



VIVA GYM MEMBERSHIP AGREEMENT

Part 1: WARRANTIES AND LIABILITIES

This Part 1 forms part of the membership agreement between you and Viva Gym SA (Pty) Limited which agreement includes Part 2: Terms and Conditions and Part 3: Privacy Statement. Words used in this Part 1 and defined in Part 2 shall bear the same meaning as defined in Part 2.

A: ACKNOWLEDGEMENTS AND WARRANTIES:

- 1) You warrant that the information given by you in completing the Online Membership Application is true and correct and will be relied on by us.
- 2) You warrant that to the best of your knowledge and belief you are in good health, are not knowingly incapable of engaging in either active or passive exercise and that such exercise would not be detrimental to your health, safety, comfort, well-being or physical condition. You acknowledge that it is your responsibility to seek medical advice before engaging in any exercise at Viva Gym should you have any concerns over your physical condition and will advise us immediately should your circumstances change.
- 3) You shall regularly familiarise yourself with and abide by the Rules of Membership, which are readily available in the Club and relate to opening hours, use of facilities and your conduct, which rules you accept may change from time to time. Please also note that no person under the age of 14 is permitted inside a Viva Gym, unless by prior written permission of the Club Manager.

B: LIMITATION OF LIABILITY

- 1) You agree and acknowledge that you will not hold Viva Gym liable for any loss, damage or theft on the part of its employees, independent contractors, consultants and/or members save for loss, damage or theft arising directly out of the gross negligence or fraudulent intent of Viva Gym.
- 2) In the event that you have opted out of receiving Gym-related communications, you agree and acknowledge that you will not hold Viva Gym, its directors, agents, employees and subcontractors liable for any loss incurred by you as a result of not receiving such communication.
- 3) You agree to use all facilities and equipment in a proper manner. You agree that Viva Gym will not be liable to you or your dependants for any loss or damage (other than loss or damage directly attributable to Viva Gym's gross negligence or fraudulent intent) which you or any third party may suffer as a consequence of your incorrect use of Viva Gym's equipment or facilities or your breach of warranties and acknowledgements provided in A above and whether or not such loss arises from any bodily injury, disability, loss of life or damage to property. You agree that you will be liable for any damage caused to our equipment or facilities through your negligent use of same.
- 4) Subject to the provisions of the Consumer Protection Act, Viva Gym's liability to you and/or any other third party for any damages or loss of whatsoever nature, including without limitation any damages or loss caused by negligence (but excluding gross negligence) of Viva Gym, its servants, agents and subcontractors will in any event and under all circumstances be limited to an amount equal to the aggregate of membership fees paid by you to us in terms of this membership agreement for the period of 12 months preceding the date of notification of any claim by you.
- 5) You agree that the limitations of liability imposed by this section B of Part 1 is fair and equitable.