

1 Your membership contract

- 1.1 This is an important document. It records the terms and conditions of your membership with Glen Eira Leisure and your right to make use of some or all of the facilities (depending on your class of membership) during the period of your membership. You should read this document carefully.
- 1.2 The Glen Eira Leisure *Rules* and Glen Eira Leisure *Conditions of Entry and Use* apply and are incorporated into and form part of these *Membership Terms and Conditions*. The Glen Eira Leisure *Rules* and Glen Eira Leisure *Conditions of Entry and Use* may be amended from time-to-time and the most up-to-date Glen Eira Leisure *Rules* and Glen Eira Leisure *Conditions of Entry and Use* will always apply. You will find a copy of the most up-to-date Glen Eira Leisure *Rules* and Glen Eira Leisure *Conditions of Entry and Use* by visiting our website: www.geleisure.com.au
- 1.3 You may be entitled to terminate your membership contract during the cooling off period. For more details, see clause 5.3.
- 1.4 Certain expressions used in this document have been given particular meanings. Please refer to the definitions in clause 2 for the correct interpretation of various terms.

2 Definitions

In this document, unless contrary intention appears:

- 2.1 administration fee means the fee associated with processing your membership application;
- 2.2 *Australian Consumer Law* means Schedule 2 to the *Competition and Consumer Act 2010*, as amended from time-to-time;
- 2.3 business day means each weekday other than a Saturday, a Sunday or a public holiday applicable in Victoria;
- 2.4 claim means, in relation to a person, a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained, or immediate, future or contingent;
- 2.5 Council means Glen Eira City Council;
- 2.6 *Complaints Handling Policy* means Glen Eira City Council's *Complaints Handling Policy* located at www.gleneira.vic.gov.au
- 2.7 cooling-off period means seven (7) days starting on the date we communicate in writing our acceptance of your membership application to you;
- 2.8 direct debit account means a transaction account with a financial institution as nominated by you in the direct debit request form from which direct debit payments of the membership fee will be taken;
- 2.9 facilities means the facilities available for use by members and others within Glen Eira Leisure Centres and includes without limitation the buildings, car park, pools and sauna and gym equipment;
- 2.10 GESAC means Glen Eira Sports and Aquatic Centre;
- 2.11 Glen Eira Leisure *Conditions of Entry and Use* mean the conditions adopted by Glen Eira Leisure from time-to-time relating to entry and use of the facilities and which are located on Glen Eira Leisure's website;
- 2.12 Glen Eira Leisure *Rules* means rules adopted by Glen Eira Leisure from time-to-time relating to the use of the facilities and which are located on Glen Eira Leisure's website;
- 2.13 Glen Eira Leisure website means: www.geleisure.com.au
- 2.14 hard expiry means a minimum term contract which expires at the completion of the minimum term contract;
- 2.15 hold-over member means a member of Glen Eira Leisure with a soft expiry whose membership continues beyond their minimum term contract period;
- 2.16 joining fee means the amount referred to as the joining fee in the membership application;

- 2.17 *Local Law* means Council's *Local Law* made pursuant to the *Local Government Act 1989*;
- 2.18 membership application means these membership terms and conditions and the application form to which these membership terms and conditions are annexed;
- 2.19 membership class means a membership type as offered from time-to-time;
- 2.20 membership contract or contract means the contract referred to in clause 5.1;
- 2.21 membership fee means the fee payable by you in consideration of your membership with Glen Eira Leisure for the period of your membership, as applicable to your class of membership and as outlined in the membership application;
- 2.22 membership ID means an electronic or other form of membership entry card required to access the facilities;
- 2.23 membership period means the period for which we have accepted you as a member of Glen Eira Leisure, as contained in the membership application or any renewal application;
- 2.24 membership terms means these terms and conditions which form your membership contract together with any other incorporated documents as set out in clause 5.1;
- 2.25 minimum term contract means a contract for a 12 month period;
- 2.26 month means a calendar month or four (4) weeks, depending on the context;
- 2.27 no minimum term means the membership contract can be cancelled at any time after its start date in accordance with the contract.
- 2.28 payment day means each day on which the membership fee or an instalment of the membership fee falls due;
- 2.29 payment period means each period for which the membership fee or an instalment of a membership fee is payable;
- 2.30 program means any fitness program, class or activity that we provide or organise;
- 2.31 red flag means a class that requires higher participation numbers to stay in its current format on the Group Fitness timetable;
- 2.32 red flagging process means the process by which a warning is provided to members that a class may either be cancelled, restructured, or rescheduled if attendances don't consistently meet operational needs;
- 2.33 *Service Charter* means Glen Eira City Council's *Service Charter* located at:
www.gleneira.vic.gov.au/Council/About_Council/Contact_us/Service_charter
- 2.34 soft expiry means a minimum term contract which does not expire at the minimum term unless the member gives notice and may continue past the minimum term with the agreement of both parties, at which point the member becomes a hold-over member;
- 2.35 suspension fee means the fee charged during a period of suspension to keep your membership active during a period of voluntary suspension;
- 2.36 swim school includes swim school and swim squad;
- 2.37 voluntary suspension period means the period during which you voluntarily suspend your membership in accordance with clause 17;
- 2.38 we, our and us (or any derivative thereof) means Glen Eira City Council; and
- 2.39 you (or any derivative thereof) means the applicant named in the membership application.

