| **MEMBERSHIP FORM** | |
| --- | --- |
| **Member, you, your** | **Name:**  **Address:**  **Email: Phone:**  **Date of birth:**  **Member’s Parent/Guardian (if applicable):**  **Emergency contact:**  **Name:**  **Address:**  **Email: Phone:**  **Relationship:**  **Fitness Passport ID (if applicable):** |
| **LFG, we, us, our** | **Name**: Live Fit Gym Yarrabilba Pty Ltd (ABN 72 631 655 984)  **Contac**t: Live Fit Gym  **Email**: info@livefitgym.com.au |
| **Membership Plan** | Individual Membership (for adults over 16 years of age)  Youth Membership (for youth aged 12-16 years)  Couples Membership  Pensioners Membership  Emergency Services / Veteran Membership  Pensioners Membership  Fitness Passport Membership  *For the avoidance of doubt, each Membership Plan offered by LFG includes 24/7 Access and access to all Fitness Classes.* |
| **Activities** | The Membership Plan provides the Member with:   * access to the Gym and all facilities generally, * 24/7 Access, and * access to all Fitness Classes offered by LFG |
| **Commencement Date** | This Agreement will commence upon the Member signing this Agreement and the DDR Service Agreement in Appendix C |
| **Term** | This Agreement commences on the Commencement Date and continues until terminated in accordance with clause 14 |
| **Gym** | 51 Adler Circuit, Yarrabilba QLD 4207 |
| **Fees** | **Membership Fees**:  Individual Membership: $16.50 per week  Family Membership: $15.00 per week  Youth Membership: $14.50 per week  Pensioners Membership: $14.50 per week  Emergency Services Membership: $14.50 per week  Pensioners Membership: $14.50 per week  **Establishment Fee**: $12.00  **Administration Fee** (includes provision of Access Card): a once off fee of $30.00. Please note we also charge a replacement fee of $15.00.  **Dishonour Fee**: $14.95 charged in respect of any and all dishonoured payment |
| **Fee Payment Method** | Direct Debit through Debit Success |
| **Direct Debit Request (for direct debit only)** | [Visa/Mastercard] Name as it appears on card:  Card Number: Expiry date:  OR  Direct Debit from a Bank, Building Society or Credit Union using [Check Account/Savings Account]  Financial Institution: Account name:  Account number  **Weekly Debit:** beginning on:  *By signing the Membership Form, you authorise LFG’s financial institution, Debit Success to debit the Weekly Debit amount from your credit card or account at the Financial Institution identified above, as applicable, through the Bulk Electronic Clearing System in accordance with this Direct Debit Request, the Terms and Conditions below and your DDR Service Agreement with Debit Success included in Appendix C.*  *You acknowledge and agree that if your Membership Plan is [insert], then this Agreement will not terminate and we will continue to debit your nominated account or credit card in line with your Direct Debit Request and DDR Service Agreement with Debit Success unless you cancel this Agreement by providing us with 14 calendar days written notice in accordance with clause 14 of the Terms and Conditions.*  *You acknowledge that you have been given the option of choosing a Membership Plan based on either periodic billing (ongoing direct debit) or pre-payment (lump-sum payment).* |
|  |  |

By signing below, the Member, or if the Member is a minor, their Parent or Guardian on their behalf, agrees to the terms and conditions of this Membership Form and the attached Terms and Conditions including any Screening Tool, Waiver and/or DDR Service Agreement set out in the Appendixes (together, this **Agreement**).

*Participating in the Activities is potentially dangerous and may expose you to risks, including accidents, serious injury, illness or even death.**LFG uses its best endeavours to protect you but there remains a possibility of an accident causing injury, illness, disability, death or property damage. You participate in the Activities at your own risk and acknowledge that you have read clause 11, which describes how LFG limits its liability to you.*

**Executed** as an agreement on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date)

| **Signed** by the Member or (if applicable) their Parent or Guardian: | )  ) |  |
| --- | --- | --- |
|  |  |  |
| Full name of Member |  | Signature of Member/Parent or Guardian |
|  |  |  |
| Name of Parent or Guardian (if applicable) |  | Date |
|  |  |  |

**TERMS AND CONDITIONS**

These Terms and Conditions, together with any Membership Form, Screening Tool, Waiver and/or DDR Service Agreement set out in the Appendixes, set out the agreement (this **Agreement**) under the terms of which you or, where applicable, the person for whom you are the parent or guardian, (the **Member**, **you, your**) will obtain services, including the Activities, from Live Fit Gym Yarrabilba Pty Ltd (ABN 72 631 655 984)] (**LFG, we, us, our**).

