your Membership Type is Paid in Full, you must pay the total amount up front.

6.1.2 If your Membership Type is Direct Debit, you must pay:

(a) the Joining Fee up front.

(b) any pro rata payment to take you to your first Direct Debit date.

6.2 Direct debit

6.2.1 Direct debit payments are managed by us. If your Membership Type is Direct Debit, we will debit your nominated bank account or credit card throughout the Term for the Membership Fees on a fortnightly basis.

6.2.2 If the Direct Debit date for payment falls on a public holiday, we will direct debit the nominated bank account or credit card on the next business day.

6.3 If you wish to change the details relating to your Payment Method, you must give us written notice of the new Payment Method details prior to your next scheduled payment date.

6.4 Refunds

We are under no obligation to refund money you have paid to us, except as clearly set out in this Agreement.

6.5 Dishonoured payments

If your Payment Method fails for any reason:

6.5.1 you must pay us all resulting fees and charges.

6.5.2 you authorise us to charge you via your Payment Method for any such resulting fees and charges.

## 6.6 Adjustments to Fees

6.6.1 We may change your Membership Fees annually by giving you at least 14 days written notice of the date from which the adjusted Membership Fees take effect. You must pay any adjusted Membership Fees from the date the adjustment takes effect.

## **7. Your membership obligations**

### 7.1 Conditions of Entry

You must:

7.1.1 comply with the Conditions of Entry and Code of Conduct at all times.

7.1.2 comply with instructions given by our staff.

7.1.3 not behave in a way which is against the Conditions of Entry and Code of Conduct.

## **8. Your use of the Facility**

### 8.1 Access

8.1.1 all or part of the Facility and any equipment of the Facility may be unavailable on a temporary basis.

8.1.2 we may deny you access to the Facility or direct you to leave the Facility if we decide that your behaviour is inconsistent with the Conditions of Entry and Code of Conduct.

8.1.3 we may deny you access to a class and program if you are not in the class or program at the scheduled commencement time.

8.1.4 Exercise of our rights under clause 8.1.2 will not entitle you to a refund.

### 8.2 Medical

8.2.1 You authorise us to obtain medical/ambulance assistance for you in the case of an accident or emergency involving you, and you agree to reimburse us for any costs we incur.

### 8.3 Emergencies and natural disasters

8.3.1 We may be required to use all or part of the Facility during emergencies and natural disasters, including to provide and coordinate support for those affected. You may not be able to access or use all or part of the Facility during these periods.

8.3.2 We will use reasonable endeavours to provide you with written notice of any emergencies and natural disaster periods.

8.3.3 We may suspend your membership during an emergency or natural disaster period.

## **9. Suspension of your membership**

### **9.1 Suspension by you – Membership**

9.1.1 You may voluntarily suspend your membership not exceeding a total of 12 weeks per 12 months (calendar year) by completing suspension via the suspension form. Any suspensions beyond the first 28 days will incur a suspension fee of \$5.00 per week.

9.1.2. Upon providing a medical certificate your membership can be suspended at no charge. Medical suspension cannot exceed an 8-week duration. Any medical suspension can only be backdated to a maximum of 5 days from submission of suspension request form.

9.1.3 A minimum two-week period must be nominated to suspend your membership payments.

9.1.4 You may not suspend your membership if you have given written notice terminating this Agreement.

9.1.5 If your Membership Type is Paid in Full – your Paid in Full Term will be extended by an amount of time equivalent to each Suspension Period during the Paid in Full Term.

9.1.6 If your Membership Type is Direct Debit – your Direct Debit Minimum Term will be extended by an amount of time equivalent to each Suspension Period during the Direct Debit Minimum Term.

### **9.2 Suspension by you – Swimming Lessons**

9.2.1 You may voluntarily suspend your swimming lesson membership not exceeding a total of 8 weeks per 12 months (calendar year) by completing suspension via the suspension form. Once 8-week period for suspension has been used a suspension fee of 50% will incur

9.2.2. Upon providing a medical certificate your swimming lesson membership can be suspended at no charge. Medical suspension cannot exceed a 4-week duration. Any medical suspension can only be backdated to a maximum of 2 days from submission of suspension request form.

9.2.3 A minimum two-week period must be nominated to suspend your membership payments.

9.2.4 You may not suspend your membership if you have given written notice terminating this Agreement.

### **9.3 Suspension by us**

We may suspend your membership by giving you written notice:

9.3.1 if we decide that you have behaved in a way which is against the Conditions

of Entry.

9.3.2 if you breach any term of this Agreement.

9.3.3 if the Facility is unavailable or unfit for use.

9.4 Effect of suspension

9.4.1 During any Suspension Period:

(a) you must not use the Facility under this Agreement.

(b) you will not pay the Membership Fees for the Suspension Period.

(c) you will pay any subsequent Suspension Fees for the Suspension Period.

9.4.2 We will make a pro-rata adjustment to your Membership Fees and, if applicable, credit to you any part of the Membership Fees applicable for a Suspension Period.

