

# TERMS, CONDITIONS & SERVICES

## Membership Terms

1. Kaya is a member of Fitness Australia and complies with the “VIC Fitness Industry Code of Practice” (the “Code”). You acknowledge that the Code has been made available to you and this membership is offered under the provisions of the Code.
2. Kaya reserves the right to change conditions of Membership, hours of operation, services offered and all fees and charges, at any time, at its sole discretion and without prior notice to the Member. Any such changes will be notified to you through either a newsletter published from time to time, the website, notices in the club and/or mailing / emailing to your last known address.
3. You agree to be bound by and to uphold the “Kaya Rules and Regulations”. You acknowledge that you have been provided with a copy of the current Guidelines. The Guidelines may be changed or updated by Kaya at any time at its sole discretion and without prior notice.
4. It is your responsibility to ensure that you correctly operate any club facilities or equipment. If you are in doubt as to how to correctly operate or use any club facilities or equipment, you must consult a Kaya staff member for assistance.
5. You acknowledge that no one has made any representations (whether verbal or written) to induce you to enter this Agreement and that no verbal agreements or understandings have been made with Kaya unless as set out in this Agreement.
6. You must keep Kaya informed of any change in your contact details, bank accounts or credit card details for payment, or any other information relevant to your Membership.
7. You acknowledge that you have been given the option of choosing a membership based on a fortnightly billing agreement.
8. This agreement entitles the member to the usage of equipment and resources at Kaya Health Clubs in accordance with the T&C’s contained within. Failure to use the resources and equipment at Kaya Health Clubs does not exclude the member from other obligations contained in this agreement.
9. You acknowledge that any free/gifted membership time/training cannot be applied towards your membership minimum term.
10. Membership tags / Membership Barcodes must be presented at reception prior to entry into the club. Entry will not be permitted without a current tag.
11. Guests of members will be charged a Casual Membership Fee and must complete the Guest Register on arrival at each visit.
12. On joining, a photograph of you is required to allow Kaya to verify your identity each time you enter the club.
13. You agree to receive marketing correspondence via electronic transmission on regular basis which may include (but not limited to) newsletters and promotional material.
14. Where you have entered into an Agreement for a Minimum Membership Term, there is a seven (7) day cooling off period commencing from the join date on the agreement. You may terminate your membership on Kaya Health Club’s receipt of a CANCELLATION REQUEST FORM within the 7 day cooling off period. If a written cancellation request is not received within the seven (7) day period, the membership will continue for the agreed minimum term.

You acknowledge that the following charges will apply;

- (a) The cost of services provided by Kaya to you during this 7day period,

and

(b) A cancellation fee of \$65.00.

### **Minimum Age**

15. Membership is limited to persons who are at least 14 years of age.

16. Members less than 16 years of age must be supervised by an adult when using club facilities. If you are under 16 years of age, your parent or guardian must complete your Pre-activity Readiness Questionnaire.

### **Time Freeze**

17. Time Freeze is granted on written application for a minimum of One (1) week up to a maximum of twenty-six (26) weeks.

Requests for Time Freeze must be submitted to Kaya online or in writing no less than one (1) day prior to the commencement of the Freeze.

Members may not train in the club during the period of their requested Time Freeze.

**A Time Freeze Fee of a minimum of \$5.00 & \$0.71 per day thereafter will be charged during any such Freeze period. Members with pre-paid memberships are required to settle Freeze Fees at the time of submitting their Request to Freeze. The Minimum Term Agreement will be extended by the period of the Time Freeze, therefore the member will be obliged to pay the minimum term agreement amount in addition to the Time Freeze period.**

Membership dues will be adjusted (pro-rata) for members returning to the club prior to the completion of their Time Freeze.

### **Cancellation of Membership**

18. You agree that your Membership may be cancelled by Kaya if you do not adhere to the Guidelines, or your behaviour in Kaya is not acceptable or for any other reason that the management of Kaya decides is appropriate. Kaya reserves the right to refuse future Membership to you in these circumstances.

19. Except where set out elsewhere in this Agreement, cancellation within the Minimum Membership Term is only permitted by payment of a departure fee based upon the remaining period of your Minimum Membership Term. If between \$395 and \$795 remains owing a total of \$395 is payable. If >\$795 remains owing a total of 50% of remaining Membership fees is payable.

