

Terms and Conditions of Membership

1. Defined Terms

- 1.1 In this Agreement, words importing the singular include the plural and vice versa. References to a party includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity and a reference to a party to this document includes the party's successors, permitted substitutes and permitted assigns. Any terms used in these Terms and Conditions have the same meaning as in the balance of this Credit Account Application.
- 1.2 In this Agreement:
- (a) **Administration Fee** means the fee payable upon the signing of this Agreement, as defined in Section 4 of this Agreement.
 - (b) **Club Rules** means any rules made by Us as amended from time to time;
 - (c) **Joining Fee** means the relevant fee for the membership type as advised by Us from time to time, payable upon submitting this membership application form;
 - (d) **Membership Agreement** means the agreement comprised by this membership application form, the Club Rules and the Privacy Policy, as amended from time to time;
 - (e) **Membership Fee** means the recurrent fee payable to Us for the continued use of Our Premises, as determined by Us from time to time, with the initial Membership Fee defined in Section 4 of this Agreement;
 - (f) **Premises** means The Fit Lab Health and Fitness Centre located at 231 James Street, Toowoomba, and includes all rooms and facilities operated by Us;
 - (g) **Privacy Policy** means Our privacy policy as updated from time to time;
 - (h) **Start Date** means the date on which your membership is approved by Us;
 - (i) **Terms & Conditions** means these terms and conditions;
 - (j) **We/Us/Our** means LSCH Group Pty Ltd ACN 612 175 612; and
 - (k) **You/Your** means the person specified as the Applicant in this Membership Application Form.

2. Membership Agreement

- 2.1 Your membership is governed by the Membership Agreement. Once this membership application form has been signed by You and an authorised representative of Ours, you have agreed to a binding contract.
- 2.2 Your membership permits you to use Our Premises, facilities, equipment and services, subject to the terms of your Membership Agreement.
- 2.3 You must comply with all terms of the Membership Agreement, as amended from time to time.
- 2.4 You must pay the relevant Administration Fee upon submitting this completed membership application form.
- 2.5 You must pay the relevant Membership Fee, at the intervals and in the amount specified by us from time to time.
- 2.6 In addition to clause 2.5, you authorise us to deduct an annual administrative fee on July 1st] from your nominated payment method, with such fee to be \$20..

3. Membership Term

- 3.1 The term of your membership will start on the date that this Agreement is signed by you, and shall continue until:
- (a) if you are on a yearly membership, 5:00pm on the first anniversary of the date of signing this Agreement (at which point this Agreement will also terminate if you so wish and issue your 30 days' notice); or
 - (b) if you are on a month-to-month membership, when this Agreement is terminated.
 - (c) If you are on a paid in advance membership it will terminate at the expiry of the nominal days package purchased.

4. Terminating Membership

- 4.1 You may cancel your membership at no charge if we are in fundamental breach of the Membership Agreement.
- 4.2 Subject to clause 4.3, if you cancel your membership for any other reason other than set out in clause 4.1, you must do so with 30 days notice, and:
- (a) if you are on a yearly membership, pay the applicable membership fees relating to the balance of the current year (as specified in clause 3) of your Membership Agreement upon giving notice to Us; or
 - (b) if you are on a month-to-month membership, forfeit any amounts paid to Us prior to the date of termination (including amounts accrued during the 30 day notice period).
- 4.3 If you request the cancellation of your membership due to suffering from a permanent illness or physical incapacity which prevents you from using Our facilities:
- (a) your request must be accompanied by a medical certificate evidencing such permanent illness or physical incapacity, if requested by Us; and
 - (b) you will forfeit any amounts paid to Us in advance.
- 4.4 If you are in breach of your Membership Agreement, we may terminate your Membership Agreement after a warning has been given to you and you have been given a reasonable time (with reference to the nature of the breach) to remedy the breach, excepting a breach of clause 12, which will be grounds for immediate termination.
- 4.5 If you are moving away from the Toowoomba and surrounding region, you may:
- (a) request the cancellation of your membership, with such cancellation to be at the sole discretion of Us, and conditional on the provision of sufficient evidence of your move; or
 - (b) request that your membership be transferred to a friend or family member, with an administrative fee to be payable.

