

SWIM SCHOOL ENROLMENT AGREEMENT

Between

CITY OF FREMANTLE LEISURE CENTRE

And

(RESPONSIBLE PERSON)

Agreed terms

1. DEFINITIONS

Definitions

In this Agreement unless the context otherwise requires:

City of Fremantle - Fremantle Leisure Centre (FLC)

of PO Box 807, Fremantle, Western Australia 6959

Contact: Centre Manager

Phone: 9432 9999

Email: swimschool@fremantle.wa.gov.au

You means you, as the responsible person, as specified on the FLC Swim School Enrolment form.

Family refers to all students enrolled under you, the responsible person.

Swim School Enrolment means this document, including each Annexure, as varied, novated or replaced from time to time.

Business Day means any day except a Saturday, Sunday or a public holiday in Perth, Western Australia.

City means the City of Fremantle.

City of Fremantle Obligations means the City's obligations as specified in this agreement.

Commencement Date means the date that the last of the Parties signs this Agreement.

Loss means any loss, damage, liability, lawsuit, action, proceeding, cost or expense.

Member means any person who is currently a member of the Fremantle leisure Centre.

Membership Type means the membership type you have entered into agreement with.

2. YOUR FLC SWIM SCHOOL AGREEMENT

- (1) During your Term, you may access and use the Facility in accordance with your Swim School Enrolment and this FLC Swim School Agreement
- (2) Your enrolment includes one designated lesson per week for the student, as specified on the FLC Swim School Enrolment form.
- (3) During your enrolment you may access the following areas outside of your designated lesson times: the Leisure pool; 25m Pool; and 50m Pool.
- (4) Outside of lesson times, students enrolled in Parent and Child lessons may access the Program Pool (Subject to availability)
- (5) Outside of your designated lesson time, access to areas included in your enrolment is subject to availability and pool bookings.
- (6) Enrolled students swim for free during school terms, on non-swimming lesson days.
 - (a) One (1) swimming or supervising adult also gains free entry. Additional swimmers / spectators will be charged regular centre admission fees.
 - (i) Parent/guardian must stay during child's lesson.
- (7) Your access of the Facility under this FLC Swim School Agreement:
 - (a) Is subject to the terms and conditions of this FLC Swim School Agreement.
 - (b) Is subject to any limitations and exclusions applicable to your Enrolment Type; and
 - (c) Does not entitle you to any access or use the Facility other than in accordance with clause 2.1 or any other goods or services from us or any third party (including any services provided by third parties at the Facility) – such as External Swimming Lessons i.e. Including but not limited to Education Department Swimming Lessons.
- (8) Is not transferrable to another person.
- (9) Students will be required to enrol for a minimum of four (4) lessons before cancellation will be processed.
- (10) Should the FLC Swim School team be unable to provide customers with their preferred choice of class time, instructor, day, or any combination of the afore mentioned; and other classes of the appropriate level are available on the timetable, no refunds or credits will be provided if you elect to not uptake the offer of a place in an available class.
- (11) If you wish to use or access any part of the Facility or receive any goods or services from us outside the scope of this FLC Swim School agreement, you will need to enter into a separate agreement with us. Please speak with our Customer Service Team to discuss this.

3. YOUR FLC SWIM SCHOOL ACCESS BAND

- (1) You will need your FLC Swim School access card, FOB, or wristband to access the Facility and must swipe this each time you use the facilities and services. Access is permitted to enrolled students and spectator / caregiver as per 2.6.
- (2) Your FLC Swim School access card, FOB or wristband will be issued on your first visit to the facility after your enrolment.
- (3) If you lose or forget your membership access band, you may access the Facility

during staffed operating hours by signing in at reception. You cannot ask or expect another person to let you into the Facility at any time.

- (4) You must not let anyone else into the Facility at any time or let anyone else use your membership access band.
- (5) If your membership access band is lost or stolen, you must notify us immediately and get a replacement in 14 days or you may be refused access to the Facility; A replacement fee applies.

4. ENROLMENT DATES AND HOLIDAYS

- (1) The Swim School program runs during WA school terms, check website for exact dates.
- (2) The dates of all non-teaching periods will be available to all customers and communicated to parents prior.
- (3) Enrolments carry over term-term, breaking only for school holidays and public holidays, as outlined in 4.1.
- (4) No lessons are held on WA Gazetted Public Holidays or Easter Saturday/ Sunday.