3 Council facility

- 3.1 You acknowledge that:
- 3.1.1 we own and control the facilities; and

- 3.1.2 we are a council as defined in the *Local Government Act 1989*.
- 3.2 You must not obstruct or interfere with us (or any of our employees or contractors) in the lawful performance of any act, matter or thing connected with the facilities or the conduct of any program (and you acknowledge that to do so could constitute an offence under Section 238 of the *Local Government Act 1989*).
- 3.3 The facilities are available for use by the public and members at our discretion. Opening hours are as advertised and may be changed from time-to-time and parts of the facility may be closed temporarily or permanently for operational, maintenance, health and/or safety reasons or for emergency, security or legal requirements.
- 3.4 We reserve the right to accept membership applications at our discretion, whether from potential new members or from former members. Where an application is from a person with a known record of unacceptable behaviour or who has defaulted under a previous membership contract, we may refuse to accept an application for membership, or impose additional conditions on the applicant, including the repayment of any fees or charges which remain owing to us and unpaid under the previous membership contract.
- 3.5 We may transfer or assign our obligations under your membership contract to a third party at any time without giving you notice. We may also sub-contract all or any of our obligations under this contract or the operation and control of the facilities to someone else without notice.
- 3.6 Council's *Local Law* may also apply to conduct in and about the facilities.
- 3.7 Your feedback and complaints are crucial to the betterment of how the facilities are operated and will assist us to resolve any concern quickly and effectively. We will deal with any complaint you may have or dispute between us in accordance with our *Service Charter* and *Complaints Handling Policy*.

4 Membership application

- 4.1 We will only consider an application for membership upon receipt of a satisfactorily completed and signed membership application.
- 4.2 We may choose to refuse your membership application until:
- 4.2.1 your doctor agrees in writing to an exercise program; or
- 4.2.2 you show us proof that you have received medical advice in respect of an appropriate exercise program.
- Once your application is accepted, you must not engage in activities outside of the medically approved exercise program.
- 4.3 Where a proposed member is under age 18, the membership application must be completed and signed by the parent or guardian of the applicant, who will be bound by the membership contract as if they were a member.
- 4.4 Subject to law, we reserve the right to refuse any membership application where we are of the reasonable view that such membership may result in harm or detriment to the proposed member, any third party or Council employees, assets or facilities.

5 Membership contract and cooling-off period

- 5.1 A membership contract, between you and Council will arise when we communicate our acceptance of your membership application to you. The membership contract will be governed by these membership terms together with the *Glen Eira Leisure Rules* and the *Glen Eira Leisure Conditions of Entry and Use*, which together form your membership contract.
- 5.2 Subject to any rights you have under the *Australian Consumer Law*, the membership contract will supersede any prior document, discussion or anything else that happens (or does not happen) prior to the formation of your membership contract concerning your membership with Glen Eira Leisure or the use of the facilities.
- 5.3 If your membership contract:
- 5.3.1 has a minimum term of one (1) month or more; and
- 5.3.2 is not a renewal of a pre-existing contract,

you may terminate your membership contract during the cooling-off period by giving us written notice in accordance with clause 24. Where your membership contract is terminated under this clause:

- 5.3.3 we will refund your joining fee and any membership fees that you have paid, less a reasonable fee for any health, fitness or well-being service we have provided to you (for which a separate fee has not been paid) prior to the termination of your membership contract; and
- 5.3.4 we will not refund the administration fee which covers our reasonable administration costs of and incidental to processing your Glen Eira Leisure membership.