We may change these Terms and Conditions at any time by updating the Terms and Conditions page on our website, and your ordering of the Activities or using the Gym following such an update will represent an agreement by you to be bound by the Terms and Conditions as amended. Changes to these Terms and Conditions will only apply to Membership Forms entered into after the change occurs. However, we will only increase your Fees in accordance with clause 6.2(e) below

* **MEMBERSHIP FORM, THIS AGREEMENT**
* These Terms and Conditions will apply to all the Member’s dealings with LFG, including being incorporated in all agreements or quotations under which LFG is to provide services to the Member (each a **Membership Form**) together with any additional terms included in such a Membership Form (provided such additional terms are recorded in writing).
* The Member will be taken to have accepted this Agreement if the Member accepts a Membership Form, or if the Member orders, accepts or pays for any Activities provided by LFG after receiving or becoming aware of this Agreement or these Terms and Conditions.
* **TERM**
* This Agreement commences on the Commencement Date and continues until terminated in accordance with clause 14.
* **PARTICIPANT’S OBLIGATIONS**
* CAPACITY AND AGE
* The Member warrants that they:
* have the legal capacity and are of sufficient age to enter into a binding contract with us; and/or;
* are the parent or guardian of the Member who consents to this Agreement on behalf of the Member.
* The Member acknowledges and agrees that:
* they must be at least 12 years of age to participate in any Activities and can only participate in such Activities under direct supervision of a parent or guardian. For the avoidance of doubt, members under 16 years of age will not receive an Access Card and may only access the Gym with a parent or guardian accompanying them who is also a member; and
* at least 16 years of age to receive an Access Card and engage in unsupervised resistance training or classes where weights are used.
* PRE-ACTIVITY OBLIGATIONS
* The Member warrants that, on or prior to the Commencement Date, they:
* will complete the Screening Tool located in Appendix A and;
* if they answer ‘yes’ to any of the questions contained in the Screening Tool, obtain a doctor’s certificate stating that they are allowed to participate in the Activities; or
* if they answer ‘yes’ to any of the questions contained in the Screening Tool and cannot obtain a doctor’s certificate stating that they are allowed to participate in the Activities, agree that they participate in the Activities at their own risk, if permitted to do so by LFG;
* have read and signed the Waiver located in Appendix B;
* have read and signed the DDR Service Agreement in Appendix C; and
* accept any Third Party Terms, in accordance with clause 9.
* GENERAL
* The Member must provide LFG with all documentation, information and assistance reasonably required for LFG to provide the Activities;
* The Member must participate in any briefings and/or introductions as notified by LFG prior to engaging in any Activities; and
* If you are the Member’s parent or guardian and the Member is under the age of 18, you must ensure that the Member complies with these terms, and agree to the terms of this Agreement in respect of the Member.
* If your Membership Plan requires you to meet certain eligibility criteria and you become ineligible to hold that Membership Plan, you agree to notify us, and agree that (unless you otherwise indicate in writing that you wish to cancel your Membership) your Membership Plan will be automatically renewed for a similar Membership Plan which you are eligible for, using the existing payment methods provided to us. We will provide 14 days’ notice prior to this change.
* INSTRUCTIONS AND SAFETY
* The Member warrants that they:
* will undertake an instructional consultation with LFG’s Personnel prior to using the Gym or engaging in the Activities;
* comply with any safety guidelines, instructions and/or rules that LFG’s Personnel provide to them;
* stop participating in any Activities, and alert LFG or its Personnel, if the Member has any concerns about their health or safety or if they start feeling dizzy, faint, unwell or feel any unusual pain during the Activities; and
* be responsible for their own safety and that of any person under the age of 18 years for whom they have signed responsibility.
* HEALTH AND STATE OF THE PARTICIPANT
* The Member warrants that they:
* are not pregnant and do not have a health condition which might have the effect of making it more likely that they will be involved in an accident or injury while participating in the Activities (**Condition**);
* will notify LFG immediately if they develop a Condition;
* are aware and agree that if they have a Condition, LFG might refuse them participation in some and/or all Activities;
* are aware that the Activities, even when no accident occurs, may involve risk to health;
* will not participate in the Activities under the influence of drugs, alcohol or illicit substances;
* will not participate in the Activities, if ill, injured or feeling unwell; and
* will warm-up prior to participating in the Activities.
* GYM USE
* The Member must:
* use the Access Card issued to them by LFG each time when entering the Gym;
* cover any surfaces at the Gym, including all equipment and exercise mats, with a clean towel during use and wipe down each piece of equipment after use;
* not use abusive, offensive or threatening language or behaviour while at the Gym;
* at all times wear clean clothing appropriate to the Activities they are undertaking and/or as instructed by LFG from time to time (jeans, work clothes, boots, or clothing with offensive or inappropriate images are not permitted);
* not enter the Gym under the influence of drugs or alcohol;
* not smoke, consume alcohol, drugs, foods, and/or chew gum at the Gym;