20. **The fortnightly debit automatically continues after the end of the Minimum Membership Term, unless your membership is cancelled two (2) weeks prior to the end of your Minimum Membership Term or anytime thereafter by notifying Kaya in writing of your intention to cancel. Membership will then be cancelled after one (1) further FULL fortnightly payment.**

### **Transfer of Membership during minimum term**

21. If you become unable to complete your Minimum Membership Term, you may transfer the Membership to a third party provided that an Administration Fee of \$130 is paid and provided the transferee taking on any corporate or student packages is also an existing full-time student / employee of Kaya current registered corporate (proof of enrolment/employment required) otherwise current standard membership rates apply. A minimum of six (6) debits must remain on your initial membership term and the third party must honour the remainder of the Minimum Membership Term, agreeing to be bound by the Terms and Conditions contained in this Agreement. You must notify Kāya in writing of any intention to transfer your Membership to a third party. A membership that has been transferred is non-transferable. Past members of Kāya are not eligible for a membership transfer.

### **Downgrading of Membership during minimum term**

22. If you wish to downgrade your membership package, you will be required to complete a new membership agreement and commit to a new minimum term (exc. monthly memberships). Membership terms are not eligible for downgrades

### **Sickness or Incapacity**

23. If you become unable to use the club facilities by reason of permanent physical/medical incapacity, your membership will be cancelled immediately, provided that the incapacity is substantiated by a medical certificate from a qualified medical practitioner.

Any cancellation will include the following charges;

- (a) The cost of Services already provided by the Club, and;
- (b) An Administration Fee of \$65.00.

24. If you become unable to use the club facilities by reason of temporary physical/medical incapacity and provide a medical certificate from a qualified medical practitioner, you are entitled to Freeze your Membership for a minimum period of two (2) weeks up to a maximum period of twenty-six (26) weeks. However, you may not Freeze your Membership for a longer period than set out in the medical certificate. Your Membership will automatically recommence after the date you have specified in your Request to Freeze, with no remaining Freeze facility available for any cause.

### **Personal Training**

25. From time to time, Kaya may promote licensees who offer services such as personal training, nutrition consultation and/or massage. Any claim you may have as a result of an act or failure to act by such a licensee (whether or not payment has been made to the licensee) will be brought against, and will be the responsibility of that licensee.

You hereby release, indemnify and keep indemnified Kaya for any claim by you as a result of an act or omission by a licensee. You must notify Kaya immediately if you have a claim against a licensee. Kaya will at all times assist, where possible, to resolve any conflict or issues with licensees.

26. You acknowledge that personal trainers and therapists are available at Kaya and their services shall be taken up at your sole discretion.

### **Bookings and Appointments**

27. If you are unable to attend and/or late cancel a scheduled class booking, appointment, course/workshop, a cancellation fee of \$35 will apply (refer to specific booking conditions regarding notice period). The fee will be added to your next scheduled membership debit.

### **Student Memberships**

28. If you are a full-time student and acknowledge that Kaya Health Clubs has provided you a preferential Student Membership Package you understand that the preferential rate will remain as long as you are a full-time student, and undertake to provide Kaya with a current student card every calendar year by 31st March.

Kaya will accept identification such as:

University/College/Tafe Student ID – the card must be valid & must display current year transport concession sticker.

University/College/Tafe Student Full-time Enrolment Confirmation – must state full-time on the enrolment confirmation document.

A letter from the Student Dean at the University/College/Tafe stating that the member is currently enrolled as a full-time student.

A current international student visa – a photocopy of the visa contained within the passport is required.

If you cannot provide Kaya with a current student card your Membership fortnightly fees will automatically revert to the equivalent regular membership fees (offered to the general public) at that time. This Membership change will take effect as of the first scheduled fortnightly direct debit after 31st March each calendar year.

29. If you qualify for a preferential Student Membership Package you have a maximum of seven days from initial join date to provide Kaya Health Clubs with a current student card. Your membership joining and fortnightly fees will automatically revert to the equivalent regular membership fees (offer to the general public) if a current student card cannot be provided within this period.