5. Freezing of Membership

- 5.1 You may, at Our sole discretion, freeze your membership for a minimum of two weeks provided your period of freezing is in two weeks increments for any reason (including personal, holidays, medical, injury or illness).
- 5.2 You must provide 14 days written notice to Us in order for your membership to be frozen.
- 5.3 We may, at our sole discretion, charge an administrative fee of \$1 per day if the reason for freezing your membership is holidays or travel.

6. Amendments to Services

- 6.1 We may from time to time alter the opening hours of the facilities, group fitness timetables, staffed hours, facilities or items of equipment provided or any other services or products provided, in Our sole discretion.
- 6.2 If We need to close the Premises temporarily for any reason including, but not limited to renovation and/or building repairs and maintenance, we will place your membership on deferral where the closure is greater than 10 days in duration.

7. Cooling Off

- 7.1 You may cancel your membership during the cooling off period. The cooling off period ends at 5:00pm on the second business day after the date that this Agreement was signed by you.
- 7.2 You must provide written notice of your intention to cancel within the cooling off period.
- 7.3 Any fees that are required to be refunded after the Administration Fee has been applied will be reimbursed back to you within seven business days of written notice being received by Us. In determining the fees to be refunded to you, we are entitled to deduct from any amount paid by You, the Administration Fee and usage fees for any visits which have been made during the cooling off period. You will not be entitled to a refund for any additional services paid for (e.g. classes, personal training, programs, materials or other goods and services not directly the subject of this Agreement).

8. Payments

- 8.1 You agree to pay all fees as set out in the Membership Agreement or as advised by Us from time to time.
- 8.2 We reserve the right to increase all fees payable under this Membership Agreement from time to time, upon giving you one month's notice of such fee increase.
- 8.3 If you are provided with an access key to the Premises, you will be required to pay a key charge as determined by us from time to time, which will be non-refundable. If you lose the key, you will be required to pay a mandatory replacement fee of \$30
- 8.4 On Our request, you agree to enter a separate agreement with a direct debit or other payment provider, as advised by us from time to time. Failure to do so will constitute a breach of the Membership Agreement.

9. Risk and Liability

- 9.1 You acknowledge and understand that participation in activities at Our facilities require varying degrees of physical exertion and/or physical risk which may cause your death or personal injury. If you believe there is a risk to your health by participating in a fitness service at Our facilities, you must inform Us about the risk in writing.
- 9.2 You are responsible for your personal belongings while at Our facilities and We take no responsibility for the loss or damage of your personal belongings.
- 9.3 You warrant that You have advised Us of any medical or physical conditions which You have which may affect Your use of Our facilities. It is Your responsibility to update Us regarding any changes to Your condition as soon as you become aware of the change.
- 9.4 We accept no responsibility for any injury or death that results directly or indirectly from the use or misuse of the facilities by You, to the fullest extent permitted by law.
- 9.5 You acknowledge and agree that We are not liable to You or any other person for:
 - (a) any loss or damage of any kind that is directly or indirectly caused by or results from your wrongful, wilful or negligent act or omission; or
 - (b) any direct, incidental, special or consequential damages, including loss of profits or anticipated profits, even if notified of the possibility of that potential loss or damage.
- 9.6 Any representation, warranty, condition or undertaking that would be implied in these Terms & Conditions by legislation, common law, equity, trade, custom or usage is excluded to the fullest extent permitted by law.
- 9.7 Despite clause 9.6, nothing in these Terms & Conditions excludes, restricts or modifies any condition, warranty, right or remedy conferred on you by the *Competition and Consumer Act 2010* (Cth) or any other applicable law that cannot be excluded, restricted or modified by agreement.
- 9.8 To the fullest extent permitted by law, our liability for a breach of a non-excludable condition or warranty is limited to, at Our option:
 - (a) the supply of the services provided for under the Membership Agreement; or
 - (b) the payment of the cost of having the services supplied again.
- 9.9 Subject to clause 9.7, you release Us and Our related entities and representatives from any liability or claims relating, but not limited to:
 - (a) any personal injury;
 - (b) loss or damage of your personal property; and
 - (c) any breach of your obligations;Except to the extent arising from the wilful or negligent acts or omissions of Us (or any officer, agent or employee of Ours respectively).
- 9.10 Subject to clause 9.7, you indemnify Us and Our related entities and representatives against:
 - (a) all losses they incur; and
 - (b) all liabilities they incur,Directly or indirectly caused by, or resulting from, any wrongful, wilful or negligent act or omission by You.
- 9.11 In addition to clause 9.10, you acknowledge that you will have access to valuable equipment as part of your membership, and that misuse of such equipment may lead to its damage. You acknowledge that you will be liable for any damage caused by yourself to any equipment, whether it be accidental, deliberate or incidental.