If you do not terminate your membership contract during the cooling-off period, we will both be bound by the membership contract for the period that it is expressed to exist.

- 5.4 You may terminate your membership contract outside of the cooling-off period, in which case clauses 19 or 20 may apply.
- 5.5 We may correct any miscalculation of membership fees during the cooling-off period, and will notify you as soon as possible where any error has been found.

Changes to membership contract, programs and facilities

- 5.6 From time-to-time we may change the membership terms, the Glen Eira Leisure *Rules*, the Glen Eira Leisure *Conditions of Entry and Use*, or any one or more of the facilities or programs (together 'change to terms'). Where this clause applies, we will endeavour to notify you of any changes and the reason for the change by:
 - 5.6.1 publishing the changes on our website, where those changes apply to all members or a class of members; or
 - 5.6.2 writing to you at the last email address you provided, where those changes affect you or, if applicable, other members (but not all members) of your membership class.

Possible reasons for any change to terms may include, without limitation:

- new regulatory requirements;
- health related issues;
- availability of personnel;
- emergencies or security issues; or
- maintenance or building work.

Changes (whether temporary or permanent) to the Group Fitness timetable, facility operating hours, range of equipment, availability of facilities or program offerings are not considered changes to terms.

Where there has been a change to the membership terms, you may terminate your membership contract only if you are adversely affected by a change. You may do that by giving us written notice outlining how any change to terms adversely affects you ('notice') within 14 days of having been notified of the change. If you give us notice in accordance with this clause, we will accept the notice, and:

- 5.6.3 if you elect to terminate your membership contract, you agree you will have no claim against us (subject to any entitlement to a refund of membership fees under clause 5.8 or any other rights under the *Australian Consumer Law*) and, excluding breaches on your part prior to the time of termination, we will release you from future obligations under the membership contract; and
- 5.6.4 the termination of your membership contract will take effect only when you receive written notice from us that we accept that a change under clause 5.6 adversely affects you.

Where you claim you have been adversely affected by a change to terms, you will be required to provide reasonable evidence to substantiate your claim. In relation to claims that such change will cause financial hardship or impact your health, we will assess your claims against the evidence available.

If we do not give you an acceptance notice or if we otherwise dispute that you are adversely affected by a change to terms, we will be deemed to be in dispute and our *Service Charter* and *Complaints Handling Policy* will apply to the resolution of the dispute.

You may not terminate your membership contract under this clause during your membership period because of a change in membership terms that will not affect you until after your membership period has expired.

- 5.7 If you do not terminate your membership contract in the manner prescribed by clause 5.6, you will be deemed to have accepted any change to the membership terms.
- 5.8 If you elect to terminate your contract under clause 5.6, we will not refund pre-paid membership fees except to the extent that membership fees have been paid in advance beyond 30 days following the date on which your membership contract is terminated, as determined with reference to clause 5.6.

6 Membership and other fees

- 6.1 You must pay membership fees during your membership period. As a minimum requirement, membership fees are payable fortnightly in advance. However, you may, if you choose, pay membership fees up front for your entire membership period.
- 6.2 Your membership fee may be paid either by:
- 6.2.1 direct debit from a direct debit account; or
 - 6.2.2 credit card.
- 6.3 You acknowledge that the administration fee is payable when you join or renew your membership and is non-refundable, even if you terminate your membership contract during the cooling-off period.
- 6.4 If your membership fee (or any instalment of your membership fee) is not paid in full on the due date, we may by notice to you, suspend your right of access to and use of the facilities until all outstanding payments have been made.
- 6.5 We may debit your credit card account or direct debit account (as the case may be) up to seven (7) days after the nominated direct debit day. Fees may not show as deducted from the member's bank account until up to 14 days after the nominated debit day due to bank processing arrangements. Please refer to your *Direct Debit Request and Agreement* for further details.
- 6.6 Without detracting from our rights under clause 6.4, if your financial institution does not allow payment of any instalment of the membership fee for any reason, we may contact you and ask you to make the payment in another way.
- 6.7 Subject to your *Direct Debit Request and Agreement*, if you owe us money for other services (such as personal training or the use of facilities not available to you within your membership or for goods purchased from us), we will attempt to contact you and if unsuccessful, may automatically deduct such sums of money from your credit card account or your direct debit account (as the case may be) and you authorise us to do this. This is subject to your *Direct Debit Request and Agreement*. Clauses 6.4 and 6.6 apply to the non-payment of money you may owe us for other services provided to you.
- 6.8 Membership fees are charged at the full advertised rate, unless a current concession card is maintained and proof provided to us. If current and valid proof of a concession card is not supplied, the membership fees will automatically revert to the full relevant membership rate from the next direct debit after the concession card expiry on file.
- 6.9 You are responsible for ensuring that the payment method that you chose in your membership application and all details relating to that payment method, continues throughout the period of your membership. Alternatively, if you wish to change the payment method or the details relating to it, you may do so provided you first notify us of your intentions and sign such documents and do all things we reasonably require to ensure that we receive payment of your membership fees under the different payment method and/or payment details that you propose.
- 6.10 Failure to pay overdue membership fees following reasonable requests from us, may constitute a breach of contract and action under clause 21 may be taken at our discretion.
- 6.11 We reserve the right to charge fees for certain services such as administration, suspension of membership, early termination, provision of statements, replacement of lost IDs and other services. A list of current fees is available on Glen Eira Leisure's website, and may be amended from time-to-time.