5. DURATION OF YOUR ENROLMENT

- (1) This FLC Swim School Agreement will commence on the enrolment date.
- (2) All Swim School Enrolments are ongoing with a four (4) lesson minimum period and breaking as per clause 4.3.

6. CHANGES TO YOUR AGREEMENT

- (1) We may amend the terms of this FLC Swim School Agreement from time to time, including:

- (a) the FLC Swim School Agreement Terms and Conditions; and/or
- (b) the Facility Rules.

- (2) We will give at least 10 Business Days' notice of any changes to this FLC Swim School Agreement and the date they are to take effect.
- (3) If we change this FLC Swim School Agreement under clause 6.1 and you are adversely affected by the change, you may terminate this FLC Swim School Agreement by giving us written notice of the adverse effect prior to the changes taking effect.
- (4) If you terminate the FLC Swim School Agreement under this clause 5.1, the FLC Swim School Agreement will be terminated on the date we give you written notice that we have accepted that the change adversely affects you.
- (5) Unless and until we give you notice that we have accepted that the change adversely affects you, this FLC Swim School agreement will continue in accordance with clause 2.1.

If you terminate this FLC Swim School Agreement under clause 6.3;

- (a) you must pay us all outstanding Fees for the period up to and including the date of termination;
- (b) we will refund to you any enrolment Fees you have already paid for the period after the date of termination; and
- (c) We will not refund you any other Fees paid for the period up to and including the date of termination.

- (6) If you do not seek to terminate your membership in accordance with clause 6.3 you will be deemed to have accepted any change we have made to this FLC Swim School Agreement.

7. CHANGES TO FACILITIES

- (1) We may change all or part of the Facility at any time, including by;
 - (a) Adding, removing or replacing equipment (whether available for use by your Enrolment Type or not);
 - (b) Change the name of the Facility; and
 - (c) Temporarily or permanently closing parts of the Facility (including the circumstances described in clause 19.
- (2) Any change to the Facility as described in clauses 7.1a and 7.1b, without limiting clause 19, does not constitute a change to this FLC Swim School Agreement and does not entitle you to terminate this Membership Agreement under clause 5.3.

8. TEACHER CHANGES

- (1) Swimming instructors may change without notification; no credits will be issued for swimming instructor changes.

9. CLASS TRANSFERS

- (1) Class transfers must can be completed by providing us with written notice or via attending the facility and speaking with the Swim School team.
- (2) Students can only transfer into a class of the level assigned to each student.

10. PROGRESSION

- (1) Students in the learn to swim programs are continually assessed and progressed to the next level when they become of age (Aquababies program and moving from the Under 5's to the Over 5's program), or when sets of skills are demonstrated (All Learn to Swim levels).
- (2) Students have up to three (3) weeks post-progression to change into their new class.

11. BABY SWIMWEAR

- (1) Swimming nappies are required for children who wear a nappy outside of swimming, who are not yet toilet trained.
- (2) Reusable swimming nappies are preferable and must have elastic legs and waist.

12. BEHAVIOURAL EXPECTATIONS

- (1) Maintaining a positive and respectful environment is paramount at our facility. We expect both students and guardians to adhere to behaviour standards that contribute to the overall well-being and safety of everyone involved.
- (2) Disruptive or inappropriate conduct will not be tolerated. Students are required to follow

instructions from instructors, treat others with respect, and exhibit safe behaviour in and around the pool.

- (3) Parents or guardians are expected to model positive behaviour and support a conducive learning atmosphere. Failure to comply with these behavioural expectations may result in consequences, including, but not limited to, a discussion with guardians, sitting swimmers on the wall for a short time, temporary suspension from lessons, or, in extreme cases, termination of enrolment.

13. WATCH AROUND WATER

- (1) The facility always endorses the Watch Around Water at the centre and;
 - (a) FLC Swim School Parents / Guardians must stay during child's lessons.
 - (b) Children under the age of 5 are not admitted into the centre without an appropriate full fee paying adult who is prepared to swim.
 - (c) Children under the age of 10 are not permitted into the centre without the supervision of an adult.
 - (d) FLC Swim School students are always subject to the Watch Around Water policy.
 - (e) Active parental involvement is essential for the success of our swimming lessons, particularly for our younger and/or beginner participants. Parents or guardians are expected to be present and engaged during their child's lessons, following any specific guidelines provided by our instructors. Refrain from mobile phone use during swimming lessons at all times.
 - (f) Failure to comply may result in the termination of your FLC Swim School Enrolment.

