

VIRGIN ACTIVE AUSTRALIA FLEXIBLE MEMBERSHIP TERMS



Member name _____

Membership no _____

YOUR MEMBERSHIP AGREEMENT IS AN ONGOING AGREEMENT WITH A MINIMUM INITIAL COMMITMENT PERIOD OF AT LEAST FOUR WEEKS. IT AUTOMATICALLY RENEWS FOR FURTHER TWO WEEK COMMITMENT PERIODS UNLESS TERMINATED UNDER PARAGRAPH 8.

1. THE AGREEMENT BETWEEN YOU AND US

1.1 Your membership

These Terms, together with the 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 Virgin Active Australia Pty Limited (ABN 68 126 741 133 ("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.

1.2 Corporate members

If you are a corporate member, you will also have to produce proof of your corporate identity to us. If you fail to produce this corporate identity to us we may ask you to reimburse us for any discounts you have received when joining. Extra or different terms ("Corporate Terms") might apply to you because of the corporate membership agreement between us and your employer. Corporate Terms form part of the Agreement between us, as well as the documents listed in paragraph 1.1 above. If there are any differences between any part of these Terms and the Corporate Terms, the relevant terms of the Corporate Terms will take priority. The company which is allowing you to benefit from corporate membership is responsible for making you aware of any Corporate Terms that apply.

2. YOUR TYPE OF MEMBERSHIP, YOUR HOME CLUB AND OTHER CLUBS

You are becoming a member of Virgin Active under the type of membership ("Membership Type") and at the club ("Home Club") stated in your Membership Application Form. Your membership entitles you to use the facilities available at your Home Club. "Club" means any Virgin Active Club in operation by us or any other member of the Virgin Active group from time to time. Subject to our Reciprocal Rights Policy (available at virginactive.com.au or by asking the Receptionist at your Home Club), you may also use the facilities of any other Club in Australia and you will have limited rights to use Virgin Active clubs in other countries in which we operate. We reserve the right to cancel or suspend your reciprocal rights in the event that you fail to comply with our Reciprocal Rights Policy. This benefit is not available to some membership types.

3. WHEN WILL YOUR MEMBERSHIP START?

Your membership will start on the Membership Start Date ("Membership Start Date") set out on your Membership Application Form, provided that:

- (a) you have signed these Terms, your Membership Application Form and your Payment Authority Form;
- (b) you have completed a Health Check Questionnaire and, if applicable, provided any other medical details of your health and fitness to our satisfaction; and

(c) we have received your Total Upfront Payment as set out in your Membership Application Form.

4. HOW LONG WILL YOUR MEMBERSHIP LAST?

4.1 Commitment Periods

Your Commitment Periods include an Initial Commitment Period and may also include Ongoing Commitment Periods. You are committed to a minimum initial period of membership of four weeks from the start of the first fortnightly billing period following your Membership Start Date set out in your Membership Application Form ("Initial Commitment Period") such that:

- (a) if your Membership Start Date is the first day of a fortnightly billing period, the period of four weeks from your Membership Start Date; or
- (b) if your Membership Start Date is on any other day than the first day of a fortnightly billing period, the period including the rest of that fortnightly billing period plus four weeks from the first day of the next fortnightly billing period.

Your membership will automatically renew for further two week Commitment Periods ("Ongoing Commitment Periods") unless your membership is terminated in accordance with paragraph 8. Each Ongoing Commitment Period will begin on the first day after your previous Ongoing Commitment Period ends.

For example, assuming a fortnightly billing period starts on 9 March 20XX, the Initial Commitment Period for a member whose Membership Start Date is 5 March 20XX will begin on 5 March 20XX and will end on 5 April 20XX. Their first Ongoing Commitment Period would then run from 6 April 20XX until 19 April 20XX.

4.2 Can you suspend or "freeze" your membership?

If you wish to suspend or "freeze" your membership you may notify us of your request in writing or by completing a Change of Circumstances Request Form. You will also have to pay the non-refundable Freeze Fee set out in your Home Club price list current at the time you freeze your membership. Your Home Club receptionist will be able to confirm to you the periods of freeze available during your membership. Your membership may be frozen for one or more consecutive whole fortnightly billing period (i.e. a minimum of 2 weeks) but cannot be frozen for only a part of any fortnightly billing period. You can notify us at any time that you would like to freeze your membership but your Home Club must receive your notice at least 3 days (by close of business Sunday) prior to the start of the first fortnightly billing period you wish to freeze. You will not be able to use the Club while your membership is frozen.

If you freeze your membership during the Initial Commitment Period, the period during which your membership is frozen will not be included in calculating your Initial Commitment Period. In other words, a freeze of your membership will also freeze the calculation of your Initial Commitment Period and will resume upon expiration of the frozen membership period.