7 Payment

- 7.1 Where membership fees (or any instalment of the membership fee) are paid by credit card, we may pass on to you the merchant fee charged to us for the transaction by deducting those fees from your credit card account.
- 7.2 You are responsible for:
- 7.2.1 making sure your credit card account has sufficient credit to allow for the payment of your membership fee on each payment date;
 - 7.2.2 telling us in advance if you are transferring or closing your credit card account; and
 - 7.2.3 telling us in advance of any changes to your credit card.
- 7.3 If any credit card payment fails, you are liable for all resulting bank fees incurred by us and any debts resulting from overdue membership fees or other Glen Eira Leisure charges.
- 7.4 One request for a statement of payments will be complimentary per financial year. Additional requests will incur a fee.
- 7.5 If you prefer, we will accept payment of your membership fees for each payment period via debits taken from your direct debit account. If you wish to adopt this method of payment, the following provisions will apply:
- 7.5.1 Unless you have already paid membership fees for a payment period, we will debit your direct debit account on each payment date for the instalment of your membership fee for each payment period throughout the period of your membership with Glen Eira Leisure.
 - 7.5.2 You are responsible for:
 - (a) making sure that your direct debit account can accept direct debits;
 - (b) making sure that there is enough money in your direct debit account on each payment day (and the following five (5) days) to facilitate payment of each instalment of your membership fee; and
 - (c) telling us in advance if you are transferring or closing your direct debit account.
 - 7.5.3 If the direct debit details you give us fail, you are liable to pay to us all resulting fees and debts.

8 Changes in membership fee

- 8.1 We generally review our fees between May and June each year. We will be permitted to change your membership fee and we will aim to increase membership fees by not more than five per cent (5%) in any given calendar year. We will notify you in writing of any change to your membership fee under this clause.
- 8.2 Where an increase in your membership fees exceeds five per cent (5%) in any calendar year, such increase will constitute a change to membership terms under clause 5.6 and you may seek to terminate your membership contract under that clause.
- 8.3 Where you continue to make use of the facility as a hold-over member, once your membership period comes to an end, your membership fee may change from time-to-time and we will make reasonable efforts to inform you about such changes at least 30 days prior to the date that change takes effect. We will do this by writing to you at your last address (or email address) that you have given us. Where we have made reasonable efforts to inform you about any change in your membership fee, and you have not cancelled your membership in accordance with clause 20.1, you authorise us to change any debit from your direct debit account or credit card payment (as the case may be) to accord with any change in your membership fee.

9 Refund of fees

- 9.1 If you terminate your membership during the cooling-off period, we will refund any membership fees paid by you in advance, less the administration fee, in accordance with clause 5.3.
- 9.2 If you pay for a program in advance, we will refund the fee paid if:
- 9.2.1 the program is cancelled; or

9.2.2 you can show us medical evidence that participation in the program will cause you physical harm or injury; or

9.2.3 the law requires us to refund the fee.

9.3 Other than as set out in clauses 9.1 and 9.2, we will be under no obligation to refund money that you have paid to us in advance.

10 Membership identification (ID)

10.1 Within a reasonable time following our acceptance of your membership application, we will issue you with membership ID. A photograph of you will be taken by a Glen Eira Leisure staff member in order to identify you on the premises. Please refer to clause 23 concerning the holding of your personal information.