14. RETURNING AFTER BREAK OF MORE THAN THREE (3) MONTHS

- (1) A free swim assessment is required for students over Three (3) years who are returning to lessons after a break of 3 months or more.

15. COOLING OFF PERIOD

- (1) The cooling off period for FLC Swim School Enrolments is 48 hours from when agreement is signed.
- (2) You may terminate this FLC Swim School Agreement at any time prior to the close of business on the last day of the Cooling Off Period by giving us written notice. You must give us notice in accordance with clause 21.1a.
- (3) If you terminate this FLC Swim School Agreement during the Cooling Off Period under clause 4.1:
 - (a) This FLC Swim School agreement will be terminated on the date your written notice is received by us; and
 - (b) We will refund you all Fees you have paid to us under this FLC Swim School Agreement.
- (4) If you do not terminate this FLC Swim School Agreement during the Cooling Off Period under clause 15.1, this FLC Swim School Agreement will continue in accordance with clause 2.1.

16. PAYMENTS

Fees

- (1) On enrolment, you must pay;
 - (a) the pro rata amounts upfront and/or any applicable fees.
 - (b) Once these fees are paid, the ongoing enrolment fees fall within the Direct Debit Schedule.

Direct Debit

- (2) Direct debit payment for Fees is managed by us.
- (3) Direct Debit payments are debited fortnightly, paying two (2) weeks of lesson in advance.
- (4) We will debit your nominated bank account or credit card throughout the Term for the Enrolment Fees, as varied in accordance with clause 16.25 in accordance with the Direct Debit Request Service Agreement.
- (5) If the due date for payment of any Enrolment Fees falls on a day which is not a Business Day, we will direct debit your nominated bank account or credit card on the next Business Day.

Changes to Payment Method and payment details

- (6) If you wish to change the details relating to your Payment Method, you must give us written notice of the new Payment Method details prior to your next scheduled payment date and do everything we reasonably require ensuring that we continue to receive payment of your Fees.

Payment Method Fees

- (7) If you have chosen to pay by a Payment Method that causes us to incur any merchant or transaction fees, we may pass these fees on to you by deducting the fees via your Payment Method.

Other charges

- (8) Your Enrolment Fees payable under this FLC Swim School Agreement only entitle you to use the facilities and equipment available at the Facility in accordance with your Enrolment Details.
- (9) Any charges for other services, facilities or equipment will be as agreed between you and us. This may be recorded in a separate agreement between you and us, such as for the hire of equipment at the Facility or Facility Memberships.

Refunds / Credits

- (10) We are under no obligation to refund money you have paid to us, except as expressly set out in this you FLC Swim School Agreement.
- (11) Refunds / Credits can only be applied with a medical certificate stating the swimmers name and dates they cannot swim.
- (12) Medical certificates must be on letter head and signed by a medical practitioner.
- (13) Issued credits expire after two (2) years.
- (14) Refunds / Credits will not be provided due to failure to comply with 12.1.

Dishonored payments

- (15) If your payment method fails for any reason;
 - (a) We will suspend your account from facility access as soon as your bank has informed us that a payment has dishonored. We will notify you by SMS and/or

email when a payment has dishonored.

- (b) You will be charged an administration fee for each time a payment dishonors. This is in addition to your outstanding fees. The administration fee is outlined in the Fees and Charges for the current financial year.
- (16) You must pay us on demand all resulting fees and charges; and
- (17) You authorise us to charge you via your Payment Method for any such resulting fees and charges.
- (18) Your Enrolment will be cancelled after 2 consecutive failed debits if we have been unable to contact you and/or you have yet to rectify failed payments.

GST

- (19) Your fees are inclusive of goods and services tax (GST).
- (20) If the rate at which GST is calculated changes during the Term, your Enrolment Fees and any Associated Fees will be adjusted to account for any change in the rates of calculating GST. You authorise us to change any debit from your Payment Method to account for the change in the rate of calculating GST.