4.3 What happens if you change your mind?

You may notify us by completing a Break Up Form at your Home Club, that you wish to cancel your membership within 7 days starting on the date that you sign these Terms ("Cooling Off Period"). If you do so, we will refund your Total Upfront Payment and any Membership Dues which you have paid to us after you return your Membership Card, Wellness Key, gifts and any other documentation which we have provided to you upon joining. If you

have used your membership during the Cooling Off Period, we will refund those amounts set out above, less the Guest Fee for each visit, the fees for any personal training or other Club services you have received and a reasonable administration charge.

5. MEMBERSHIP DUES AND FEES

5.1 Activation Fee

Other than as stated in paragraph 4.3 the Activation Fee stated in your Membership Application Form is non-refundable and is payable by you when you sign these Terms. If your membership is terminated for any reason and you subsequently wish to rejoin any Club you will need to pay the Activation Fee and Membership Fees applicable to that Club at that time.

5.2 Membership Dues

As a Virgin Active member you are personally responsible for payment to us of the Membership Dues and any other ongoing payments set out Flexible Membership Terms Member name Membership no. in your Membership Application Form as they fall due. Your Membership Dues are due for the whole of each fortnightly billing period even if your membership is terminated during that fortnightly billing period (unless you have terminated under paragraph 8.2(a)). If your first fortnightly period includes a partial fortnightly billing period, your Membership Dues for that period will be calculated on a proportional basis according to the number of days remaining in that fortnightly billing period. Membership Dues vary depending on your type of membership and also vary from Club to Club. You must pay the Membership Dues applicable to your Home Club and your Membership Type at the relevant time. You may only pay your Membership Dues in advance by direct debit or periodic credit card authority under your Payment Authority Form. No other form of payment will be accepted. You will not be allowed to access the Club if your Membership Dues remain outstanding. We will collect any outstanding amounts and any charges we incur from late payment through your Payment Authority Form. If you have a genuine dispute in relation to the collection of outstanding amounts or the charges we incur, please contact us in accordance with the dispute procedure set out in the Payment Authority Form.

5.3 Changes to Membership Dues

We review our Membership Dues periodically and may change them from time to time. This may result in an increase to your Membership Dues after the Initial Commitment Period. We will give you at least 14 days' notice of any change and the date from which the change will apply by emailing you at the email address you have provided to us, by notifying you via your member portal at virginactive.com.au or by writing to you.

If you do not wish to accept an increase in your Membership Dues you may terminate your membership in accordance with paragraph 8.1. If you do not terminate your membership you will be required to pay any revised Membership Dues from the date from which the change becomes effective and your direct debit payments or credit card payments will be amended accordingly.

All Membership Dues include goods and services tax (GST). We reserve the right to change your Membership Dues in line with any government GST rate changes, even if you are in your Initial Commitment Period.

5.4 Other membership fees and charges

Any fees or charges that may be payable for additional services and facilities, such as Freeze Fees, Guest Fees, Towel Fees, Replacement Membership Card Fees, Transfer Fees, Club V and ToddLZ Fees, will be set out in the relevant Home Club price list (as may be amended by us from time to time) available at the reception of your Home Club. Such fees may be added to your direct debit payment.

6. CAN YOU TRANSFER YOUR MEMBERSHIP TO ANOTHER PERSON?

No, you may not transfer your membership to another person. Your membership is personal to you.

7. MEMBERSHIP TYPE

Membership types vary from club to club.

7.1 Can you change your Membership Type or Home Club?

Yes, you may change your membership to another Membership Type as long as you qualify for the new Membership Type and you serve any remaining period of your Initial Commitment Period under that new Membership Type. You can also change your Home Club to another Australian Club in accordance with our Reciprocal Rights Policy. You must complete and provide to your Home Club a Change of Circumstances Request Form and pay the relevant Transfer Fee and Membership Dues applicable to the new Membership Type and/or Home Club as current at the time of your request. Certain Membership Types may not be available at every Club. Your Home Club must receive notice of any change to your Membership Type or Home Club at least 3 days prior to the start of the fortnightly billing period (i.e. by Sunday close of business) from which you want the change to be effective. Student membership rates are only available to full time students. If your student status changes you must notify us immediately and we reserve the right to update your Membership Dues, even if you are in your Initial Commitment Period.

7.2 Access

Certain membership types may have restricted access times, refer to the price list at your Home Club to see which of these apply.

7.3 Facilities

We may need to adjust the availability of certain facilities at your Home Club on a temporary basis including for the purposes of cleaning, improvement work, repairs, upgrades, maintenance, special functions and holidays. If your Home Club is not available for more than seven days in a row, you can ask us for a credit against your Membership Dues for the period that your Home Club is not available provided you do not use any other Club during that period.

