



# Gym Membership Terms and Conditions

## **1. Definitions**

- a) Access Pass means your membership card allowing you to enter the Gym.
- b) Access Pass Fee means the Access Pass Fee specified in the Agreement.
- c) Agreement means this membership agreement made between you and Maac Ltd incorporating the documents referred to in clause 2(b).
- d) Billing Account means the bank account or credit card nominated by you to have your direct debit Membership Fees deducted from.
- e) Gym Code means the gym rules as amended from time to time, which are located at the Centre and the gym.
- f) DD Membership means a weekly membership, with recurring fortnightly direct debit payments.
- g) DD Membership Fee means the fortnightly fee payable for the DD Membership exclusive of any Payment Provider fees.
- h) Dishonour Fee means a \$10.00 fee.
- i) Exercise Screening Questionnaire means the pre-workout questionnaire that the member is required to complete within the Gym application.
- j) Maac Ltd means the entity specified on your Membership Agreement and includes its heirs, estates, agents, representatives, officers, directors, shareholders, successors, affiliates, subsidiaries and employees.
- k) Member means the individual who has entered into this Agreement with Maac Ltd.
- l) Membership Agreement means the forms provided to you by Maac Ltd requiring you to provide the relevant details to Maac Ltd (e.g. name, address, payment card details) relating to your membership.
- m) Membership Fees means the fees that are due and payable by you pursuant to this Agreement.
- n) Minor means members under the age of 18.
- o) Up Front Membership means Members that have paid in advance according to the level of Up front membership as specified in this Agreement.
- p) Payment Agreement means the Agreement between you and us permitting our Payment Provider to provide the direct debit and credit card payment facilities to you on our behalf in accordance with the Payment Provider's Direct Debit Service Agreement.
- q) Payment Provider means the payment provider specified from time to time by Maac Ltd, which is currently Links Pay unless Maac Ltd otherwise specifies.
- r) Payment Provider's Direct Debit Request Service Agreement means the Payment's Provider's service agreement provided to you by Maac Ltd.
- s) Written Notice means notice in writing, given in person, by email or post to the parties' last known address.

## **2. Terms and Conditions**

- a) Your membership is governed by this Agreement.
- b) This Agreement incorporates these terms, the Gym Code of Conduct, the Policies, the Gym Induction and Indemnity form.
- c) Accepting this Agreement does not automatically entitle you to a membership as your application may be subject to further review by Maac Ltd.
- d) Maac Ltd reserves the right, in its sole discretion, to amend this Agreement.

## **3. Membership**

- a) Nature of Membership Your membership permits you to use Maac Ltd's premises, facilities, equipment and services as shown and limited by the membership identified. Your membership is non-transferable by you unless deemed appropriate by Maac Ltd.
- b) Change to Details You must provide Maac Ltd with any changes to your details, which are relevant to your membership in writing.
- c) Membership Hold Maac Ltd will only hold your membership in the event that you will be absent due to work commitments, overseas, unable to use facilities due to physical inability. Maac Ltd requires 30 days written notice detailing the reason, proof of reason and hold time required. The hold time permissible is a minimum of one month to a maximum of three months.
- d) Membership Transfer – Up Front payments A Member who has paid their total fee up front may transfer their Up front membership upon written application to Maac Ltd.
- e) Membership Transfers - Direct Debit (DD) Members who pay fortnightly can apply to transfer their membership within the initial 12 month term. Applications will be considered on a case by case basis.

## **4. Payments**

- a) You agree to pay all Membership Fees as set out in this Agreement and agree to be bound by the direct debit terms and conditions as described in the Payment Agreement and the Payment Provider's Direct Debit Request Service Agreement.
- b) For a DD Membership you must make your payments on a fortnightly basis in advance.
- c) For an Up front membership, you must pay your membership in advance according to your level of membership as indicated by Maac Ltd to you.
- d) For all memberships you must make payment of the pro-rata amount in advance and the balance of the Membership Fees by way of direct debit (or if Up front by way of credit, cash or EFTPOS).
- e) You must provide to Maac Ltd, in the form requested by Maac Ltd, a Payment Agreement authorising Maac Ltd's Payment Provider to debit the Membership Fee due for each direct debit period from your Billing Account.
- f) Maac Ltd will endeavour to contact you by phone, sms or email to inform you of any overdue payments. In the event that Maac Ltd cannot contact you, it will provide you with Written Notice of overdue payments.
- g) A Member will be charged a Dishonour Fee in the event that a fortnightly direct debit payment is dishonoured by their financial institution.