10.2 You must have your membership ID with you when visiting the facilities in order to gain access. Failure to produce your membership ID when visiting the facilities will deny you the right to make use of the facilities as a member (although you may make use of the facilities as a casual user, subject to payment of the prevailing user fee, in which event this membership contract will continue to apply so far as applicable).

10.3 If you lose your membership ID or it becomes inoperable for any reason other than caused by us, we will issue you with a replacement membership ID subject to:

10.3.1 you producing such forms of identification as we reasonably require; and

10.3.2 payment of the current membership ID fee.

10.4 Membership ID at all times remains our property. When your membership ends, the membership ID must be returned to us.

10.5 Your membership ID cannot be used by a third party and you must not allow any other person to use your membership ID. If you provide your membership ID to a third party for use, this will be treated as a contract breach and clause 21 will apply. We may also take appropriate action against the person who uses your membership ID.

11 Membership rights and duties

11.1 Your membership allows you to make use of all or some of the facilities, depending on your class of membership. Your rights as a member (and your right to make use of the facilities) are governed by your membership contract.

11.2 Your membership is personal to you and cannot be transferred or assigned, except as the law otherwise allows.

11.3 You must tell us as soon as practicable about anything that affects your membership (such as an existing medical condition or change in condition) and any changes to your postal address, email address, contact numbers and your chosen method of payment of membership fees.

11.4 Unless you engage in certain programs that we may run from time-to-time for the benefit of members and others, we may not offer you any exercise guidance. Our staff and contractors are not medically trained. They are not medically qualified to assess whether you and/or your guests are in good physical condition and can exercise without damaging health, safety, comfort or physical condition. If you or your guests are in any doubt, we strongly urge you to seek expert advice before starting an active or passive exercise program. You undertake any exercise at your own risk.

11.5 If you believe there is a risk to your health from partaking in any program or undertaking a fitness activity, you must tell us in writing. You must also tell us if your medical condition changes after you join.

11.6 You must:

11.6.1 make sure that you know how to exercise safely (you may ask us about the proper and safe use of the facilities and we will assist you to the extent we are qualified to do so); and

11.6.2 use your best endeavours to exercise safely.

11.7 We may, at our discretion, call for a medical certificate (at any time and from time-to-time during your membership period) that confirms that the use of the facilities or partaking in any program will not pose a serious health risk for you. If we do that, we may direct that you must not use the facilities or partake in programs until we receive that

medical certificate and that medical certificate is satisfactory to us in all respects, and you must follow that direction. You will not be responsible for membership fees for any period during which you are not permitted by us to use the facilities or partake in programs under this clause.

11.8 Subject to any written disclosure made to us, you promise us that during your membership:

11.8.1 you are in good physical condition;

11.8.2 you do not know of any medical or other reason why you cannot undertake active or passive exercise; and

11.8.3 your use of the facilities and programs will not damage your health, safety, comfort or physical condition.

11.9 You must not use the facilities while suffering from:

11.9.1 an infection;

11.9.2 a contagious illness;

11.9.3 a physical ailment, such as an open cut or sore; or

11.9.4 where there is any other risk, however small, to Glen Eira Leisure staff, other members or guests.

11.10 You are responsible for using our facilities and equipment correctly, including adjusting levels or settings on such equipment. If you are not sure how to operate any equipment, you must contact a Glen Eira Leisure staff member before you use it.

11.11 You are responsible for any damage to the facilities caused by you or your guests through any act or omission, whether negligent or otherwise.

11.12 If you act unreasonably, or break these terms and conditions or GESAC rules, we may warn you that you risk having your membership immediately cancelled. If you continue to behave in the same way, we may cancel your membership immediately.

11.13 We can cancel your membership without warning if you behave in a way that is risky or seriously inappropriate, such as:

11.13.1 threatening or harassing others;

11.13.2 damaging equipment;

11.13.3 using illegal or performance-enhancing drugs;

11.13.4 providing instruction to other members where you are not authorised by us to do so”

11.14 Any failure to comply with your membership contract may result in us taking action to restrict, suspend or terminate your membership in accordance with clause 21. We may also refer any relevant matter to the police, request that you leave the facility immediately and take legal action as considered appropriate.