8. HOW CAN YOUR MEMBERSHIP BE TERMINATED?

8.1 Termination by you after the Initial Commitment Period

After the Initial Commitment Period you may give us notice to terminate your membership by completing a Break Up Form at your Home Club which we must receive at least 3 days (i.e. by close of business Sunday) prior to the date of the fortnightly billing period that you wish to stop the renewal of your membership for fortnightly Ongoing Commitment Periods.

8.2 Reasons for ending your membership early

You may terminate your membership immediately by completing a Break Up Form at your Home Club within 30 days of any of the following occurring:

- (a) We increase your Membership Dues other than in accordance with paragraph 5.3.
- (b) We change the physical location of your Home Club.
- (c) We close the whole of your Home Club for any reason for a period of 30 days in a row or longer.
- (d) We make changes to these Terms or the Club Rules under paragraph 10 that significantly reduces the benefits of your membership.
- (e) We breach any terms of this Agreement and fail to rectify that breach within 14 days of you giving us notice to do so.

8.3 Termination by us

We may terminate your membership immediately by emailing or writing to you at the contact addresses we have on our records:

- (a) If you commit a serious or repeated breach of these Terms or the Club Rules.
- (b) If you otherwise breach these Terms or the Club Rules and the breach, if capable of remedy, is not remedied within 14 days of us giving you notice to do so and informing you that your membership will be terminated if you fail to do so.
- (c) If any part of your Membership Dues remains unpaid 28 days after falling due.
- (d) If you provide us with details which you know to be false when applying for membership and these false details may have affected our reasonable decision to grant you membership.

If we terminate your membership for any of these reasons we may (without limiting any other right or remedy) recover any other reasonable costs and expenses we incur as a result of your breach and to collect the full amount of Membership Dues for the remainder of the then current fortnightly billing period and any arrears.

- (e) If we close your Home Club, we will provide you with the option to transfer to another Club at the prevailing Membership Dues applicable at that Club at the time of your transfer. We will not charge you a Transfer Fee. If you do not wish to accept the transfer to another Club, your membership will end on the date that your Home Club is closed.

8.4 Collection of fees

We will collect any Membership Dues and fees that are outstanding when your membership is terminated. We may use a third party to assist in the collection of outstanding fees.

9. WHAT ARE THE CLUB RULES?

The Club Rules govern your use of a Club. In becoming a member you agree to comply with the Club Rules which are binding rules that apply to all members, guests and visitors. You are also responsible for the conduct of your guests and visitors while they are using the Club. Up-to-date Club Rules will be published at virginactive.com.au and displayed in each Club.

10. CHANGES TO THESE TERMS OR THE CLUB RULES

We reserve the right to make reasonable amendments to these Terms or the Club Rules at any time. We will give you at least 14 days' notice by emailing you, updating your member portal at virginactive.com.au, or writing to you to tell you that changes are being made and that you may see the amended Terms or Club Rules at our website or at the Club. If any amendment to these Terms or the Club Rules significantly reduces the benefits of your membership you have the right to terminate your membership under paragraph 8.2.

11. HOW YOU SHOULD CONTACT US?

Any written notice or completed form provided to your Home Club must be sent by post, fax or email, or given in person at reception; with exception of a termination by you (see paragraph 8). Full contact details are available at your Home Club's reception. Only notices delivered to us in one of these ways will be considered valid notice.

12. RISK AND YOUR HEALTH

Exercising and using Club facilities may involve the risk of injury and you exercise and use the Club facilities at your own risk. Please monitor your physical condition at all times and exercise to a level that is appropriate given your knowledge of your health and any medical advice you have obtained. If any unusual symptoms occur immediately stop what you are doing and notify a staff member.

13. LIABILITY

13.1 Recreational Activities

In the course of exercising or engaging in any recreational activities while using any Club facilities, if you are killed or injured, we will not be liable except to the extent caused by our gross negligence. In this paragraph:

- **gross negligence**, means as defined in paragraph 13.2 below; and
- **recreational activities**, means your participation in a sporting activity or a similar leisure time pursuit or your participation in any other activity that involves a significant degree of physical exertion or physical risk and is undertaken for the purposes of recreation, enjoyment or leisure.

Please refer to the warning notice in paragraph 13.2 below which we are required to provide to you if you are in Victoria under the *Australian Consumer Law and Fair Trading Act 2012* in relation to this limitation on our liability.

13.2 Warning under the *Australian Consumer Law and Fair Trading Act 2012*

In this warning, references to "the supplier" mean us, and references to "you" mean you and your child (if you have agreed to these Terms on behalf of a child).

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 the recreational services it supplies to you:

- 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*, 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 *Australian Consumer Law and Fair Trading Act 2012* 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 *Australian Consumer Law and Fair Trading Act 2012*.

