



IMPORTANT NOTICE

This is a membership form under which you agree to become a member of Our Gym Nelson Bay Pty Ltd.

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 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 Membership, 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. This can be done either at Our Gym Nelson Bay reception or by accessing the Membership Portal on our website www.ourgym.com.au.

If your membership is Ongoing Membership, 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 Our Gym Nelson Bay Pty Ltd 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.



OUR GYM

Nelson Bay

Terms and Conditions

THE AGREEMENT BETWEEN YOU AND US

These Terms, together with the Our Gym Club Rules and the following completed documents:

(a) your Membership Application Form;
(b) your Payment Authority Form;
and (c) your Health Check Questionnaire;
make up all of the terms of a Membership Agreement ("Agreement") between, the member named above ("you"), and Our Gym Nelson Bay Pty Ltd (ABN 37 642 350 123 ("us")).

It is important that you have read and understood all of the terms and conditions of the Agreement before signing these Terms. If you have any questions please ask us.

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.

2. Cooling off

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 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.

4. What you get when you join

From the Start Date you will receive a new membership gift pack and will have use of the facilities and services that apply to the Membership Type you selected.

5. Fees you have to pay for your membership

The fees you have to pay are specified in the details. 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(a) 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 fortnightly instalments. If your membership is Ongoing, membership fees must be paid fortnightly in advance until your membership ends.

(c) Cancellation fee

A cancellation fee is of \$25.00 is applicable when ending your membership whilst still in your Minimum Term. The cancellation fee for members on a fixed membership is \$25.00 plus \$10.00 per month left remaining in the Minimum Term.

(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 30 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.

6. When you pay by direct debit

(a) Authorisation to deduct fees

By nominating a credit or debit account, 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.

7. Can you place 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. We are entitled to charge you the suspension fee of \$10.00 for processing your application. You can notify us at any time that you would like to place your membership on hold but you must provide Our Gym Nelson Bay with notice in writing at least 3 days (i.e. by close of business Sunday) prior to the start of the first fortnightly billing period you wish to place on hold. Our receptionist will be able to confirm to you the periods of hold available during your membership. During your Initial Commitment Period, a fixed membership may be placed on for up to 12 weeks and only in blocks of one whole fortnightly billing period (i.e. a minimum of 2 weeks to a maximum of 12 weeks) but cannot be placed on hold for only a part of any fortnightly billing period (the "Hold Period"). If you put your membership on hold during the Initial Commitment Period, your Initial Commitment Period and the Initial Commitment Period end date set out in your Membership Application Form will be extended by the hold Period. You will not be able to use the gym while your membership is on hold.

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 in person at Our Gym Nelson Bay Reception.

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 3 days prior written notice to your next direct debit (i.e. by the close of business Sunday). 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;
- 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; or

(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 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, 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 by email or in person at reception at least 3 days prior to your next direct debit. We understand that circumstances change and so you do not need to give any reason. In any case if your membership ends under this paragraph (c), you will be liable for the joining fee, 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, 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.

9. 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.

10. 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.

11. Changes to your membership agreement

We may need to make changes to this agreement including Our Gym 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.

12. 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 www.ourgym.com.au as well as at Reception.

(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.

13. General legal guff

(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
This Agreement is subject to the laws of the State where Our Gym Nelson Bay Pty Ltd is located.