

Access and Membership Terms

1. TERMS

- 1.1 La Trobe sport, health and fitness facilities and services are provided by La Trobe University, ABN 64 804 735 113, Victoria 3086 (**LTU** or **us** or **we**), through La Trobe Sport.
- 1.2 These terms apply to all registered users of La Trobe Sport facilities and services, including casual users, class and program attendees, visit pass holders and members (**User** or **you** or **your**).
- 1.3 We will provide you access to the particular La Trobe Sport facilities and services as specified in your registration form, once accepted by LTU (**Application Form**), in consideration for any applicable fees payable by you in clause 4 below.
- 1.4 By registering as a User of La Trobe Sport facilities, you agree to these terms. These terms, together with your Application Form (the **Terms**), form an agreement between you and LTU.
- 1.5 You accept that additional terms may apply for certain programs you elect to participate in (for example, for LTU's Group Fitness classes as set out in clause 6). LTU will make these additional terms available to you prior your participation in such programs. You acknowledge and agree that LTU will require you to accept these additional terms before allowing you to participate in the corresponding program (if you do not accept those terms, you cannot participate in that program).

Users under 18 years of age

- 1.6 For Users under 18 years of age, agreement of their parent or guardian to these Terms is required. Each such parent or guardian accepts these Terms and responsibility for that User, and these Terms are deemed enforceable against that parent or guardian. You agree LTU can check a User's identification to verify that User's age for purposes of the Terms.

Users between 14 and 16 years of age

- 1.7 Users between 14 and 16 years of age must be actively supervised by a parent or guardian while accessing La Trobe Sport's facilities or services. Such a User's parent or guardian may only access La Trobe Sport's facilities or services to the extent strictly required to actively supervise that User. We reserve the right to refuse access to any such Users (and their parent or guardian) who fail to meet this requirement.

Users under 14 years of age

- 1.8 No Users under 14 years of age will be admitted into La Trobe Sport's facilities or services. LTU will reject any registration form submitted by a User under 14 years of age, or otherwise deny any such User access to La Trobe Sport's facilities and services.

2. YOUR DETAILS AND HEALTH

- 2.1 **Your Details:** You are required to supply us with information about you in your Application Form, including contact information, emergency details, physical condition, payment details and evidence where applicable, and agree to give us all relevant health and fitness information before and during any exercise activity or program (together **Your Details**).
- 2.2 You warrant Your Details are true and accurate and not misleading. You agree to inform us promptly of any changes to Your Details. If we reasonably suspect Your Details are false or incorrect, we may immediately suspend or cancel your access or membership.
- 2.3 You acknowledge and agree that we may require you to, prior to your access to LTU's facilities and services:
 - (a) complete and provide to LTU a pre-exercise screening in the form supplied by LTU (**Screening**); and
 - (b) depending on the outcome of the Screening as assessed by LTU, seek advice from an accredited health professional or medical practitioner regarding your proposed use of LTU's facilities and services.

Where you are 15 years of age or under, the Screening must be completed by your responsible parent or guardian.

- 2.4 **Your condition:** Each time you use our facilities and services, you must ensure you are in good physical condition and know of no medical or other reason why you should not exercise.
- 2.5 You must not use the facilities and services if you are suffering from any illness, disease, injury or other condition that could be a risk to your health or safety or that of other Users or our staff. If unsure, you should not use the facilities and services without appropriate medical guidance.
- 2.6 We recommend Users who have been inactive for 12 months or more or are over 35 years of age seek medical clearance prior to commencing any strenuous physical activity.
- 2.7 You agree that if you become unwell or injured or are otherwise involved in an accident or traumatic incident while present at or using La Trobe Sport's facilities or services, you authorise La Trobe Sport staff to administer first aid and/or treatment under direction of emergency services to you (including administration of an EpiPen and/or Ventolin), and/or seek emergency medical treatment for you from a registered medical practitioner, hospital, or ambulance, and further agree to indemnify LTU and its employees against any costs or fees incurred by LTU in La Trobe Sport staff administering or seeking such treatment.