## **10. Cancellation of your membership**

10.1 Cancellation by you

You may cancel this Agreement:

10.1.1 if your Membership Type is Direct Debit – at any time prior to the end of the Direct Debit Minimum Term; your membership will be terminated 14 days from the day we receive written notice pending. The lower of the remaining balance of the minimum term or Cancellation Fee (\$150.00) is payable.

10.1.2 if your Membership Type is Direct Debit – at any time after the end of the Direct Debit Minimum Term; your membership will be terminated 14 days from the day we receive written notice.

10.1.3 if your Membership Type is Paid in full – unless the Membership Agreement is Cancelled due to medical reasons you are not entitled to any refund.

10.1.4 immediately on giving written notice to us, if you provide us with a certificate from a qualified medical practitioner stating that you cannot exercise for a period of at least 3 months.

10.2 Cancellation by us

We may cancel this Agreement by giving you written notice:

10.2.1 if you fail to pay the Fees when due.

10.2.2 if we decide that you have not behaved in alignment with our Conditions of Entry.

10.2.3 if you breach any term of this Agreement.

10.2.4 if the Facility is unavailable or unfit for use.

10.2.5 if you access facilities contrary to your membership accessibility as detailed within your Membership Type.

10.2.6 if you let anyone else into any Facility managed facility without the

approval of staff or let anyone else use your membership card or wristband.

## **11. Our liability**

11.1 Any goods come with guarantees that cannot be excluded under Australian Consumer Law and Fair Trading Act 2012 (Australian Consumer Law). You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

### 11.2 Our liability

11.2.1 You acknowledges and agrees that there are risks involved with any fitness and physical activity, the use of exercise equipment, and participation in an exercise program, and such risks may include the risk of serious bodily injury or death. By signing this agreement, you knowingly and voluntarily assumes all risks of liability, loss, illness, death, or injury caused or arising out of any use of the Facilities or the participation in any activities by you. You agree to indemnify us against any and all claims, loss, injury, or damages without limitation.

11.2.2 We accept no liability or responsibility to you for any claim (including any action, proceeding, debt, demand, cost or expense) by you in relation to:

- (a) your access and use of the Facility;
- (b) your use of any equipment at the Facility; and
- (c) the loss of any of your property at the Facility (irrespective of whether the property is stored in a locker or not).

11.2.3 In addition, we give you no warranty or assurance that use of the Facility might cause you to achieve any result that you may intend, whether that result is made known to us or not.

## **12. Disputes and complaints**

12.1 If a dispute arises concerning this Membership Agreement or you have any complaints about the Facility or us, please give us written notice of the dispute or complaint.

12.2 We will meet with you as soon as possible to discuss and endeavour to resolve the dispute or your complaint.

## **13. Privacy**

13.1 We will have access to personal information about you, such as your name

and address.

13.2 We will only use, disclose and deal with your personal information in accordance with our privacy policy. Our privacy policy is available on our website.

13.3 We may use video monitoring in and around 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.

13.4 We may use video or images for marketing purposes in accordance with our privacy policy. If you have any queries in relation to the use of this, please contact us.

## **14. Notices**

14.1 Your contact details

14.1.1 You must provide us written notification of any changes to your contact details form.

14.1.2 If your contact details on record are not current, notice given by us delivered to the email or other address we have on record will constitute valid notice under this Membership Agreement.

14.2 Written notice from you to us

14.2.1 You may serve notices on us under this Agreement by any of the following methods:

- (a) by hand delivery to the Facility
- (b) by email to [info@southeastleisure.com.au](mailto:info@southeastleisure.com.au)
- (c) by post to the Facility.
- (d) by the Member Portal, where appropriate.

14.3 Written notice from us to you

We may serve notices on you under this Agreement by any of the following methods:

- 14.3.1 by publishing the notice on our website.
- 14.3.2 by email, to the email address listed.
- 14.3.3 by post or delivery, to the address listed.
- 14.3.4 by SMS, to the mobile number listed.

14.4 Timing of written notices

A notice is deemed delivered:

14.4.1 if delivered personally or left at an address – upon delivery.

14.4.2 if posted within Australia to an Australian address – 5 days after posting.

14.4.3 if sent by email – at the time the email containing the notice left the sender's email system (unless the sender receives notification that the email was not received by the recipient)

## **15. General provisions**

### 15.1 Governing law

This Agreement is governed by the law applying in Victoria. You and we submit to the non-exclusive jurisdiction of the courts of Victoria.

### 15.2 Variation

This Agreement can only be varied by a document executed by you and us.

### 15.3 Entire agreement

This Agreement constitutes the entire agreement between you and us and supersedes and cancels any previous arrangements between you and us in relation to its subject matter.

### 15.4 Severability

15.4.1 Any provision of this Agreement that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

15.4.2 If it is not possible to read down a provision as required by this clause, part or all of the clause of this Agreement that is unlawful or unenforceable will be severed from this Agreement and the remaining provisions continue in force.

15.5 Waiver The failure of a Party at any time to insist on performance of any provision of this Agreement is not a waiver of the Party's right at any later time to insist on performance of that or any other provision of this Agreement.