12 Induction

12.1 New members are required to undertake an induction of Glen Eira Leisure’s facilities and the programs which are offered prior to making use of them. Attendance at induction is your responsibility and we are not liable for any consequences resulting from your failure to attend.

12.2 At the induction or otherwise as set out in these membership terms, you must inform us if you are aware of anything that could put you at risk by making use of the facilities or partaking in any program. We will rely on you to make proper disclosure of any such matters.

13 Lockers and personal items

13.1 Subject to availability and if included in your membership class, we will provide you with a locker to use at the facilities as part of your membership.

13.2 The locker is only available for use for temporary storage of personal items whilst you make use of the facilities or participate in a program.

13.3 You must produce your membership ID to be eligible for the use of a locker under this clause.

- 13.4 Subject to any rights you may have under the *Australian Consumer Law*, we do not accept responsibility and are not liable for damage to or loss of any of your belongings at the facilities, irrespective of whether or not those belongings are stored in a locked locker.

14 Programs

- 14.1 We offer a number of different programs. Unless specifically included in your membership class, programs such as massage and personal training do not form part of your entitlements as a member and will be subject to a separate charge if utilised.
- 14.2 The fee payable for any program may vary from time-to-time during the period of your membership, at our discretion. If you wish to take part in a particular program you will need to talk to us first.
- 14.3 We may, at your request, develop a specific fitness program for you, in which case the following provisions will apply:
- 14.3.1 you must meet (by pre-arranged appointment) with one of our qualified staff and answer questions that we reasonably consider to be relevant to the development of a fitness program for you;
 - 14.3.2 we will subsequently recommend a fitness program to you;
 - 14.3.3 you accept that our staff carry no medical qualifications and we cannot accept liability or responsibility for any injury or incapacity or other loss you may suffer from following the fitness program that we devise; and
 - 14.3.4 you will follow the fitness program at your sole and absolute risk.
- 14.4 You acknowledge that persons conducting programs may not be our employees and may be independent contractors who we engage or have rights to make use of the facilities for the purpose of providing a program. We refer you to clause 16.
- 14.5 We may make changes where necessary to the Group Fitness timetable that may add or subtract classes based on the needs of the business. At all times every effort is made to utilise a red flag system. Changes to class offerings does not result in members obtaining a right to a discount or any other benefit or to terminate the membership contract under clause 5.6.

15 Risks and liability

- 15.1 Subject to any consumer guarantees you have under Part 3–2 of the *Australian Consumer Law*, we give you no warranty or assurance that use of the facilities or participation in any program might reasonably be expected to achieve any result that you may intend, whether that result is made known to us or not.
- 15.2 To the extent permitted by law, we are not liable to you for any loss, damage, claim or expense (loss) whatsoever suffered or that may be suffered by you, including but not limited to property loss or damage, personal injury and death, as a result of or in connection with the use of the facilities, this membership contract or your attendance at the facilities, except to the extent such loss is caused or contributed to by the negligent acts or omissions of us, our employees or our agents.
- 15.3 Subject to the *Australian Consumer Law*, you agree that we will not be responsible for any indirect or consequential loss that you might suffer and you expressly release and discharge us from any claim or demand for such loss.
- 15.4 For the avoidance of doubt but without limitation, we are not liable for indirect or consequential loss of the following nature: lost profits, revenue or opportunities; loss of goodwill or loss of reputation.
- 15.5 By entering into the membership contract, you acknowledge the above and agree to use the facilities at your own risk.

16 Outside providers

- 16.1 Contractors and tenants may provide some services at the facilities, such as personal training, physiotherapy and other therapies, massage and catering and food services.

If you make a claim because of something a contractor or a tenant has or has not done, your claim should be brought against that provider, whether you have paid them or not. We will have no liability or responsibility for the acts or omissions of any contractor or tenant and you release us and hold us harmless from any claim resulting from an act or omission of a contractor or tenant who is not an agent of Council.