3. YOUR CONDUCT

- 3.1 **Rules:** LTU may display rules and conditions about entry and use of the facilities and services at the premises, on the equipment, or in the description of the relevant services provided to you (**Rules**). These Rules form part of these Terms and you agree to follow those Rules at all times when using those facilities or services. You also agree to follow any reasonable direction of LTU staff on any health, safety, security or related matters.
- 3.2 **Attire:** You agree to carry a gym towel and wear appropriate sporting attire, including appropriate sportswear and non-marking closed footwear, when using our facilities.
- 3.3 **Proper use:** You agree to take care to all or use our facilities and services safely and properly, and to ask our staff if unsure. LTU may require you to participate in orientation or training to familiarise you with certain facilities or services before you use them
- 3.4 We will use reasonable endeavours to ensure equipment is safe for use and you agree to check your equipment before use and report any safety concerns to us.
- 3.5 You must not damage our facilities and equipment. You agree you will be liable for damage you cause to our facilities or equipment due to your deliberate, reckless or negligence use or misuse, or your failure to follow our directions regarding the use of our facilities or equipment.
- 3.6 **Proper conduct:** You agree to respect our staff and other users at all times and not to behave in an inappropriate, disruptive, harassing, threatening or offensive manner or in any manner that may cause harm or injury. You agree that we may eject you or suspend or terminate your access at any time for such behaviour.
- 3.7 **Your property:** You are responsible for keeping your property secure and must not leave your valuables unattended. We accept no responsibility for your lost or stolen items. Please enquire with staff about availability of lockers.
- 3.8 **Recordings:** You must not make recordings, take photos or videos in the facilities without our express permission.
- 3.9 **Alcohol & drugs:** You must not enter or use our facilities or services under the influence of alcohol, illicit or performance enhancing drugs and/or medications that state strenuous activity is to be avoided on its warning label.
- 3.10 **Smoking:** Smoking or vaping is not permitted in or around LTU facilities.
- 3.11 **Commercial activity:** You must not solicit business on our premises for financial gain, including any personal training,

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swimming instructing/coaching, medical/dietary advice or other business, without the prior written consent of LTU.

4. FEES AND PAYMENT

- 4.1** You must pay all fees applicable to your User type. Applicable fees will be set out in your Application Form and advertised from time to time on our website www.latrobe.edu.au/sport.
- 4.2** You may pay fees by EFTPOS, credit card, direct debit or salary sacrifice, depending on your User category below.
- 4.3 EFTPOS and credit card:** available for all Users and required for all casual users, visit pass holders and upfront paid memberships. Payments must be made upfront at our premises or via our online payment and booking system.
- 4.4 Direct debit:** available only for continuing memberships or other programs specified by us from time to time. If you choose to pay fees by direct debit:
- (a) those billing services will be provided by our third party biller (Ezidebit Pty Ltd), not LTU, and you will be required to enter into a separate authorisation and direct debit service agreement between you and the biller
 - (b) you authorise our biller to deduct from your nominated account all fees and other charges you are responsible for under these Terms
 - (c) for memberships, debits will be processed fortnightly commencing on your membership commencement date
 - (d) you must ensure your account and payment details are up to date and inform us of any changes
 - (e) you must ensure your nominated account has sufficient funds available to honour each payment
 - (f) if a payment cannot be debited or is reversed due to insufficient funds, being in arrears or any reason other than due to fault of the biller or LTU, your account will:
 - i. be in arrears and an administration and dishonor fee will be charged to your account; and
 - ii. not be able to be debited until the outstanding arrears on your account is paid; payment can be made at La Trobe Sport's reception desk or over the phone via debit or credit card through LTU's EFTPOS facility
 - (g) your bank or provider may charge you a fee for overdrawing your account if you do not have enough money in your account when payment is due; and
 - (h) if you fail to pay outstanding arrears following notice from LTU requiring such payment, or if you otherwise fail to make 3 consecutive direct debit payments, LTU may at its discretion:
 - i. refuse access to La Trobe Sport's facilities and services until such payment is made; or
 - ii. terminate your membership.
- 4.5 Salary sacrifice:** available for memberships for continuing LTU staff only. LTU staff will be required to complete a salary sacrifice application form (found on LTU's Ask HR portal, accessible at: <https://intranet.latrobe.edu.au/>) authorising LTU's payroll department to deduct the nominated fees from your fortnightly salary.

5. MEMBERSHIP TERMS

- 5.1** We offer users a variety of continuing and fixed term memberships to users of our facilities and facilities, at different rates and tiers and with a mix of our facilities and services. Our current membership offerings are available on our website at: www.latrobe.edu.au/sport/health-and-fitness.
- 5.2** Members are offered a choice of continuing membership by direct debit or, for LTU staff only, continuing membership by salary sacrifice. LTU may from time to time offer fixed term membership paid upfront at promotional rates. If you enrol in such a fixed term membership, you acknowledge that fixed term memberships are offered at special discounted rates and that the fixed term membership cancellation rates in clause

5.12 will apply.

