



VIVA GYM MEMBERSHIP AGREEMENT

PART 2: TERMS AND CONDITIONS

This Part 2 forms part of the Viva Gym membership agreement between you and Viva Gym SA (Pty) Ltd which includes Part 1: Warranties and Liabilities and Part 3: Privacy Statement (the “Membership Agreement” or “this Agreement”) and forms part of the Online Membership Application completed by you.

Viva Gym SA (Pty) Ltd is a private company registered in South Africa with registration number no. 2011/129325/07 with its registered office at Mazars House, Rialto Road, Grand Moorings Precinct, Century City, Western Cape, 7441.

In this Membership Agreement, the terms 'Viva Gym', 'us', 'ours' or 'we' are used herein to refer to Viva Gym SA (Pty) Ltd. The terms 'you' and 'your' refer to the named user entering into this membership contract with Viva Gym SA (Pty) Ltd.

A: COMMENCEMENT

1. By checking the box at the bottom of Step 3 “Monthly Debit Order Authorisation” of the Online Membership Application, you indicate your acceptance of the terms and conditions of this Agreement at which point this Agreement shall commence and be binding as between the parties hereto, being you and Viva Gym. Your membership starts immediately, or when the Club opens if you joined pre-opening. **This Agreement shall continue indefinitely until terminated by either of the parties pursuant to Section C of this Part 2.**

B: FEES AND CHARGES

The Monthly Fee (your monthly membership fees are payable in advance) and Joining Fee are set out in Step 1 “Membership Selection” of the Online Membership Application and are dependent on the product selected by you.

1. Joining Fee

- 1.1. The Joining Fee is payable by you on commencement of this Agreement and is collected from you by us by Bank Card upon your completion of the Online Membership Application.
- 1.2. The Joining Fee is not refundable under any circumstances with the exception of a refund due to you in circumstances as more fully set out in Section D of this Part 2.
- 1.3. Your Joining Fee includes 1 (one) Gantner Access Card which stores a portion of your fingerprint for ongoing access. If you lose this card, and / or access 3 (three) times by override using your photo identification, you will need to purchase another Gantner Access Device from Viva Gym. You will also need to provide photo identification to enroll and link this new access device to your membership.

2. First Month Membership Fee

- 2.1. If the Club selected by you in Step 1 “Membership Selection” of the Online Membership Application (the “Club”) is open when your membership starts, the first Monthly Fee shall be payable by Credit Card/ Cheque Card or Instant Electronic Fund Transfer together with the Joining Fee which will be processed upon your completion of Step 4 “Joining Fees Payment” of the Online Membership Application. The Monthly Fee due for the first month shall be calculated as being the number of days from the date on which your membership starts, to the last day of that month (both days inclusive) divided by the total number of days in that month and multiplying the result by the Monthly Fee.
- 2.2. If your membership starts before the Club opens, the first Monthly Fee shall be payable by debit order from the bank account you nominated on the date the Club opens. The Monthly Fee due for the first month shall be calculated as being the number of days from the date on which the Club opens to the last day of the month (both days inclusive) divided by the total number of days in the month and multiplying the result by the Monthly Fee.



3. Monthly Membership Fees

- 3.1. The membership fee due by you for your second month of membership and any given month thereafter shall be the Monthly Fee which is payable in advance on the 1st business day of that month. The Monthly Fee due shall be collected by way of debit order from the bank account you nominated in the Online Membership Application completed by you. Additional attempts will be made to collect the Monthly Fee if the first attempt is not successful.
- 3.2. Additionally, if you had selected the 12-month membership option, and your debit orders are returned within your first 12 months, then Viva Gym reserves the right to hand your account over to a Debt Collection Agency; if you remain in arrears, then Viva Gym additionally reserves the right to black-list you with a range of Credit Bureaus.

4. Debit Order and Administration Fee

If you are dissatisfied with the service offered by Viva Gym, you are free to terminate this agreement as provided for in Section C of this Part 2.

- 4.1. Subject to the Consumer Protection Act, payments made by debit order are not refundable under any circumstances.
- 4.2. Should any debit order be returned unpaid or any other form of payment not be honoured for whatever reason, an administration fee may be payable by you, which fee you agree may be debited by us from the bank account you nominated in the Online Membership Application completed by you.

5. Fee Changes:

- 5.1. Viva Gym reserves the right to implement changes to the Monthly Fee and Administration Fee at such times and in such manner as it may in its sole discretion determine and will provide you with one month's notice of any fee increase.
- 5.2. If you are unwilling to pay the increased Monthly Fee or Administration Fee, you may terminate this agreement as provided for in Section C of this Part 2.
- 5.3. From time to time, Viva Gym may offer discounts to the normal Monthly Fee. This will be clear during your online Joining process, and confirmed in your Welcome email. You will also be able to see these discounts in the Manage Transactions section of your online Member's Area, where each month you will see the normal Monthly Fee, followed by any discounts which may apply, followed by the net amount taken via debit order. When the discounts end, the normal Monthly Fee will continue to apply.