10. Induction

- 10.1 You must participate in a scheduled member induction program prior to commencing using the services and facilities provided by Us.
- 10.2 The induction focuses on various aspects of Our facilities, including the safe and correct use of equipment, facility layout, amenities and entry and exits, including emergency exits.

11. General

- 11.1 A party waives a right under this Agreement only if it does so in writing. We do not waive a right simply because We fail to exercise the right, we delay exercising the right or only exercise part of the right. A waiver of one breach of a term of this Agreement does not operate as a waiver of another breach of the same term or any other term.
- 11.2 If a provision in this Agreement is wholly or partly invalid or unenforceable in any jurisdiction, that provision or the part of the provision that is invalid or enforceable must, to that extent, and in that jurisdiction, be treated as deleted from this Agreement. This does not affect the validity or enforceability of the remaining provisions in that jurisdiction, or of the deleted provision in any other jurisdiction.
- 11.3 We may assign or otherwise deal with the benefit of any contract made pursuant to this Agreement without Your consent.
- 11.4 You may not assign your rights and obligations under this Agreement under any circumstances without first obtaining our written consent to do so. Any purported assignment not undertaken in accordance with this clause will be invalid.
- 11.5 All contracts made between Us and You shall be governed by and construed in accordance with the laws of the State of Queensland. You agree to submit to the exclusive jurisdiction of the Queensland courts for all purposes of or in connection with such contracts.

12. 24/7 Access

- 12.1 By signing this Agreement, you acknowledge that your ability, if granted, to access Our Premises on a 24/7 basis (meaning access to and use of Our Premises and equipment at any time, including outside of staffed hours) places You in a position of responsibility and trust. You acknowledge that, outside of the hours We specify, the Premises will not be staffed.
- 12.2 You will not, under any circumstances, allow another person to use your access key to enter Our Premises, regardless of their membership status – this includes allowing other people to enter at the same time as you (i.e. “tailgating”). You acknowledge that doing so constitutes a breach of this Agreement and may trigger immediate termination of this Agreement at Our sole discretion. A monetary penalty of \$250 will be applied for breach of this.
- 12.3 You acknowledge that the Premises are subject to consistent monitoring by video surveillance incorporating face-recognition technology, which is accessible at all times by Us, Our employees and Our contractors.
- 12.4 You will do all things reasonably necessary to ensure the security of Our Premises and safety of other members, particularly when accessing Our Premises outside of staffed hours.
- 12.5 You acknowledge that We may revoke or alter your ability to access the Premises in any way and at any time, at Our sole discretion, including restricting access outside of staffed hours.
- 12.6 You acknowledge that certain areas of Our Premises may be rendered inaccessible outside of staffed hours, at Our sole discretion. If an area of the Premises is locked, barricaded or otherwise inaccessible, it will be considered off-limits and not available for use at that time.
- 12.7 You acknowledge that wall mounted duress buttons are fitted for use outside of staffed hours, in the event of an emergency. You acknowledge that pressing the duress button will summon private security services, and may summon emergency services. If you press a duress button without reasonable cause, you will be liable for any charges incurred by Us in relation to the activation of the duress button and a penalty fee of \$250 will be payable.
- 12.8 You acknowledge that you must be over the age of 17 to be granted 24/7 access.

13. Additional conditions

- 13.1 You acknowledge that only women are authorised to access any areas within Our Premises designated by us as women’s only areas. Unauthorised access will constitute a breach of this Agreement.
- 13.2 You acknowledge that, in addition to any Club Rules to a similar effect, you are required to treat Our staff and other members with respect, and refrain from behaviour that is (in Our opinion) inappropriate, intimidating, offensive, discomforting or vilifying. Any breach of this clause will be grounds for immediate termination of this Agreement, notwithstanding any clause to the contrary.