- 5.3** If you register as a member, this clause 5 applies to your membership and we will offer you the services set out in Your Application, except as varied in accordance with these Terms from time to time.
- 5.4** We may cancel or suspend your membership immediately if we have not received payment of your fees.
- 5.5 Cooling off period:** You may cancel your membership within **10 business days** of your membership commencement date (as stated on your Application Form) by providing written notice to us. During this time, we will refund your fees paid, minus the cost of any visits by you during that period (charged at our advertised casual user rates). After this period, your membership may only be cancelled or suspended in accordance with these Terms.
- 5.6 Lockers:** Members may use lockers in the change rooms free of charge
- 5.7 Access card:** Members will receive a personal access card to enter our facilities. You must swipe your card at entry each time you attend. You must keep your card secure and you must not give or transfer your card to any other person. Failure to present your access card or provision of your card to another person may result in suspension or termination of your membership. Lost or replacement cards will incur a processing fee of \$10.00.
- 5.8 Additional services:** At your request, we may provide you additional services on top of your membership inclusions (such as personal training). Those services will incur additional expenses on top of your membership fees at our advertised or quoted rates.
- 5.9 Interruptions:** You acknowledge that from time-to-time LTU may share La Trobe Sport's facilities and services with third parties. This may result in temporary: higher relative foot traffic on the gym floor; limited availability of equipment; or areas of the gym or studio being cornered off for exclusive use. Where this is planned to occur and LTU reasonably determines it will adversely affect your access to La Trobe Sport's facilities or services, LTU will use reasonable endeavours to provide you 2 weeks' notice in writing.
- 5.10 Suspension:** Fixed term memberships, and ongoing memberships paid via salary sacrifice in accordance with clause 4.5, may not be suspended except at the discretion of LTU. For all other ongoing members, you may suspend your membership via your online portal at no additional fee, for a minimum suspension period of 2 weeks and a maximum suspension period of 6 months. If you require LTU staff to backdate or extend a suspension for non-medical reasons, we may impose a handling fee of \$5.00. It is your responsibility to note any return date as all direct debits will resume from that date. For suspension for medical reasons, we may require you to provide evidence of a medical certificate.
- 5.11 Cancellation (ongoing):** For ongoing memberships, following your cooling off period, you may cancel at any time by:
- (a) except if you pay for your membership via salary sacrifice in accordance with clause 4.5, by providing us at least 14 days written notice by emailing sport@latrobe.edu.au; or
 - (b) in circumstances where you pay for your membership via salary sacrifice in accordance with clause 4.5, submitting a cancellation request on LTU's Ask HR portal (found on LTU's intranet, accessible at: <https://intranet.latrobe.edu.au/>),
- in which case you must pay all membership fees up to the effective date of cancellation.
- 5.12 Cancellation (fixed term):** For fixed term memberships, following your cooling off period, you may request the cancellation of your membership by emailing the La Trobe Sport team at sport@latrobe.edu.au. If such cancellation occurs, you will be entitled to a partial refund of membership

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fees you have paid to LTU calculated at 50% of the membership fees payable for your outstanding membership period. This partial refund accounts for expenses and loss of fixed term membership revenue LTU may incur as a result of your cancellation.

- 5.13 Non-transferable:** Memberships cannot be transferred to any other person.
- 5.14 Other suspension and cancellation rights:** For clarity, the cancellation and suspension rights in this clause 5 are subject to the rights in clauses 8, 9 and 10.3 to 10.4 if applicable.

6. GROUP FITNESS

- 6.1 Applicability:** Clause 6 only applies to Users that hold a Sports Centre Membership with LTU as described on LTU's website at: <https://www.latrobe.edu.au/sport/health-and-fitness> (SC Users).
- 6.2** SC Users may participate in certain group fitness classes based on their Sports Centre Membership type as set out on LTU's website at: <https://www.latrobe.edu.au/sport/health-and-fitness> (each a **group fitness class**; collectively **group fitness classes**).
- 6.3** You agree that your booking of and participation in group fitness classes is governed by the Terms (including this clause 6).