17 Voluntary suspension of membership

- 17.1 Upfront memberships of three (3), six (6), or 12 months (with the exception of Swim School) will have 14, 14, and 28 days, respectively, of suspension allowances. The minimum suspension period is 14 consecutive days.
- 17.2 Swim School upfront memberships of three (3) months have 14 days of suspension allowances. The minimum suspension period is seven (7) consecutive days.
- 17.3 You may voluntarily suspend your membership, with the exception of Swim School, for periods between 14 consecutive days and six (6) consecutive months in each calendar year during your membership period. Where a voluntary suspension period starts on a day other than a payment day, we will make a pro rata adjustment to your membership fee and, if applicable, credit to you any part of your membership fee paid for a period beyond the date on which your voluntary suspension period commences. Where you voluntarily suspend your membership in accordance with this clause:
- 17.3.1 we will not charge you a suspension fee, provided the period of suspension does not exceed 28 days within the calendar year; and
- 17.3.2 we will charge you a suspension fee for each day in excess of 28 days during the calendar year for which your membership is voluntarily suspended.
- 17.4 Swim School can be suspended only in multiples of seven (7) consecutive days at any one time. A maximum of eight (8) weeks suspension is permitted in any calendar year. Suspension for up to four (4) weeks is available for use only during the specified no lesson period, and suspension for an additional period up to four (4) weeks can be obtained at any other time during the calendar year. The specified no lesson periods will be advertised in the Swim School newsletter and on the GESAC website. Where you voluntarily suspend your membership in accordance with this clause:
- 17.4.1 we will not charge you a suspension fee; and
- 17.4.2 all of your membership entry entitlements will be suspended during the suspension period.
- 17.5 To voluntarily suspend your membership you must:
- 17.5.1 request (on or before the proposed date of suspension) that your membership be voluntarily suspended by one of these ways:
- (a) complete an electronic suspension request at the facility;
 - (b) complete a suspension request via Glen Eira Leisure's website www.gesac.com.au or
 - (c) mail us your suspension request in writing by registered post, if you do not wish to use the other options (but your request will not be effective unless we acknowledge receipt of it in writing); and
- 17.5.2 ensure that all membership fees have been paid up to the date on which the period of voluntary suspension begins.
- 17.6 If you wish to extend the length of a voluntary suspension (whether before or after it has commenced), you must give notice to us the day of or prior to the date that the extension is to commence. You must do this by completing a suspension request form as described in clause 17.5.1.
- 17.7 We will not claim payment of membership fees during a period of voluntary suspension, however suspension fees may be payable as set out in this clause 17.
- 17.8 Any period of voluntary suspension taken during a minimum membership period will not be counted in determining whether the minimum membership period has been reached and we will extend the dates accordingly.
- ## 18 Missed Swim School
- 18.1 If you miss any Swim School membership lessons, you may be entitled to a partial credit of the membership fees. Where:
- 18.1.1 a minimum of two (2) and maximum of four (4) consecutive lessons have been or will be missed due to medical reasons;

18.1.2 a written application for credit has been received by us within four (4) weeks of the last of the missed lessons;
and

18.1.3 a medical certificate is provided to us together with the application for credit;

a pro rata credit, up to a maximum of 50 per cent of the membership fee paid, will be issued, which may be applied against future membership fees for Swim School only. A cash refund will not be given.

19 Cancelling your membership during membership period

19.1 This clause 19 does not apply to hold-over memberships — please see clause 20.

19.2 Subject to the following clauses, you can request to cancel your membership by one of these ways:

19.2.1 complete an electronic cancellation form at the facility;

19.2.2 complete a cancellation request via Glen Eira Leisure's website www.geleisure.com.au or

19.2.3 mail us your cancellation request in writing by registered post if you do not wish to use the other options (but your request will not be effective unless we acknowledge receipt of it in writing).

19.3 In addition to any rights you may have under law, you can cancel your membership during your membership period if:

19.3.1 you become sick or incapacitated. You must provide us with a certificate from a qualified medical practitioner stating that you cannot exercise or partake in any activities offered by Glen Eira Leisure for either six (6) months, or
the remainder of your term, whichever is shorter;

19.3.2 we make changes to your membership contract that adversely affect you (see clause 5.6); or

19.3.3 you request in writing that we cancel your membership because you no longer wish to be a member of Glen Eira Leisure.

19.4 Early termination fees.

19.4.1 If we accept your request to cancel under clause 19.2, our acceptance will be subject to the following conditions (which, by making a request under clause 19.2, you accept):

19.4.1.1 you will pay, by way of cancellation fee:

(a) your full membership fee (calculated on a pro rata basis, if necessary) for:

- the period up to and including the day on which we communicate our acceptance of your cancellation request to you; and
- a further period of 28 days following the day we receive your request; and

(b) 30 per cent of your membership fee for the remaining balance of your membership (calculated on a pro rata basis), starting on the day that immediately follows the 28 day period referred to in clause 19.4.1(a); and

19.4.1.2 the cancellation fee will be deducted on the final direct debit payment along with any other fees owing. Where for any reason the payment is not made due to no fault by us, the termination of the membership remains valid and we will seek payment from you.