- h) Additional fees (being bank charges or administrative charges incurred by the Payment Provider) will apply for any overdue or late payments.
- i) If there are repeated failures to meet your payment obligations (other than through the fault of Maac Ltd or its Payment Provider), without prejudicing Maac Ltd's rights to recover any overdue payments, your membership may be suspended or terminated by Written Notice to you.
- j) You acknowledge and agree that Maac Ltd may change its Payment Provider and that Maac Ltd and/or the current Payment Provider may, in their sole discretion, assign or novate all existing Payment Agreements to a new payment provider. In the event that Maac Ltd or the current Payment Provider assigns or novates the existing Payment Agreements to a new payment provider, you consent to Maac Ltd or the current Payment Provider providing your personal information (including, but not limited to your payment details, to its new payment provider) in accordance with this Agreement.
- k) Maac Ltd reserves the right, at any time, to change the Membership Fees charged to Members for use of the Centre's facilities. Maac Ltd agrees to use reasonable endeavours to provide you with Written Notice of the changes. The changes will take effect 30 days after the Written Notice has deemed to be received by you. We deem receipt to have occurred 2 business days after the Written Notice was sent. At the end of the 30 day period, you authorise Maac Ltd and/or the Payment Provider to debit the new amount to your account.

## **5. Minimum Age**

- a) All Members of Maac Ltd Gym must be a minimum of 16 years of age. All Minors must have a parent or legal guardian agree to the terms of this Agreement. All Minors must attend the Club to obtain a membership.

## **6. Induction**

- (a) It is a condition of this Agreement that you participate in an induction process.
- (b) The induction focuses on various aspects of the gym including, but not limited to layout, amenities and entry and exit areas.
- (c) Maac Ltd may suspend or terminate this Agreement in the event of non-completion of the induction process prior to the commencement of exercise.

## **7. Physical Condition**

- (a) It is your responsibility not to use any equipment which may adversely affect any medical condition.
- (b) You hereby represent to Maac Ltd and their directors, officers, employees, contractors and agents that, to the best of your knowledge, you do not have any physical, medical or other disability or condition which may be affected or aggravated by, or which may result in any sickness, injury or death to you as a result of, your use of the gym facilities.
- (c) If you have any health or medical concerns now or after you join as a Member of the Club, you must discuss them with your doctor before using the equipment in the gym.
- (d) You acknowledge that Maac Ltd did not give you any medical advice before you used the equipment, and cannot give you any medical advice after you use the equipment.

## **8. Exercise Screening Questionnaire**

- (a) It is a condition of membership with Maac Ltd that each Member, prior to using the gym, has to complete the Exercise screening Questionnaire as part of the application form.
- (b) You will not be permitted to use the gym until you have completed the Gym Application form.
- (c) Maac Ltd reserves the right to restrict, suspend or terminate your membership if Maac Ltd is of the reasonable opinion that you are unfit to utilise the gym unsupervised. If your membership is restricted or suspended for this reason, your membership will not be reinstated until you provide Maac Ltd with a medical certificate confirming that you are fit to train.

## **9. Video Surveillance**

- (a) For security purposes, Maac Ltd uses video surveillance equipment to monitor the gym and facilities on a 24 hour basis.
- (b) By accepting this Agreement you acknowledge that by accessing Maac Ltd you will be subject to video surveillance and recording.
- (c) Video surveillance is limited to the floor area only, and is not within the walls of the bathrooms or assessment rooms.

## **10. Equipment**

- (a) You understand and acknowledge that Maac Ltd purchases or leases the equipment from a third party and therefore does not manufacture any of the fitness or other equipment used in the Club.
- (b) You understand and acknowledge that Maac Ltd is providing recreational services and may not be held liable for defective products or equipment.

## **11. Liability for Property**

- (a) Maac Ltd is not liable to you for any personal property that is damaged, lost, or stolen while on or around the Maac Ltd Complex including, but not limited to, a vehicle or its contents or any property left in a locker.
- (b) If you cause damage to the Club or any equipment you are liable to Maac Ltd for its cost of repair or replacement.

## **12. Release and Indemnity**

- a. Maac Ltd is entitled to ask you to agree to exclude, restrict or modify its liability for death or any personal injury suffered by you on the premises, or from the use of our facilities or equipment.
- b. If you accept this Agreement, you agree to restrict the liability of Maac Ltd if you are killed or injured, with the result that compensation may not be payable if you or a third party suffers death or personal injury.
- c. Maac Ltd may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by accepting this Agreement. Even if you accept this Agreement, you may still have further legal rights against Maac Ltd.
- d. A parent or legal guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights.
- e. You use the facilities provided by Maac Ltd at the gym at your own risk and acknowledge that the use of the gym may involve risk of injury, whether caused by you or another party. By accepting this Agreement you agree that Maac Ltd will not be liable for any loss, injury,

- damage or theft of property, belonging to or brought onto the premises by you, or for any death, personal injury or illness on Club premises, or from using our facilities or equipment.
- f. This release does not apply if your death or injury results from gross negligence on our part.