Availability

- 6.4** LTU will advertise availability of group fitness classes on the Technogym MyWellness mobile app (**App**), or our website at: <https://www.latrobe.edu.au/sport/health-and-fitness>.
- 6.5** You acknowledge that Technogym Australia Pty Ltd and/or Technogym S.p.A. may require you to agree to certain terms and conditions prior to and in respect of your use of the App (**Technogym App Conditions**).
- 6.6** To participate in a group fitness class, you must book your attendance prior to its commencement via the App.

Waitlist

- 6.7** Group fitness classes are subject to a maximum capacity and are available for booking 3 days prior to their scheduled commencement.
- 6.8** A waitlist for any fully booked group fitness class will be available for SC Users to join on the App. If a position in a fully booked group fitness class becomes available, all waitlisted SC Users will receive a corresponding notification in the App. The available group fitness class position will be allocated to the SC User that books it first.

Cancellation and rescheduling

- 6.9** If you can no longer attend a group fitness class that you are booked to attend, you must cancel or reschedule your booking no later than 60 minutes prior to commencement of that group fitness class. This can only be done:
- (a) through the App; or
 - (b) in-person through a La Trobe Sport staff member.
- Cancellation or rescheduling requests by any other means will not be accepted (including La Trobe Sport social media platforms).
- 6.10** If you fail to cancel or reschedule a group fitness class you are booked to attend in accordance with clause 6.9 on 3 occasions within a 180-day period, you will incur a \$10.00 no-show fee (**Group Fitness Fee**). The Group Fitness Fee represents the loss of bookings LTU may incur as a result of your repeated failure to validly cancel or reschedule your group fitness class bookings.
- 6.11** Your access to group fitness classes will be suspended by LTU until you have paid the Group Fitness Fee to LTU. Payment must be made at La Trobe Sport's reception desk or over the phone via debit or credit card through LTU's EFTPOS facility.

Health and safety

- 6.12** Subject to clauses 2.4 and 2.5, if you have any medical or physical conditions or limitations that may impact your participation in a group fitness class, you agree to notify the group fitness class instructor prior to commencement of that group fitness class.

Privacy

- 6.13** Without limiting clause 7, you agree that LTU may obtain your personal information and health information from the App in order to provide you group fitness classes.
- 6.14** Without limiting clause 7, where your prior consent has been obtained, La Trobe Sport personnel may take photographs and videos of you during group fitness classes for the primary purpose of LTU's marketing, including dissemination of such photographs and videos on its social media channels. You may withdraw your consent to this by emailing sport@latrobe.edu.au.

Liability

- 6.15** LTU does not warrant or guarantee that the App will be available for purposes of group fitness classes. If the App is unavailable for group fitness purposes, please contact La Trobe Sport by emailing sport@latrobe.edu.au.
- 6.16** Without limiting clause 8, LTU does not accept any responsibility or liability to you in connection with your use of the App for group fitness classes. To the extent permitted by law, LTU disclaims all liability to you in connection with your use of the App under the Technogym App Conditions.

7. PRIVACY

- 7.1** We require you to provide us with certain personal information and health information in order to use our facilities and services, including Your Details as set out in clause 2.1 above and other such information as may be required for the particular facilities or services you are using.
- 7.2** For security and safety purposes, security surveillance is recorded throughout our facilities. Further, for access and security purposes, we may take and store your photo.
- 7.3** LTU handles personal information in accordance with our Privacy Policy available at: www.latrobe.edu.au/privacy.
- 7.4** You consent to LTU (or a third party authorised by LTU, including any third-party hosting or other service providers engaged by LTU), using any personal information supplied by or on your behalf to LTU, for the primary purpose of administering and supplying the La Trobe Sport facilities or services to you.
- 7.5** If you elect to pay any of your fees by direct debit, you consent to us providing your information to our third-party biller, Ezidebit Pty Ltd, for the purposes of administering your direct debit. Our biller will use your information in accordance with its privacy policy and the authorisation and service terms agreed between you and the biller.
- 7.6** For any queries or complaints relating to your personal information, or to obtain a copy of our Privacy Policy, please contact the La Trobe Sport team at sport@latrobe.edu.au, or LTU's Privacy Officer at privacy@latrobe.edu.au.