* not use the equipment and/or facilities without seeking instructions from LFG Personnel if the Member is not familiar with the equipment and/or facilities; and
* not intentionally drop weights, and return them to their correct place after use.
* POSSESSIONS
* The Member is responsible for their possessions while at the Gym. LFG will not be liable if any of the Member’s possessions are lost and/or stolen at the Gym.
* Where the Member uses pigeonholes at the Gym, LFG will not be liable if the Member’s possessions are lost and/or stolen. The Member uses the pigeonholes at their own risk.
* Where lockable and non-lockable lockers are provided for the convenience of members, the Member agrees that those lockers are not secure and that LFG does not represent them as being secure. Members bring bags and personal belongings into the Gym at their own risk.
* Under no circumstance can bags be taken onto areas dedicated to exercise.
* CARPARK
* The Members understands and warrants that it uses any carpark facilities unsupervised and at their own risk. LFG will not be liable for any loss or damage suffered by the Member in connection with the Member’s use of the carpark, even where LFG is negligent, to the maximum extent permitted under Australian Consumer Laws.
* ACCESS CARDS
* All new Members will need to purchase a door Access Card to gain secure entry to the Gym.
* The Member must not to share their Access Card with anyone else and not use it to give access to the Gym to other people, including other members.
* The replacement cost of a lost or damaged Access Card is $15.00
* **CLASSES AND GYM AVAILABILITY**
* CLASSES
* If the Member’s Activities include Fitness Classes (**Classes**), the Member acknowledges and agrees that:
* unless directed otherwise, they are required to book their Classes in advance via the clubware; and
* any missed Classes will be forfeited by the Member and LFG will not be required to reschedule such Classes.
* AVAILABILITY
* While LFG will endeavour to ensure that Classes and equipment are available during the advertised opening hours, on occasion, Classes or equipment may be full, unavailable or no longer offered and LFG will not be liable to the Member in such circumstances.
* LFG reserves the right to change the Classes and times offered at its absolute discretion without notice to the Member.
* The Member acknowledges that during public holidays and over the Christmas and New Year breaks, LFG classes are reduced in frequency and/or unavailable. This circumstance has been reflected in our Fees and the Member is not entitled to any fee discounts on this account.
* **24/7 USE**
* CONDITIONS
* If your Gym provides 24/7 Access and you access the Gym outside the Staffed Hours you understand and agree that:
* you may only do so if your Activities include 24/7 Access of the Gym;
* you will be using the Gym and any facilities and equipment unsupervised, and as such you voluntarily expose yourself to higher risk of serious injury;
* there might not be anyone at the Gym to assist you in case of an accident;
* LFG’s liability to you will be limited in accordance with this Agreement, specifically clause 11;
* some areas, including but not limited to the reception area, front desk, staff locker room, storage rooms and office areas (**Restricted Areas**), will be out of bounds outside of the Staffed Hours and/or not included in your Activities and you will not be able to use the Restricted Areas;
* you must not engage in any unsupervised sparring or fighting; and
* you must not bring any person with you to the Gym, unless they are a member.
* CONSEQUENCES OF BREACH
* If you breach clause 5.1(g) above:
* this Agreement and your Membership Plan will immediately terminate; and
* you will incur a $50.00 once off visit fee for your guest.
* **PAYMENT**
* FEES
* By signing and/or submitting your Membership Form to us you agree to pay your Membership Fees either in weekly instalments in advance by direct debit for the duration of this Agreement.
* DIRECT DEBIT
* If a Member enters into a direct debit arrangement for payment of the Fees, the Member:
* agrees to enter into DDR Service Agreement with our direct debit partner, currently Debit Success, whose terms are located in Appendix C to this Agreement;
* authorises LFG to charge the Member’s bank account in accordance with this Agreement and the DDR Service Agreement;
* must ensure that there are sufficient funds available in their account to allow Debit Success (or any subsequent direct debit partner) to debit the Fees payable;
* must give LFG a notice of at least 48 hours if:
* the Member is transferring or closing the account specified in their DDR;
* there are any changes to the Member’s credit card specified in their DDR; and
* acknowledge and agree that if a debit is returned your financial institution as ‘unpaid’:
* we will charge you a $14.95 dishonour fee in addition to any fees charged by third parties under the DDR Service Agreement; and
* we may suspend your Gym access until the amount(s) payable are received by us; and
* FEE INCREASES
* We reserve the right to increase the Fees at any time by giving you a 31-day notice of such increase.
* NON-REFUNDABLE FEES
* All Fees (including Membership Fees, Establishment Fees, Administration Fees and Access Card Fees are non-refundable for change of mind.
* INVOICES
* If LFG issues an invoice to the Member, payment must be made by the time(s) specified in such invoice.
* GST
* Unless otherwise indicated, amounts stated in a Membership Form include GST.
* **DEBT RECOVERY**
* If you do not pay an amount due under this Agreement on or before the date that it is due:
* LFG may seek to recover the amount due by referring the matter to debt collectors; and
* you must reimburse LFG for any costs it incurs, including any legal and debt collector costs, in recovering the amount due or enforcing any of its rights under this Agreement.
* **SUSPENSION OF MEMBERSHIP**
* SUSPENSION FOR CONVENIENCE
