

## 1. DEFINITIONS

- 1.1. In this agreement unless the context requires otherwise:
- Terms means these terms and conditions and includes the Enrolment Form.
  - Enrolment Form means the enrolment / membership form completed and signed by both you, your parent or legal guardian.

## 2. ACCEPTANCE OF TERMS

- 2.1. By completing and signing an Enrolment Form you have agreed to be bound by these Terms.

## 3. MEMBERSHIP

- 3.1. We will provide you the Swim Lessons upon payment by you in accordance with these Terms.
- 3.2. Your Swim Lessons will continue in accordance with these Terms until they are otherwise cancelled under clause 7.
- 3.3. Subject to clause 4.5, the dates and times of your Swim Lessons will automatically rollover each month and there is no requirement to re-book them. Despite this, if we consider that you have achieved a level and therefore need to move to the next level, we will notify you and you acknowledge that as a result, it may not be possible to retain the same dates and times of your current Swim Lessons.

## 4. PAYMENT

- 4.1. Unless an alternative payment form is approved by Management, a Direct Debit Authority for lesson payments must be completed prior to lessons commencing.
- 4.2. Payments are required to be made under the Direct Debit Authority monthly in advance, due on the first day of the month.
- 4.3. Where any payments are late or missed the following penalties will apply:
- one month late; 10% penalty fee incurred
  - two months late: suspension of lessons
  - three months late: debt collection proceedings
- 4.4. If a payment made under the Direct Debit Authority is returned by the bank for whatever reason, you will be required to make the

payment as manual payment to us immediately.

- 4.5. If your swim lessons are suspended due to late payment, they will only resume when all payments outstanding have been paid to us.
- 4.6. You acknowledge that for any payment outstanding for more than three months, we will pass these amounts as undisputed debts to a collection agency and that you agree to pay all related debt collection costs.
- 4.7. If Swim Lessons are suspended in accordance with clause 4.3, you acknowledge that if Swim Lessons resume, we cannot guarantee the same dates and times of the Swim Lessons that you had prior to the suspension.
- 4.8. We reserve the right to adjust the cost of Swim Lessons in December of each year in accordance with the Consumer Price Index. We agree to provide you 4 weeks' notice of any such adjustment and you agree to amend your Direct Debit Authority to reflect such adjustment.
- 4.9. You acknowledge that:
- 4.9.1. Due to our operational costs and planning requirements we do not provide any refund, credits or transfers of Swim Lessons, other than as provided for in these Terms; and
- 4.9.2. Any amounts for Swim Lessons due for payment by you include GST and that any increase in the GST rate will increase the amounts payable by you.

## 5. POOL RULES, SWIMWEAR AND PHOTOGRAPHY

- 5.1. You agree to comply at all times with the Pool Rules and any new rules advised by us to you at any time.
- 5.2. You must not photograph inside the pool complex without the prior consent of our instructors.
- 5.3. Strictly no photography is permitted inside the changing areas.
- 5.4. At times we film or photograph Swim Lessons at our pool complex for use in promotional material for the purposes of our business. You agree that we may use film and photographs containing images of you for these purposes.

## 6. CANCELLATION OF AGREEMENT

- 6.1. You may cancel these Terms, thereby terminating your Swim Lessons, by providing 1 months' notice to us in writing.

- 6.2. We may cancel these Terms immediately without prior notice if:
- 6.2.1. You fail to make payment due to us under these Terms;
  - 6.2.2. You breach the Pool Rules or any other lawful and reasonable direction given by us to you;
  - 6.2.3. You carry out any offensive, threatening, inappropriate, dangerous or illegal activity at our Pool Complex.
- 6.3. Despite cancellation of these Terms, you will still remain liable for any payments due by you to us. You also agree to pay to us any costs incurred by us in recovering any such outstanding payments.

## **7. LEAVE ENTITLEMENT, CLOSEDOWN, ABSENCE**

- 7.1. We operate an annual closedown over the Christmas period of each Calendar Year and the dates of such closedown period will be notified to you at least 4 weeks' prior to the closedown period.
- 7.2. We operate as normal on all Public Holidays, except for those which fall over our annual closedown period, namely:
  - Christmas Day
  - Boxing Day
  - New Years' Day
  - January 2<sup>nd</sup>
- 7.3. We reserve the right to close on any other Public Holiday, and agree to provide 4 weeks' notice of this.
- 7.4. Once 10 consecutive weeks of swim lessons have been completed, you are entitled to 2 Replacement Lessons per calendar year and 1 holiday leave day per 6 months to cover absence other than illness or injury.
- 7.5. These Replacement Lessons must be applied for via completed Leave Form, which must be submitted at least two weeks in advance of the leave being taken.
- 7.6. Replacement Lessons will be booked in for a timeslot that is mutually agreeable for both parties during any week or the School Holiday Morning Sessions.
- 7.7. Replacement Lessons are not accumulative year to year, and must be used within the Calendar Year in which they become available.
- 7.8. If you miss between 2 and 4 consecutive Swim Lessons as a result of illness or injury, and, you can provide us with a medical certificate from

your medical professional, we will endeavour to provide Replacement Lessons in respect of the Swim Lessons missed.

## **8. CLOSURE**

- 8.1. We reserve the right to close down for any urgent maintenance as required – and will endeavour to provide at least 72 hours' notice of this where possible.
- 8.2. Where an urgent maintenance closedown is required we will endeavour to provide Replacement Lessons for any lessons that were affected.
- 8.3. In the event of fire, earthquake or other natural disaster or major event that renders the business unable to open, lesson fees will not be payable during the closedown period. Any payments that are made during such a closedown period will be credited.

## **9. LIABILITY AND CONSUMER GUARANTEES ACT**

- 9.1. You acknowledge that the nature of our swim services provided to you may expose you to particular risks. Despite this, you further acknowledge that your use of our pool complex is at your sole risk and you release us from all liability.
- 9.2. If for any reason we are liable to you, then such liability is limited to a maximum of the payments made by you to us over the 6 month period prior to cancellation of these Terms.
- 9.3. You have rights under the Consumer Guarantees Act 1993 and the Fair Trading Act 1986 and nothing in these Terms is intended to limit those rights.

## **10. INSTRUCTORS**

- 10.1. Consistency of our Swim Lesson instructors is not always possible due to illness and other commitments. We will endeavour to maintain consistency of instructors; however, we offer no guarantee of this.

## **11. MISCELLANEOUS**

- 11.1. You may not assign your rights and obligations under these Terms to any other party.
- 11.2. A waiver by us under these Terms will not prejudice our rights in relation to any subsequent breach by you.