8. OUR LIABILITY

- 8.1** While every attempt is made by us to ensure the facilities and services we provide to you are safe, you acknowledge that there may be physical risks involved with undertaking exercise and strenuous physical activities and you agree to accept those risks.
- 8.2** Under the Australian Consumer Law, set out at Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**ACL**), we guarantee certain sport, health and fitness services we provide you are provided with due care and skill, are reasonably fit for a particular purpose and are supplied in a reasonable time (**Guarantees**). However, we ask you to accept some limitations

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to our liability arising from our failure to comply with the Guarantees. Accordingly, you agree to the extent allowed by section 139A of the *Competition and Consumer Act 2010* (Cth) (CCA) to exclude, or otherwise to the maximum extent permissible, restrict, LTU's liability to you for any death, injury (including the aggravation, acceleration or recurrence of such an injury), disease or any other condition resulting from LTU's failure to comply with any Guarantees. This exclusion and/or restriction **does not apply** if the death, injury, disease or other condition is caused by LTU's *reckless conduct* as defined in section 139A(5) of the CCA.

8.3 You agree that the notice: "*Warning Under the ACL and Fair Trading Act 2012*" set out in Schedule 1 to these Terms (and as posted at our facilities and on our website) applies to these Terms as if signed by you.

8.4 These Terms do not exclude, restrict or modify any terms, conditions, warranties, guarantees, rights or remedies which cannot lawfully be excluded, restricted or modified. Otherwise, unless expressly included in these Terms, all implied terms, conditions, warranties, guarantees, rights or remedies that can be lawfully excluded are excluded.

9. CHANGE OF TERMS

9.1 LTU may from time to time make changes to these Terms (including these terms, our Rules and any operating hours, programs, services and fees). We will try to do so fairly and by giving you a chance to review and cancel your use or membership if the change adversely affects you and you do not agree to it.

9.2 Wherever possible we will try to inform you about changes to these Terms in advance, usually at least 30 days before, and let you know the effective date. If the changes relate to an increase in your fees or otherwise adversely affect your rights, you may terminate your membership by notifying us in writing within 14 days. Otherwise, these Terms will be deemed to be varied from the effective date notified to you.

9.3 You cannot cancel under this clause if we have to make the change to comply with a law or a direction of a government authority.

10. SUSPENSION OR TERMINATION

10.1 For general Users, you may cease using our facilities and services at any time unless otherwise specified in Your Application. Casual and class users, visit and multi-pass holders are not entitled to a refund of any pre-paid visits or classes (except under clauses 8, 9, 10.3 or 10.4 if applicable). All registrations are personal and non-transferrable.

10.2 Please refer to the specific additional terms applying to suspension and termination of your use and membership as set

out above. Upon termination of your registration, membership or use, must you must promptly return any equipment owned by LTU. LTU may charge you for any equipment unreturned.

10.3 From time to time we may need to close or suspend parts of our facilities or services, including for reasons of health, safety or security or to conduct improvements or other works, or to comply with laws or government requirements. We will try to inform you in a timely manner of any changes to the facilities or services and any impact on your access or these Terms (including under clause 9 above).

10.4 We are not responsible if you cannot use our facilities or services because of events beyond our reasonable control, such as an event caused by a natural force, emergency, government closure or similar. If this continues for more than 30 days, then either you or we may cancel this Agreement immediately by written notice and no fee will apply.

10.5 LTU may immediately suspend or terminate your membership or refuse entry to any LTU facilities or services if you breach any of these Terms, including any Rules.

11. LTU POLICIES

11.1 LTU is committed to ensuring the safety of children and young people and has implemented policies and procedures in accordance with Victorian Child Safe Standards. For more information and a copy of our policies, please visit our website at: www.latrobe.edu.au/statements/child-safety

12. CONTACT AND FEEDBACK

12.1 If you have any questions or concerns about La Trobe Sport facilities or services please feel free to raise this with a member of our onsite staff.

12.2 For notices under these Terms, or for any other information, feedback, complaints or notices please contact us by email at: sport@latrobe.edu.au.

12.3 Operating hours for our facilities are available by contacting us or at www.latrobe.edu.au/sport/about-us/opening-hours

13. GENERAL

13.1 You agree that we have not made any representations or promises that you have relied on that are not in these Terms.

13.2 If we do not enforce our rights under these Terms at any time, it does not mean that we may not do so in future.

13.3 If a court decides that any part of these Terms is or becomes illegal, void or unenforceable, that part is deleted and this does not invalidate the rest of these Terms.

13.4 The laws of Victoria, Australia apply to these Terms. Any dispute concerning these terms is governed the courts of Victoria, Australia.

SCHEDULE 1: WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012

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-

- are 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*.