C: TERMINATION

- 1.1. You may terminate this Agreement via your Members Area at www.vivagym.co.za. Should you terminate this Agreement before midnight CAT on the 25th day of any particular month, this Agreement will terminate as at the end of that month, with no cancellation fee due. Should you notify us of your intention to terminate this Agreement on or after midnight CAT on the 25th day of any particular month, this Agreement will terminate at the end of the following month.
- 1.2. If you had selected the 12-month membership option, and then wish to terminate within your first 12 months, then a cancellation fee will apply. After the initial 12 months, the above process in C 1.1. applies, with no cancellation fee due.
- 1.3. Should you wish to become a member again following a termination, you will need to re-join which will involve paying the Joining Fees again.
2. In the event that you have opted for membership of a single Club in Step 1 "Membership Selection" of the Online Membership Application and that Club ceases operations for any reason whatsoever, this Agreement will terminate on the date on which that Club ceases operations, in which event we will pay you a pro rata refund of the Monthly Fee, which shall be calculated as being the number of days from the date on which the Club ceases operations to the last day of the month (both days inclusive) divided by the total number of days in the month and multiplying the quotient by the Monthly Fee.
3. We may terminate this Agreement on written notification to you should you breach any of the terms and conditions set out in this Agreement or breach the Rules of Membership which are displayed prominently in the Club.
4. Upon termination of this Agreement, your membership of Viva Gym shall cease and you shall no longer have access to the Club and the use of its facilities.

D: COOLING OFF PERIOD

You are entitled to a full refund of all moneys received by us from you pursuant to this Agreement provided that:

1. in the event that the Club is open, you terminate this Agreement within 7 (seven) calendar days from the date on which you indicate your acceptance of the terms and conditions of this Agreement by checking the box at the bottom of Step 3 "Monthly Debit Order Authorisation" of the Online Membership Application; alternatively



2. in the event that the Club has not yet opened, you terminate this Agreement within 7 (seven) calendar days from the date on which the Club opens; and
3. such intention to terminate is processed through the Membership Area of the website within the seven calendar day period as required by clause 1 or 2 of this Section D.

E: NOTICES TO VIVA GYM

1. All your communication with us, including the service of any written notice pursuant to this agreement, may be transmitted to us via the Contact Us area online, through the Viva Gym website at the following web address: www.vivagym.co.za. Any notice transmitted in this manner shall be presumed, unless the contrary is proved by us, to have been received by us at the time such notice is transmitted.
2. Additionally, an email can be sent to info@vivagym.co.za. Any notice transmitted in this manner shall be presumed, unless the contrary is proved by us, to have been received by us at the time such notice is transmitted.
3. Alternatively, and only in the event that you are unable to access or communicate via the Membership Area, notices may be delivered by prepaid registered post to the following physical address: Ground Floor, Block D, Greenford Office Estate, Punters Way, Kenilworth, Western Cape, 7708. Any notice posted in this manner shall be presumed, unless the contrary is proved by us, to have been received by us 14 days after the date of posting.

F: GENERAL TERMS

1. You agree to advise us immediately of any change to any of the details provided by you in the Members Area on the Viva Gym website, or in the course of completing the Online Membership Application.
2. You will be entitled to all the rights and privileges exercisable for the product selected by you in Part 1 "Membership Selection" of the Online Membership Application.
3. You cannot transfer or assign this Membership Agreement to anyone else.
4. It is our policy to empty all lockers every evening. Any items remaining will be stored for 48 hours and deemed abandoned thereafter. We reserve the right to charge you for the storage and removal of items left in lockers.
5. You may not permit another person to use your membership rights and privileges.
6. We may close our Clubs or areas therein at our discretion for reasonable periods of time to carry out maintenance, repairs, refurbishment or cleaning.
7. We reserve the right to take photographs of our premises for marketing purposes and you consent to your incidental inclusion in same.
8. If we take no action or let you off any breach of this Agreement or give you extra time to pay or comply, it will not stop us enforcing the terms of this Agreement strictly at a future date.
9. We may assign the benefit of this Agreement and our rights thereunder to a third party on notice to you. Your rights under this Agreement will not be prejudiced.
10. You choose as your domicilium citandi et executandi for all purposes under this Agreement, the physical address, mobile number and/or e-mail address as specified in "My Details" in the Members Area on www.vivagym.co.za which initially are those supplied by you in Step 2 "Personal Details" of the Online Membership Application, and which may be updated by you at any time in the Members Area thereafter, for the purposes of serving notices in terms of this Agreement.
11. All notices in terms of this Agreement must be in writing and if delivered: by pre-paid registered post, shall be deemed to have been delivered within 14 days of posting; by hand, shall be deemed to have been received at the time of delivery; and by e-mail, shall be deemed to have been received on the first day following transmission.
12. This Agreement is governed by South African Law and you consent to the non-exclusive jurisdiction of the Western Cape High Court in South Africa in respect of any proceedings arising out of this Agreement that may be brought by us against you.
13. The invalidity, unenforceability or illegality of any term of this Agreement, under the laws of any jurisdiction, shall not affect the validity, enforceability or legality of the remaining terms and should it be determined that one or more terms are invalid, unenforceable or illegal, such term shall be deemed to be severed from this Agreement and the remaining terms of this Agreement shall in all other respects remain in full force and effect.