### **Physical Condition**

30. You acknowledge that you have completed a Pre-Exercise Questionnaire. You must notify Kaya of any change in your health and fitness so that your training regime can be appropriately modified. In the event of pregnancy, members must notify Kaya by completing a Pregnancy Authorisation to Exercise form and a Pregnancy Acknowledgement form before continuing to use the facilities.

31. You acknowledge that any advice and/or recommendation given to you by an Kaya Fitness Leader is not intended to constitute medical diagnosis or treatment, nor should it be relied on as a suggested course of medical treatment for a particular individual. If you are in doubt, you should obtain medical advice prior to commencing any exercise program.

32. You must not use any Kaya facilities whilst suffering from any infections or contagious illness, disease or other ailment or whilst suffering from any physical ailment such as open cuts, sores, or minor infections where there is a risk (however small) to other members and guests.

### **Member's Assumption of Risk**

33. You are aware that the use of the premises and its facilities and your participation in classes and programs conducted by Kaya may involve strenuous activity and special risks.

34. You warrant that you are physically able to participate in any classes/fitness program or use any club facilities in which you have chosen to participate, and have not been advised otherwise by your medical practitioner. You further warrant that you have no pre-existing medical condition that would otherwise prevent you from using the club facilities and/or participating in any classes/fitness program.

You understand that you will be engaging in activities that may involve risk of personal injury or illness and which may also involve the risk of economical/property loss and damage. You also understand that there may be risks involved that are not known to you or to Kaya, or may not be foreseen or reasonably foreseeable at this time or at the time of using the club facilities or participating in the class/fitness program. You assume the foregoing risks including risk of any negligence by Kaya and its respective owners, directors, officers, employees or agents, and accept personal responsibility for any injury (including but not limited to personal injury and disability), illness, damage, loss, claim, liability or expense of any kind or nature, that you may suffer arising out of or in connection with the use of club facilities or participation in classes/fitness programs by you, or any minor/person under your supervision, care or control.

### **Corporate Memberships**

If you are on a Corporate Membership and acknowledge that Kaya Health Clubs has provided you a preferential Corporate Membership Package you understand that the preferential rate will remain as long as you are employed by a Kaya Health Clubs corporate partner. Kaya Health Clubs will conduct annual checks to validate that you are still employed by a KHC Corporate. In the instance that the Corporate ceases to be a KHC corporate, you understand that your rate will revert to standard membership rate.

### **Limitation of Liability**

35. In consideration of the grant of Membership to you, you hereby release and forever discharge Kaya from all actions, suits, proceedings, claims, demands, losses, damages, penalties, fines, costs and expenses howsoever arising that you may have incurred arising from or in connection with your Membership and/or use of Kaya facilities and equipment, or from being on club premises to the fullest extent permitted by law and whether caused or contributed to (directly or indirectly) by any act of negligence, breach of duty or default/omission on the part of Kaya and its respective owners, directors, officers, employees or agents.

36. In consideration of the grant of membership to you, you agree that Kaya will not be liable for any loss, damage or theft of any of your (or your guest's) property except where caused by the gross negligence of Kaya. Further, Kaya will not be liable for any death, personal injury or illness occurring on club premises or as a result of use of facilities or equipment, except to the extent that it arises from the gross negligence of Kaya and its respective owners, directors, officers, employees or agents.

### **Payment Terms**

37. A Fortnightly Membership Debit may be paid by a nominated bank account or credit card. Payments made by credit card will attract a credit card processing fee.

38. On each occasion that a scheduled fortnightly payment is declined for any reason, the Member gives permission to Kaya to charge a Payment Declined Fee. The current decline fee of \$10.00 may change without prior notice.

39. Should any payments, fees or other debts remain due but unpaid from any source, the Member acknowledges that Kaya may suspend the Member's use of the Membership Services until all payments, fees and other debts are paid in full. If payment is not received the Membership may be cancelled.

Kaya engages the services of a Debt Collection agency to manage member accounts with an outstanding debt and reserves the right to invoke a reasonable Administration Fee on overdue accounts. Members credit rating may be affected.

40. All fees and charges are subject to Clause 2 of this Agreement.

41. If you have opted to pre-pay your entire membership fee, any renewals thereafter must be for a minimum of 12 weeks and the payment must be received by Kaya before the membership expires.