Adjustment to Fees

- (21) We may adjust your fees by no more than 10% on any one occasion in any one given financial year by giving you at least 10 Business Days' notice of the date from which the adjusted Fees take effect. You are required to:
 - (a) pay any adjusted Fees from the date the adjustment takes effect; and
 - (b) authorise us to change any debit from your Payment Method to accord with any adjustment to your Fees under clause 16.21
- (22) An increase of your Fees under clause 16.21 will not constitute a change with an adverse effect for the purpose of clause 6.1.

17. YOUR OBLIGATIONS

Facility Rules

- (1) You must:
 - (a) comply with the Facility Rules at all times;
 - (b) comply with instructions given by our staff in relation to the Facility;
 - (c) not interfere with the use of the Facility by any other period (including any Facility members and hirers of equipment or areas in the Facility); and
 - (d) not behave in a way which is inappropriate, risky or detrimental to the safe enjoyment of the Facility by others.

Access

- (2) All or part of the Facility and any equipment of the Facility may be unavailable on a temporary basis, including for maintenance, repairs, private functions, community group programming, exclusive use and Facility programming;
- (3) We may deny you access to the Facility or direct you to leave the facility if we decide that your behaviour;
 - (a) Is inconsistent with the Facility Rules;
 - (b) Is inappropriate, risky or detrimental to the safe enjoyment of the Facility by

- yourself or others.
- (c) Exercise of our rights under clause 17.3 will not entitle you to a refund of any Fees or grant you any right to terminate this Agreement.

18. MEDICAL

- (1) The responsible person/s of a student must disclose any student medical conditions upon enrolment, and notify changes to medical conditions to the swim school team in writing.
- (2) If your enrolled child has been diagnosed with a communicable disease, please refrain from attending the facility. A credit will be applied with a valid medical certificate.
- (3) You authorise us to obtain medical/ambulance assistance for you / family in the case of an accident or emergency involving you / family, and agree to reimburse us on demand for all costs we incur in obtaining such assistance.

19. EMERGENCIES AND NATURAL DISASTERS

- (1) We may be required to use all or part of the Facility during emergencies or natural disasters, including providing and coordinating support to those affected by bushfire or heatwaves. You may not be able to access or use all or part of the Facility during these periods.
- (2) We will use reasonable endeavors to provide you with notice of any Emergency Period in accordance with clause 24.5

20. TERMINATION OF YOUR FLC SWIM SCHOOL AGREEMENT

Termination by you

- (1) You may terminate FLC Swim School Agreement:
- (a) at any time after the end of the minimum Term by providing us with written notice. Written notice can be via emailing swimschool@fremantle.wa.gov.au or via the online form.
- (b) If you give Written notice, if we breach a material term of this FLC Swim School Agreement and do not remedy the breach within 20 Business Days after written notice from you;
- (c) If your child/ren have become sick or incapacitated and you provide us with a certificate from a qualified medical practitioner stating that they cannot swim for a period of at least two (2) months; or
- (d) Otherwise with our agreement in writing, which we may provide in our absolute discretion.

Termination by FLC

- (2) We may terminate FLC Swim School Agreement giving your written notice:
- (a) If you fail to pay the Fees (or any instalment of Fees) associated when due;
- (b) If you fail to pay
- (c) If we decide that you or any enrolled student has behaved in a way which is inappropriate, hazardous or detrimental to the safe enjoyment of the Facility by yourself or others;
- (d) If you breach any term of this FLC Swim School Agreement, and either;

- (e) If you do not remedy the breach within 10 Business Days on written notice from us, or;
- (f) If the breach is incapable of being remedied, or;
- (g) If the Facility is unavailable or unfit for use.

Effect of termination

- (3) By you under clause 20.1a – this FLC Swim School Agreement will be terminated four (4) days from date written confirmation has been received by the City. You must pay us any outstanding Fees for the period up to and including the date of termination;
- (4) By you under clause 20.1b or 20.1c – this FLC Swim School Agreement will be terminated on the date we receive written notice from you. You must pay all outstanding Fees up to and including the date of termination. We will refund any Fees you have already paid for the period after the date of termination;
- (5) By you under clause 20.1d – this FLC Swim School Agreement will be terminated on the date as agreed by you and us in writing. You may pay us any amount as agreed by you and us in writing;
- (6) By us under clause 20.2a, 20.2b, 20.2c – this FLC Swim School Agreement will be terminated on the date nominated by us in our written notice to you. You must pay us the total of all outstanding Fees for the period up to and including the date of termination.
- (7) By us under clause 20. – this Membership Agreement will be terminated on the date nominated by us in our written notice to you. You must pay us all outstanding Fees for the period up to and including the date of termination. We will refund to you any Fees you have already paid for the period after the date of termination. We will not refund to you any other Fees paid for the period up to and including the date of termination.