* You may suspend your Membership Plan for a minimum of 2 weeks at a time so long as the total time suspended within a 12 month period does not exceed 6 weeks.
* To suspend your Membership Plan you must:
* notify LFG in writing with seven calendar days’ notice prior to the requested date of suspension in writing via email; and
* not have any outstanding Fees to pay to LFG.
* Suspensions must commence and end on the date when your direct debit payment is due.
* The request for suspension will not be finalised until you have received email confirmation stating that your suspension has been approved. It is your responsibility to monitor the suspension of your membership and advise us immediately if payment is being deducted after your requested suspension date. Refunds for any payments made to us after 30 days from the suspension request date may be credited to your account instead, at our discretion.
* SUSPENSION FOR INJURY
* If you are unable to use the Gym by reason of temporary physical incapacity, for a period of more than ten (10) consecutive calendar days, you may suspend your Membership Plan immediately for up to 3 months within any 12-month period by written notice to us via email, so long as that notice is accompanied by a verifiable medical certificate describing that you are unable to use our facilities.
* No suspension fee is payable for suspensions granted under this clause.
* **CRECHE AND CHILD-MINDING SERVICES**
* Members wishing to utilise LFG’s creche/child minding services must notify LFG. Once notified, LFG will (separate to this Agreement) supply the Member with an enrolment form and terms of service in relation to such creche/child minding services.
* **THIRD PARTY GOODS AND SERVICES**
* Any Service that requires LFG to acquire goods and services supplied by a third party on behalf of the Member may be subject to the terms & conditions of that third party (**Third Party Terms**), including ‘no refund’ policies.
* The Member agrees to familiarise itself with any Third Party Terms applicable to any such goods and services and, by instructing LFG to acquire the goods or services on the Member’s behalf, the Member will be taken to have agreed to such Third Party Terms.
* **LIABILITY AND INDEMNITIES**
* NO RELIANCE
* The Member acknowledges that in deciding to pay for the Activities and in entering into this Agreement the Member has not relied on the skill or judgment of LFG and that the Member has satisfied itself as to the condition and suitability of the Gym and/or Activities and their fitness for the Member’s purpose.
* LIABILITY
* To the maximum extent permitted under applicable law, and without limiting any of the Member’s rights under the *Competition and Consumer Act 2010* (Cth) LFG’s liability for all claims in aggregate (whether those claims be for breach of contract, negligence or otherwise, and whether those claims are for economic loss, or for personal injury or other damage) arising under or in connection with this Agreement:
* is excluded, to the extent it concerns liability for indirect, special and consequential damages, and damages (whether direct or indirect) reflecting loss of revenue, loss of profits or loss of goodwill; and
* is limited, insofar as it concerns other liability, to the total money paid to LFG under this Agreement as at the date the event giving rise to the relevant liability occurred (or, where there are multiple events, the date of the first such event).
* RISK
* Participating in the Activities involves the potential for injury and the Member is participating in any Activities at their own risk with knowledge of the dangers involved, including but not limited to, physical injury, muscle and ligament strains, illness, bruising, falls, injury through equipment failure, injury through impact during martial arts participation and death.
* The Member acknowledges that there will be times where the Member will be unsupervised by any LFG Personnel and agrees to accept any risks of loss, injury, damage or death arising out of the Member’s unsupervised use of the Gym, unless there is reckless disregard or gross negligence on LFG’s behalf.
* The Member acknowledges that while LFG uses its best endeavours to ensure that the Gym and any facilities and/or equipment are free of faults and safety issues, there may be instances of equipment failure, and/or equipment and other objects may be left in incorrect positions by other Gym users. The Member agrees that LFG will not be liable for any loss or damage arising out of such circumstances unless there is reckless disregard or gross negligence on LFG’s behalf.
* The Member will bear all risk of loss or destruction of, or damage to, any equipment and/or other property and/or people arising out or contributed to by their participation in the Activities.
* INDEMNITY
* The Member indemnifies LFG from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of:
* any breach of this Agreement by the Member;
* any negligent, fraudulent or criminal act or omission of the Member or its Personnel; or
* an event, where circumstances giving rise to a claim, were caused or contributed to by the Member.
* **WARRANTIES**
* To the maximum extent permitted by applicable law, all express or implied representations and warranties (whether relating to fitness for purpose or performance, or otherwise) not expressly stated in this Agreement are excluded.
* Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Member may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.
* **PRIVACY**
* You agree to be bound by our Privacy Policy, which is available Live Fit Gym Yarrabilba's Website.
* You consent to us taking images and recording video footage of you for the following purposes only:
* promotion of the Gym, Gym events and advertising the associated products and services; and
* publication on social media platforms or in newspapers, in trade and other journals and on websites and the internet for the purposes of professional advancement,

