

# HAMILTON ISLAND FITNESS CLUB

## CASUAL USE POLICY

### Terms and Conditions

#### 1. DEFINITIONS

- **ACL:** means the Australian Consumer Law in the CCA
- **Casual Use Register Form:** means the form you are required to sign prior to use of the Facilities and Services.
- **CCA:** the Competition and Consumer Act 2010 (Cth).
- **Club:** Hamilton Island Fitness Club.
- **Club Rules:** are the terms of the Fitness Club Policy
- **Essential Term:** a term of this Agreement that is so important you would not have signed the Agreement without it.
- **Facilities and Services:** includes Club premises and all exercise areas, bathrooms, equipment, weights, benches, machines, mats and any programs, products, classes and services that you may use.
- **HIE:** means Hamilton Island Enterprises Limited ACN 009 946 909.
- **Minimum Age:** the minimum age to become a Member and use the Facilities and Services and referred to in clause 3.
- **Pre-Exercise Questionnaire:** the questionnaire or other screening we may require you to answer before using the Facilities and Services.
- **Fitness Club Policy:** the rules that are referred attached to these terms and conditions.

#### 2. ACCESS:

Access to the Club is all hours, 7 days a week, subject to any restrictions herein. Staff will be available at the Club at the following times: Monday to Friday 7am to 5pm; and Saturday 9am to 1pm (Staffed Hours). Your use of the Club is not supervised. Outside of Staffed Hours, you can access the Club by using your room key.

#### 3. AGE ACCESS:

For safety and security reasons, the following age restrictions apply for use of the Club facilities and a parent/guardian must provide consent by attending the Club and signing the Casual Use Register Form and provide supervision in the Club:

- Below 14 years of age, no access to the Club.
- Aged 14 and 15 years may use cardio equipment only during Staffed Hours, excluding spa and sauna.
- Aged 16 and 17 years may use cardio equipment, weights, and group fitness classes, during Staffed Hours only, excluding spa and sauna.
- 18 years and above, full access.

#### 4. HEALTH AND SAFETY AND ACCEPTABLE CONDUCT

Your physical condition

- 3.1 Each time you use the 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. If unsure, you should not use the Facilities and Services until you have sought appropriate medical guidance and been given the go-ahead.
- 3.2 You agree to give us all relevant personal health and fitness information both before and during the course of any exercise program or other activity. You also agree to complete our Pre-Exercise Questionnaire if required. In some cases, responses you give will require that you get medical guidance before exercising. You acknowledge that pre-exercise or other screening is no substitute for medical advice and does not guarantee against injury or death.
- 3.3 You promise that information you give us will be true and accurate and not misleading in any way.
- 3.4 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 others using the Facilities and Services.

#### 5. PROPER USE OF EQUIPMENT

You must take care to use the Facilities and Services safely and properly. If you are ever not sure how to operate any equipment properly, you agree to ask Club staff first.

#### 6. FITNESS CLUB POLICY

- 5.1 Fitness Club Policy apply to everyone using the Facilities and Services. They are usually displayed in the Club and a copy is available at reception.
- 5.2 If you break any of the Fitness Club Policy rules we will respond in a way we consider fair and appropriate. For example, in less serious cases, we may give you a warning but in serious cases or where you have repeatedly broken Club Rules we may ban you from utilising the Facilities and Services.

#### 7. ILLEGAL PERFORMANCE ENHANCING OR OTHER ILLICIT SUBSTANCES

You acknowledge that the distribution or use of illegal or performance enhancing drugs is prohibited and promise that you will not use or distribute these substances in or near a Club.

#### 8. COMMERCIAL ACTIVITY

You acknowledge that engaging in any commercial or business activities in the Club, such as offering training services or selling goods in the Club is prohibited unless we grant you written permission to do so. If we do give you written permission, we can revoke this at any time.

#### 9. ACTION FOR RISKY OR INAPPROPRIATE CONDUCT

- 8.1 If you behave in a risky or seriously inappropriate way, for example, if you threaten or harass others, damage equipment, distribute or use illicit substances, or train other users without our authorisation, appropriate action will be taken. If your conduct causes us or another person costs, loss or damages you agree to pay for these.