19.5 We may, in our absolute and unfettered discretion, waive all or part of the cancellation fee or any other sum payable to us under clause 19.4 in special circumstances that you notify us of in writing.

19.6 You can also cancel your membership if we breach our contract obligations in a material way and we do not fix that material breach in a reasonable time after you have told us about it in writing. You need to give us four (4) weeks' notice in writing, using one of the ways to cancel outlined in clause 19.1. We will not charge a cancellation fee for cancellation under this clause.

20 Cancelling your membership — soft expiry and hold-over members

20.1 If you wish to cancel your soft expiry contract at the end of the minimum period and not become a hold-over member, you need to give us four (4) weeks' written notice in advance before the end of your minimum term contract. If we do not receive notice, you will automatically become a hold-over member upon the expiration of the minimum term and clause 22 will apply to your membership.

- 20.2 Once you become a hold-over member, you can cancel your contract by giving us four (4) weeks' written notice in advance at any time.
- 20.3 Notice under this clause can be given by any of the means outlined in clause 19.2. You must pay membership fee during the four (4) week notice period and you cannot voluntarily suspend your membership during the notice period.

21 Contract breaches

- 21.1 If:
- 21.1.1 you fail to pay your membership fee (or any instalment of your membership fee) when payment is due or under an agreed plan we may limit or restrict your access to the facility until such amount is paid. We prefer to discuss this with you before taking action and will contact you prior to any restrictions being put in place. If this matter cannot be reasonably resolved, we may:
- (a) suspend your membership until the membership fees are paid or an acceptable repayment plan agreed; or
 - (b) cancel your membership; or
- 21.2 you otherwise breach your membership contract we may:
- (a) do nothing and clause 24.2 will apply;
 - (b) suspend your membership and clause 21.3.1 will apply; or
 - (c) cancel your membership and clause 21.3.2 will apply.
- 21.3 If you make default and:
- 21.3.1 we elect to suspend your membership:
- (a) we will determine the period of your suspension in our absolute discretion which will be referable to the nature of the default;
 - (b) you will not be required to pay a membership fee for the period of your suspension;
 - (c) if default continues or re-occurs following a suspension period, we may suspend your membership again in accordance with the provisions of this clause or cancel your membership in accordance with clause 21.3.2; and
- 21.3.2 we elect to cancel your membership, clause 20.3 will apply as if you had made a cancellation request that we accepted.
- 21.4 If we terminate your membership under this clause 21, we have the right to refuse to accept any further membership application from you at our absolute discretion. Where we terminate your membership for a failure to pay membership or other fees, acceptance of any further membership application will be on the condition that any fees owing have been repaid in full.

22 Hold-over members

- 22.1 If you become a hold-over member following the expiration of your membership period (see clause 20.1), you will be a member of Glen Eira Leisure on a month-to-month basis and these membership terms will continue to apply, so far as the context permits, for so long as you remain a hold-over member.
- 22.2 If you are a hold-over member you can cancel your membership in accordance with clause 20.2.

23 Protecting your privacy

- 23.1 When you join and during your membership, we will have access to personal, health and financial information including your photograph taken for membership purposes. We will only use, disclose or deal with your information in accordance with our privacy policy and legislative obligations.
- 23.2 You can obtain a copy of our *Privacy Policy*:
- 23.2.1 from the web: www.geleisure.com.au
 - 23.2.2 by email: info@geleisure.com.au or
 - 23.2.3 by post: Privacy officer, PO Box 42, Caulfield South VIC 3162.

24 Notices and waiver

24.1 Notices may be given and served under this membership contract as follows:

24.1.1 where we are the giver of the notice, by giving you the notice personally or by forwarding it to you (by electronic means or by post) at the addresses specified in the membership application; or

24.1.2 where you are the giver of the notice, by giving it to us at Glen Eira Leisure, by emailing us at info@gesac.com.au or by sending the notice by mail to Glen Eira Leisure Manager, PO Box 42, Caulfield South, VIC 3162. Confirmation or acknowledgement of receipt of your notice from us is essential if your notice is to have any effect.

24.2 If we do not enforce any of our rights under your membership contract at any time, it does not mean that we have waived those rights, no matter how long we wait.