in accordance with our Privacy Policy.

* Please notify us by LFG if you do not wish footage or images of you to be taken or kept by us.
* **CANCELLATION**
* BY LFG
* LFG may terminate this Agreement and the Member’s Membership Plan immediately by written notice to the Member if the Member is in breach of any term of this Agreement.
* NOTICE – ALL MEMBERS
* If the Member wishes to cancel their Membership Plan and this Agreement, the Member must provide at least 14 calendar days written notice to LFG (**Notice**).
* DEDUCTIONS
* It is your responsibility to inform LFG of any deductions to your account after your Membership Plan has been cancelled.
* SURVIVAL
* Any clause that by its nature would reasonably be expected to be performed after the termination or expiry of this Agreement will survive and be enforceable after such termination or expiry.
* **DISPUTE RESOLUTION**
* FEEDBACK & COMPLAINTS POLICY
* Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about our services, please raise these with our staff and then contact us immediately if you are unable to resolve the concern. We handle feedback and complaints in line with our complaints policy.
* You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of our services including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us. The obligations under this clause will survive termination of this Agreement.
* MEDIATION
* A party claiming that a dispute has arisen under or in connection with this Agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
* A party that requires resolution of a dispute which arises under or in connection with this Agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
* Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 calendar days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.
* **NOTICES**
* A notice or other communication to a party under this Agreement must be:
* in writing and in English; and
* delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
* Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party’s Email Address, notice will be taken to be given:
* 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this Agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
* when replied to by the other party,

whichever is earlier.