#### 10. SECURITY

Club premises have CCTV security cameras recording 24-hours a day (except in bathrooms) and may have remote video guarding services. This system is used for security purposes but does not guarantee against harm. You should contact the Club if you have questions on this.

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### 11. EMERGENCIES

You must understand how emergency apparatus works and agree to use it only in an emergency. If you deliberately use emergency apparatus inappropriately, you agree to pay for any costs, loss or damages incurred because of this inappropriate use. An emergency response procedure displayed which must be followed in emergencies.

### 12. FOLLOWING DIRECTIONS

You agree to follow any reasonable direction of Club staff relating to health, safety or security matters or related matters.

### 13. PRIVACY

We will only collect personal information where the information is necessary for us to perform one or more of our functions or activities and in accordance with our Privacy Policy. For more information about how HIE collects, holds, uses and discloses your personal information refer to <https://www.hamiltonisland.com.au/privacy-policy>.

You authorise HIE to take, use and copy photographs and films of you whilst participating in the activities without objection or charge including commercial use thereof. You may notify HIE by speaking with a Fitness Club Attendant if this authorisation is not provided.

### 14. GENERAL CONSENT

By accepting these terms and conditions, you consent to us collecting, using, disclosing and dealing with your personal information in accordance with our privacy policy. In particular, you consent to the transfer and storage of your personal information outside Australia, and to the disclosure and use of your personal information. You can access our privacy policy at <https://www.hamiltonisland.com.au/privacy-policy>

### 15. OTHER SERVICES

There may be other services, including personal training services, offered at the Club by us, contractors, licensees and others which are offered separately and/or in addition to services provided by the Club. You will need to pay applicable fees directly to the providers of the services and agree to separate terms and conditions. We are not responsible for these third party provided services including fees or any associated costs claims or refunds, unless they are provided by us.

### 16. OUR LIABILITY TO YOU

Statutory guarantees

Under the ACL we guarantee that the services we supply: are provided with due care and skill; are reasonably fit for any purpose you have told us you are using the services for or told us you wish to achieve; and/or are supplied in a reasonable time. Under certain legislative provisions, however, we can ask you to accept some limitations to the ACL guarantees. By accepting these terms and conditions, you agree, to the extent allowed by section 139A of the CCA, to exclude or modify our liability to you for death or injury from our failure to comply with ACL guarantees. This exclusion does not apply if your death or injury is caused by our "reckless conduct" (as defined in the CCA).

### 17. OTHER IMPLIED TERMS

Nothing in these terms and conditions excludes, restricts or modifies any terms, conditions, warranties, guarantees, rights or remedies which cannot lawfully be excluded, restricted or modified. Otherwise, unless expressly included in these terms and conditions, all implied terms, conditions, warranties, guarantees, rights or remedies that can be lawfully excluded are excluded.

### 18. INDEMNITY

To the extent permitted by the law, you agree to release, indemnify and hold harmless, HIE and its current and former officers, employees, contractors, sub-contractors/consultants (including their respective employees and contractors) and agents against, from and in respect of all expenses, costs, liabilities, claims, actions, proceedings, damages, judgments and losses of any kind whatsoever (including but not limited to consequential and economic losses, property loss/damage and damages for injury, including personal injury and death) arising out of, caused by, attributable to or resulting from your use of any apparatus, facility, or service owned or operated by HIE except to the extent such expense, cost, liability, claim, action, proceeding, damage, judgement or loss arose out of, was caused by, attributable to or resulted from HIE's negligence or wrongful act or omission.

To the extent permitted by law the aggregate of HIE's liability to you is limited to an amount not exceeding the amount paid by you for use of any apparatus, facility, or service owned or operated by HIE.

Each indemnity in these terms and conditions is a continuing and independent obligation and survives the termination or expiry of these terms and conditions.

### 19. LOSS OF PROPERTY

You promise not to unnecessarily bring valuables into a Club and agree that it is not the obligation of the Club to look after unattended property.

### 20. YOUR RESPONSIBILITY FOR DAMAGE

You agree to pay for any loss or damage to the Club or the Facilities and Services caused by you or your guests through a willful, wrongful or negligent act.