13.3 Liability for supply of other services

Without limitation to paragraphs 13.1 and 13.2 and any other terms which are implied into this Agreement; or by statute in relation to the supply of services which cannot be excluded or limited, we will ensure that the services that we provide to you are provided with due care and skill, are fit for the purpose for which they are commonly bought as is reasonable to expect in the circumstances, will correspond in the nature and quality with the services demonstrated to you, and are free from any defect rendering them unfit for the purposes for which our services are commonly acquired. To the extent permitted by law, and again without limiting paragraphs 13.1 and 13.2, unless we have breached these obligations we will not be liable for any death, injury, loss, liability or damage that you may incur as a result of the services provided by us to you.

14. OTHER BITS

You must keep us up to date with your contact details by completing a Change of Circumstances Form and giving it to your Home Club if your contact details change. In the event that we do not receive a Change of Circumstances Form from you and your contact details change, notice given by us to the email or other address we have on our records for you will constitute valid notice to you under these Terms.

We may transfer our rights and obligations (or both) under this Agreement, or subcontract our obligations under it, to another organisation without giving you notice and you will continue as a member. If the other organisation fails to provide the same (or equivalent) facilities and services we provided, you may end your membership upon completing a Break Up Form.

All undefined terms used in this document have the meaning set out in the Membership Application Form.

If we fail to enforce any of our rights at any time, for any period and for whatever reason, this will not take away those rights. Also if we fail to notice or act if you break any of the terms of this Agreement, this does not mean that your behaviour is acceptable. If a Court decides that a term of this Agreement is not valid or cannot be enforced, that term will not apply but this will not affect the rest of the Agreement.

This Agreement is subject to the laws of the State where your Home Club is located.

15. YOUR PERSONAL INFORMATION

We take the privacy of our members seriously and our Privacy Policy, which is available at virginactive.com.au, explains the ways in which we collect, use, store, protect and disclose your personal information.

We collect personal information from you to provide you with our services, to administer your membership with us and for the other purposes described in our Privacy Policy. In most cases, we collect your personal information directly from you, including through your Membership Application Form, a Change of Circumstances Form, Health Check Questionnaire, the member portal at virginactive.com.au and in the course of our other communications with you, which may occur through virginactive.com.au or when you call or contact our staff.

If you do not allow us to collect your personal information, we may not be able to provide you with our services, administer your membership with us or conduct some or all of the other activities described in our Privacy Policy.

With your consent, we may also collect personal information which relates to your physical health or condition, including (without limitation) when you complete our Health Check Questionnaire, so that we can assess your general health, wellbeing and your readiness for physical exercise and for the other purposes set out in our Privacy Policy. If you do not provide this information, you will not be able to use our club. If we believe you have any health issue or if our Health Check Questionnaire is not fully completed, we may require you to obtain a medical certificate before we consider your application further.

In order to perform our services and for the purposes described in our Privacy Policy, we may disclose some of your personal information to our related bodies corporate and to other persons or entities as outlined in our Privacy Policy. Should you default on payments due to us we may disclose your personal information by notifying the default to a credit reference agency or other third party to obtain payment from you.

Other than as set out in our Privacy Policy, we will not share your personal information without your consent unless we are required to do so by law.

Our Privacy Policy explains how you may access and correct the personal information that we hold about you. It also sets out how you may contact us to complain about a breach of the Privacy Act, and how we will deal with such a complaint. If you have any questions or concerns about privacy or if you would like further information about our privacy practices, please contact the Virgin Active Privacy Officer using the following details:

Email: privacy@virginactive.com.au

Address: Virgin Active Central,
Level 5, 4 Defries Ave,
Zetland NSW 2017

By signing below, you agree to be bound by this Agreement and you consent to the terms and conditions within it.

Do not sign below until you have read these Terms and the other documents listed in paragraph 1. If there is anything you do not understand, please ask us for an explanation before you sign. If you are under 18, a parent or guardian will need to sign below to give their permission for you to become a club member. Your parent or guardian will be responsible for your obligations under the Agreement and must sign below to say they accept these Terms and the Club Rules on your behalf, and to accept responsibility for your behaviour, actions and failure to act in line with this Agreement. In particular your parent or guardian will be responsible for paying all payments due under your membership. You agree that your parent or guardian will be the only person we will discuss your membership with unless they authorise another person (including you).

The Agreement between you and us will come into force when you sign these Terms (even if a Virgin Active Representative is not named or do not sign them).

Name of member

Signed (member)

Date

If you are under 18, a parent or guardian will need to sign below to consent to you becoming a member and will be responsible for your obligations under the Agreement, unless we waive this requirement.

Name of member
under 18

Name of
Parent/Guardian

Signed
(Parent/Guardian)

Date

Virgin Active Australia Pty Limited

Name of Virgin Active
Representative

Signed (for identification
purposes only)

(Virgin Active Representative)

Date

Note that the Agreement between you and us will come into force upon you signing these Terms even if a Virgin Active Representative is not named or does not sign them.