* **GENERAL**
* GOVERNING LAW AND JURISDICTION
* This agreement is governed by the law applying in Queensland, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.
* AMENDMENTS
* This agreement may only be amended in accordance with a written agreement between the parties.
* WAIVER
* No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.
* SEVERANCE
* Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.
* JOINT AND SEVERAL LIABILITY
* An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.
* ASSIGNMENT
* A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.
* COUNTERPARTS
* This agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this agreement and all together constitute one agreement.
* COSTS
* Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.
* ENTIRE AGREEMENT
* This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.
* INTERPRETATION
* (**singular and plural**) words in the singular includes the plural (and vice versa);
* (**gender**) words indicating a gender includes the corresponding words of any other gender;
* (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
* (**person**) a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
* (**party**) a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
* (**this agreement**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
* (**document**) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
* (**headings**) headings and words in bold type are for convenience only and do not affect interpretation;
* (**includes**) the word “includes” and similar words in any form is not a word of limitation;
* (**adverse interpretation**) no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision; and
* (**currency**) a reference to $, or “dollar”, is to Australian currency, unless otherwise agreed in writing.
* **DEFINITIONS**
* In addition to capitalised terms defined in the Agreement Details above, capitalised terms used in this agreement will have the following meanings:

| **Term** | **Meaning** |
| --- | --- |
| * **Access Card** | means the card, fob or otherwise issued to members to enable 24/7 Access and access to the Gym during Staffed Hours. |
| * **24/7 Access** | means access to the Gym (including access to all machines, cardio area and free weights) outside of the Staffed Hours. |
| * **Activities** | means the Activities listed in the Membership Form to be provided to the Member by LFG. |
| * **Direct Debit Request, DDR** | means the Direct Debit Request located in the Membership Form authorising Debit Success to debit your nominated account or credit card for Fees payable to LFG in accordance with the DDR Service Agreement. |
| * **DDR Service Agreement** | means the DDR Service Agreement between you and Debit Success relating to the Fees payable under the Membership Form located in Appendix C. |
| * **Commencement Date** | has the meaning set out in the Membership Form. |
| * **Fees** | has the meaning set out in the Membership Form. |
| * **Gym** | means the venue specified in the Membership Form. |
| * **Laws** | mean any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction(s) where the Activities are performed or received and includes any industry codes of conduct. |
| * **Fitness Classes** | means Boxing, Group, HIIT and similar classes provided by LFG but does not include Kanga classes. |
| * **Member, you, your** | has the meaning set out in the Membership Form and includes the parent or guardian of the Member if the Member is under 18 years of age. |
| * **Membership Form** | has the meaning set out in clause 1(a) of these Terms and Conditions. |
| * **Membership Plan** | means the category of membership (which varies by the limitations of each membership type and the price) as specified in the “Membership Details” section of your Membership Form and as limited or described in this Agreement, including the following categories:   * Individual Membership (for adults over 16 years of age); * Youth Membership (for youth aged 12-16 years); * Couples Membership; * Pensioners Membership; * Emergency Services Membership; * Pensioners Membership; and * Casual visit (not governed by the terms of this Agreement);   any other categories of membership determined by us and agreed to by you from time to time. |
| * **Personnel** | means, in respect of a party, that party’s officers, employees, contractors (including subcontractors) and agents. |
| * **Staffed Hours** | means:   * between 8am - 11am and 3:30pm – 6:00pm Monday to Thursday; and * between 8am and 11am Friday and Saturday. |
| * **Third Party Terms** | has the meaning set out in clause 7. |

* **INTERPRETATION**
* In this Agreement, the following rules of interpretation apply:
* (**singular and plural**) words in the singular includes the plural (and vice versa);
* (**gender**) words indicating a gender includes the corresponding words of any other gender;
* (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
* (**person**) a reference to “**person**” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
* (**party**) a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
* (**this Agreement**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it;
* (**document**) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
* (**currency**) a reference to “**$**” or “**dollar**” is to Australian currency;
* (**headings**) headings and words in bold type are for convenience only and do not affect interpretation;
* (**includes**) the word “**includes**” and similar words in any form is not a word of limitation; and
* (**adverse interpretation**) no provision of this Agreement will be interpreted adversely to a party because that party was responsible for the preparation of this Agreement or that provision.