### 21. COMPLAINTS AND FEEDBACK

If you have any concerns about the Facilities and Services, you should first raise it with Club staff.

If you are uncomfortable about approaching, or do not wish to approach Club staff, or are not happy with the response given, you may send a complaint to our corporate office by email to [corporate@hamiltonisland.com.au](mailto:corporate@hamiltonisland.com.au).

### 22. GENERAL LEGAL MATTERS

Unexpected events

We are not responsible if guests cannot use our Club because of an event caused by a natural force (such as a fire, flood or a cyclone) beyond our reasonable control.

### 23. SEVERABILITY

If a court decides that any part of these terms and conditions is or becomes illegal, void or unenforceable, that part is deleted.

### 24. WAIVER

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

### 24. APPLICABLE LAW

The law of the Queensland applies to this Agreement.

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### General Conditions of Entry and Club Rules

To assist us in maintaining a safe and comfortable environment for all members and staff, you are required to abide by the following conditions. Failure to abide by these conditions may result in the suspension or termination of your membership.

**ENTRY:** Entry will be refused or you may be requested to leave the Club if:

- You are using abusive or threatening language or behaving in a threatening way; or
- You are under the influence of drugs or alcohol; or you instruct other members when HIE has not authorised you to do so; or
- You behave in another way that is considered by HIE to be risky or seriously inappropriate.

**NON-SMOKING:** Our Club is a non-smoking facility. The smoking of cigarettes or electronic cigarettes (e-cigarettes or vapes) is strictly prohibited, including within 5m of the entrance.

**RELAXATION ZONES:** Sauna, spa and relaxation zone areas are available for male and female use and as such minimum standards of dress apply and swimwear must be worn. A towel must also be utilised.

**WET AREAS:** This includes the sauna or spa and normal spa safety rules apply for the safety and convenience of all users. Spa areas are not supervised and you use them at your own risk. You must shower prior to use of the spa or sauna. You must follow all signs and never run, dive or jump. No electrical equipment is to be used in or near the sauna or spa. You must be 18 years or older to use the spa and sauna. You must not use the spa or sauna if you have a medical condition which would be adversely affected. No food or drink may be consumed in the wet areas except for water.

**SUITABLE CLOTHES:** All members and guests must wear suitable clothes and enclosed sports shoes in any exercise areas, except for wet areas. We do not allow clothes with offensive images or inappropriate advertising.

**TOWELS:** You are required to use a clean towel when participating in classes and when exercising on gym equipment (including exercise mats) to maintain our hygiene and safety standards. You may be requested to cease training if you do not use a towel. Subject to availability, you may purchase a towel from reception. Towels are only available for hire by guest visitors.

**CAMERA USE:** You must not use cameras in our Club without our permission. Taking photos or videos of other members without their consent is a breach of our terms and conditions.

**PARKING:** You park in the Club's car park or on the Club premises at your own risk. To the extent permitted by law, we are not liable for any loss or damage to your vehicle or its contents.

**PERSONAL TRAINING:** Personal training services are available in the Club for an additional fee. Please contact your Club for more information or see the personal training noticeboard available in the Club and make contact with one of the personal trainers directly. Please note only authorised HIE registered personal trainers are permitted to train members in the Club. Conducting personal training within the Club without being an approved personal trainer may result in the cancellation of your membership.

### USE OF EQUIPMENT

You are required to return equipment to its original state when you have finished, including:

- You must spray / disinfect and wipe down equipment after use
- Return weights and bars to their rack.
- Unload plates from machines and bars.
- Return equipment to its storage location in group fitness classes.
- For the safety of you and others, please follow all equipment operating and safety instructions on the equipment.
- If you are not sure of correct use or operation of equipment please seek assistance from a team member.
- Where functional training zones are available please seek assistance from a personal trainer if you are unfamiliar with the equipment or its safe and appropriate use.

As a courtesy to other members, please use a clean towel when using equipment and keep phone calls to a minimum. Phone use in the change rooms is prohibited.

If you are unsure on how to safely use any of the equipment, or if you have any queries about any of the above rules, please speak to one of our staff members.

A copy of the Fair Trading (Code of Practice – Fitness Industry) Regulation 2003 is available at the front desk. You can request this at any time.