### **13. Cooling Off Period**

- (a) All new memberships are subject to a cooling off period of 10 business days.
- (b) A request for termination of membership during the cooling off period must be made by Written Notice unless this Agreement is defined as an unsolicited consumer agreement under the Australian Consumer Law, in which case termination may be written or oral.

### **14. Your Right to Terminate Your Membership**

You may terminate your membership at any time on the following basis:

- You provide a request for termination of your membership in writing to Maac Ltd.
- If your request for termination is for reason of permanent sickness or physical incapacity and this prevents you from using the Club:
  - i. your request must be accompanied by a medical certificate evidencing such permanent sickness or physical incapacity; and
  - ii. there will be a refund of any unused Membership Fees.
- In the event of death, your estate must provide written evidence in the form of a death certificate and all unused Membership Fees will be refunded.
- If your request for termination is for reasons other than permanent sickness or physical incapacity:
- in relation to DD Memberships:
  - you may terminate your membership after the initial 12 months;
  - you must provide Maac Ltd with 30 days Written Notice of termination with Maac Ltd processing your termination as follows:
    - Written Notices received before 5pm on a Business Day will be actioned that Business Day or;
    - Written Notices received after 5pm or on a day other than a Business Day will be actioned the next Business Day; and;
    - the Member will incur normal financial obligations under this Agreement until the Notice period has been processed and accepted by Maac Ltd and the Member has a right to continue attending the gym until the Member's pre-paid period expires.
  - in relation to Up front Members:
    - you may not terminate the membership during the prepaid period (or get a refund), unless you suffer from a permanent sickness or physical incapacity as described in clause 14; and
    - if you do not renew your Up front membership by the renewal date, your membership will automatically expire.

### **15. Maac Ltd's Right to Restrict or Terminate Your Membership**

- (a) Maac Ltd may restrict your membership at any time on the following basis:
- (i) concern for the health and/or safety of the Member; or
- (ii) non-compliance, improper or harmful conduct engaged in by the Member.

- (b) Maac Ltd may terminate your membership at any time on the following basis:
- (i) you fail to make any payments of your Membership Fees;
  - (ii) Maac Ltd reasonably suspects that you are engaging in illegal activity in the Complex;
  - (iii) you fail to follow any of the Policies or Gym Rules, or violate any part of this Agreement; or
  - (iv) your conduct is improper or harmful to the best interest of Maac Ltd.
- (c) In the event that Maac Ltd terminates your membership in accordance with clause 18(b), termination will be effective on the date that Maac Ltd sends Written Notice. You are liable for all financial obligations until that date. If you are an Up front Member, Maac Ltd will not refund any unused portion of your fees.
- (d) Upon termination of your membership by Maac Ltd, you will cease to have access to the gym, and Maac Ltd has the discretion to deny you access to the Complex also. Any money owing to Maac Ltd when your membership ends, remains immediately due and payable and Maac Ltd will deduct the amount outstanding from any refund which you may be eligible. If there is not enough money to cover the amount owing to Maac Ltd, you must pay the balance of the amount owing.
- (e) Upon termination of your membership by your election, you may continue to use the gym for any period that you have paid in advance. You will cease to have access to the gym once any period you have paid in advance expires.
- (f) Termination or expiration of this Agreement shall be without prejudice to the rights of each party against the other in respect of anything done or omitted under this Agreement prior to such termination or expiration.

#### **16. Termination and Unauthorised Cessation of Direct Debit**

- (a) If you terminate the Agreement or stop the automatic debit arrangement in a manner not described in the Agreement, then you may be liable to Maac Ltd for any unpaid fees, or fees incurred by Maac Ltd.

#### **17. Risk Warning**

- (a) Maac Ltd warns that whilst you are on our premises using our gym and recreational services, you are at risk of suffering physical harm or personal injury including broken bones, soft tissue injuries, joint injuries, permanent disability or death. These injuries may occur from you:
- (i) slipping on wet flooring;
  - (ii) being struck by weights;
  - (iii) colliding with equipment, or other Members;
  - (iv) engaging in strenuous exercise and activities; or
  - (v) incorrect use of equipment or gym,
- (b) You acknowledge that any such injury may result not only from your actions but from the action, omission or negligence of others.
- (c) You acknowledge and agree that the above mentioned injuries and potential causes of injuries are not exhaustive, and there are other unknown or anticipated risks that may result in injury, illness or death.
- (d) You acknowledge that whilst every attempt is made to ensure that the recreational services and facilities provided by Maac Ltd are safe, there are some significant and inherent risks involved, and you agree that you are participating voluntarily at your own risk and responsibility, thereby exposing yourself to certain risks.