42. SPECIFIC ACKNOWLEDGMENTS (All members undertaking fortnightly debit membership payments must acknowledge and agree to the following.

i. Your nominated bank account is debited on a fortnightly basis. The number of debits and amount is determined by your Minimum Term at the club.

ii. Your Membership will continue after the Minimum Term, until you cancel your membership by providing Kaya with two (2) weeks written notice. Membership will then be cancelled after (1) further full fortnightly debit.

iii. On joining you are required to pay a Joining Fee.

iv. Whenever a payment is declined or returned unpaid, the outstanding amount, together with an Administration Fee will be charged to you.

**v. PAYMENTS WILL CONTINUE TO BE DEBITED AFTER THE MINIMUM TERM UNTIL THE MEMBERSHIP IS CANCELLED BY YOU IN WRITING. YOU WILL BE NOTIFIED OF THE DATE THE DEBITS WILL CEASE WHEN THE CANCELLATION REQUEST IS RECEIVED AND APPROVED BY KAYA.**

43. Unlimited classes\* is limited to one online booking per day to ensure all of our great members can experience Kaya. However, while you are in Kaya club's, you can book any other class that have 5 or more

spots available up to 15 minutes prior to the class commencing. This offer is limited to the conditions stated and not available from our website.

## **RULES AND REGULATIONS**

### **Code of Conduct**

The mandatory Code of Conduct must be adhered to by Members to maintain a safe and enjoyable environment. Members should respect the health and safety of each other while on the club premises and must comply with Occupational Health and Safety requirements of the club. Any internal signage displayed around the club forms part of the Membership Rules and Regulations and should be treated as part of the Code of Conduct. If a member is seen to be in breach of the Code of Conduct or Rules and Regulations, management reserves the right to terminate the membership and take further action if deemed appropriate.

### **Damage to Property**

Any member who causes damage to equipment or any property of Kaya will be held liable for damages. Members will be held responsible for damage caused by children or guests.

### **Dress Code**

Members must wear covered training shoes in any cardio and weight training areas of the club and be suitably clothed at all times, for safety and hygiene reasons.

### **Equipment**

All equipment must be replaced after use in all areas of the club, in particular the replacement of free weights and benches. If participating in Group Exercise Classes in the studios, any equipment used must be replaced.

### **Guests of members**

Guests may enter the club premises on payment of a Casual Membership Fee, and on completion of the club's Guest Register and a Pre-Exercise Questionnaire. Guests are subject to the Code of Conduct and the Guidelines, as notified from time to time on the Guest Register. All guests must be at least 14 years of age, be accompanied by you, and leave the club at the same time as you do.

If you intend to bring a guest to a class, please provide the club with 24 hours' notice. Please ensure you have confirmation from a Membership Advisor or Management before attending the club with a guest.

### **Hygiene and Cleanliness**

A clean sweat towel must be used while training at the club (including classes). Members must wipe down all equipment after use.

### **Water Bottles**

Glass water bottles may not be used within the clubs.

### **Lockers**

Lockers are provided for use ONLY while the member is training in the club and are used at the member's own risk. While all care is taken, Kaya will not be held liable for any loss, damage or theft of belongings placed in lockers or brought on the premises. If a pin code cannot be remembered or locker number cannot be identified, belongings cannot be retrieved until the close of the club on the same day. Unclaimed property will be kept for 14 days and thereafter donated to charity.

Lockers are available for hire, please speak with reception.

### **Privacy**

During or immediately prior to your Membership, we may obtain certain personal information (such as about your

health and your financial position). Kaya will only use, disclose or deal with such information in accordance with its Privacy Policy, which can be provided to you or accessed at the Kaya website [www.kayahealthclubs.com.au](http://www.kayahealthclubs.com.au)

### **Smoking**

Members and their guests acknowledge that the club premises are a non-smoking environment.

### **Studios**

Members are only permitted to access studios under the supervision of a Kaya instructor or trainer.

The Rules and Regulations, and the interpretation thereof, are subject to change at management discretion.

Members should ensure that they are familiar with the current Rules and Regulations applicable at all times.