21. LIABILITY

- (1) By signing this FLC Swim School Agreement, you:
 - (a) Are declaring that you are medically and physically able to participate in physical activity and understand and accept the inherent risks of undertaking exercise.
 - (b) Acknowledge and agree that you enter the Facility and surrounds and/or participate in programs, utilise the equipment and/or take advantage of services offered by us absolutely at your own risk.
 - (c) Acknowledge and agree that you release and discharge us from all liability for loss, damage or injury that you may sustain.
 - (d) You indemnify us to the extent permitted by law in respect of any claim by any person as a result of or in connection with your FLC Swim School Agreement and/or participation in any of our activities.
 - (e) This release and indemnity shall not apply to the extent that the loss, damage or injury which is the subject of the claim is caused, or contributed to, by the neglect act of omission by us.

22. DISPUTES AND COMPLAINTS

- (1) If a dispute arises concerning this FLC Swim School Agreement or you have any complaints about the Facility or us, please give us written notice of the dispute or complaint.
- (2) We will contact you as soon as possible to discuss and endeavor to resolve the dispute or your complaint.

23. PRIVACY

- (1) We will have access to personal information about you, such as your name and address.
- (2) We will only use, disclose and deal with your personal information in accordance with our privacy policy.
- (3) Only the listed responsible person/s on any student account can access information and make changes to swim school bookings.
 - (a) We will only liaise / communicate with the listed responsible person/s listed on the students account.
- (4) We may sometimes film or photograph the facilities. It is possible you may appear in the background. You agree to allow us to use your image in promotion and other business related materials.

24. NOTICES

Your contact details

- (1) Your contact details are set out in the FLC Swim School Agreement under Enrolment Details.
- (2) You must give us written notice of any changes to your contact details.
- (3) If we do not receive written notice from you and your contact details change, notice given by us to the email or other address we have on record for you will constitute valid notice under this FLC Swim School Agreement.

Notices from you to FLC

- (4) You may serve notices on us under this FLC Swim School Agreement by any of the following methods:
 - (a) By hand delivery to the Facility; or
 - (b) By email to swimschool@fremantle.wa.gov.au

Notices from FLC to you

- (5) We may serve notices on you under this FLC Swim School Agreement by any of the following methods:
 - (a) By publishing the notice on our website and/or social media channels;
 - (b) By publishing signage in the centre;
 - (c) By email (Facility preferred method) to the address listed in the Enrolment Details (or to any email address you have notified us of in accordance with clause 24.1;
 - (d) By SMS, to the mobile number listed in the Enrolment Details (or to any mobile number you have notified us of in accordance with clause 24.1; and
 - (e) By post or delivery, to the address listed in the Membership Details (or to any postal or physical address you have notified us of in accordance with clause 24.1.

25. MISCELLANEOUS

Governing Law

- (1) This Membership Agreement is governed by the law applying in Western Australia. You and we submit to the non-exclusive jurisdiction of the Courts of Western Australia.

Membership Identification

- (2) A photo is required at the time of joining to verify the identity of the primary enrolment holder.
- (3) We reserve the right to refuse entry to the centre in the case you refuse to have your photo taken.

26. SERVICE DISRUPTIONS

Pool Closures

- (1) In the event of a planned facility closure or disruption to service, for example closure of the Pool for detailed maintenance, we will always tell you in advance.
- (2) We may close off areas of the Facility for refurbishment for extended periods of time.
- (3) In the event of an unforeseen facility closure or disruption to service of more than 4 days without prior written notification, we may issue credits to enrolments for lost time.
- (4) We will try, but cannot promise we will be able to tell you about any Facility closure in advance, such as unexpected Events.
- (5) We are not responsible if members cannot use our Facility because of an event caused by a natural force (such as a fire or a flood) or a road or building closure or something similar beyond our reasonable control. If this continues for more than 30 days, then either you or we may cancel this agreement immediately by written notice.