**APPENDIX A – SCREENING TOOL**

The Screening Tool below is intended for general use only and in no way guarantees against harm to health injury or death. LFG accepts no liability for any loss, damage or injury that may arise from any person acting on any information contained in this tool.

| * Has your doctor ever told you that you have a heart condition or have you ever suffered a stroke? | Yes | No |
| --- | --- | --- |
| * Do you ever experience unexplained pains in your chest at rest or during physical activity/exercise? | Yes | No |
| * Do you ever feel faint or have spells of dizziness during physical activity/exercise that causes you to lose balance? | Yes | No |
| * Have you had an asthma attack requiring immediate medical attention at any time over the last 12 months? | Yes | No |
| * If you have diabetes (type I or type II) have you had trouble controlling your blood glucose in the last 3 months? | Yes | No |
| * Do you have any diagnosed muscle, bone or joint problems that you have been told could be made worse by participating in physical activity/exercise? | Yes | No |
| * Do you have any other medical condition(s) that may make it dangerous for you to participate in physical activity/exercise? | Yes | No |
| * Are you pregnant or have you given birth within the last 12 months? | Yes | No |
| * Do you know of any other reason why you should not participate in physical activity? If so please list below | Yes | No |
|  | | |

| IF YOU ANSWERED ‘YES’ to any of the above questions, please seek guidance from your GP or appropriate allied health professional and return with a copy of the doctor’s clearance letter prior to starting exercising. |
| --- |

**APPENDIX B – AGREEMENT AND WAIVER**

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| --- |
| **LIVE FIT GYM YARRABILBA WAIVER**   * You request to participate in the Activities set out in your Membership Agreement which includes this Waiver (**Agreement**) that are provided by Live Fit Gym Yarrabilba Pty Ltd (ABN 72 631 655 984) (**LFG**) or third parties hired by LFG.   Your initial\_\_\_\_\_\_   * You understand and acknowledge that the Activities, including but not limited to access to gym and equipment as well as training, programs, and events held by LFG may expose you to risk, including accidents, injury, illness or even death. You assume all risk of injuries associated with participation in the Activities, including but not limited to, falls, contact with other participants, equipment failure, risks inherent in martial arts activities, such as impact injuries, physical risks inherent in exercise, the effects of the weather, including high heat and/or humidity and the loss of your personal property and exclude LFG from liability.   Your initial\_\_\_\_\_\_   * You understand and accept that LFG’s premises (the **Gym**) will not be staffed outside of the Gym’s Staffed Hours (**After-Hours**) and that if you choose to use the Gym After Hours, you will do so at your own risk and without supervision or assistance. You acknowledge and accept that if you are injured, become unconscious, suffer a stroke or heart attack After Hours, there will likely be nobody to respond to your emergency and that LFG will have no duty to provide assistance to you. It is likely that should you require immediate assistance, in case of an accident, there will be nobody at the Gym to provide you with assistance.   Your initial\_\_\_\_\_\_   * Because physical exercise can be strenuous and subject you to risk of serious injury, LFG urges you to obtain a physical examination from a doctor before using any exercise equipment or participating in any Activities. You agree that when you use the Gym, engage in the Activities, on the premises or off the premises, including at an event, you do so entirely at your own risk.   Your initial\_\_\_\_\_\_   * You warrant and represent that you have no injuries, physical restrictions, disabilities or predispositions to sickness or injury (**Conditions**) that may affect your participation in the Activities or that if you are aware of such Conditions, you participate in any activities provided by LFG entirely at your own risk.   Your initial\_\_\_\_\_\_   * You exclude LFG and its officers, employees and contractors, the organisers, sponsors, other participants and any other persons involved in your participation in the Activities with LFG (**Releasees**) from any demand, claim, or other proceeding in relation to any injury or death or loss or damage to personal property in connection with your participation in the Activities with LFG, whether or not caused by the negligence of a Releasee.   Your initial\_\_\_\_\_\_   * You agree to indemnify each Releasee in relation to any demand, claim or proceeding that may be brought in connection with your participation in the Activities with LFG where circumstances giving rise to such a demand, claim, or proceeding were caused or contributed to by you or your breach of LFG Membership Form and Agreement.   Your initial\_\_\_\_\_\_   * You agree that should any part of this Agreement and waiver be found by a court of law to be against public policy or in violation of any state statute or case precedence, then only that wording is removed and the remainder of this Agreement and waiver will remain in full force.   Your initial\_\_\_\_\_\_   | **Signed** by the Member or (if applicable) their Parent or Guardian: | )  ) |  | | --- | --- | --- | |  |  |  | | Full name of Member |  | Signature of Member/Parent or Guardian | |  |  |  | | Name of Parent or Guardian (if applicable) |  | Date | |  |  |  | |

**APPENDIX C – DDR SERVICE AGREEMENT**

[insert text of the Debit Success DDR Service Agreement]