

# SWIM SCHOOL TERMS & CONDITIONS OF MEMBERSHIP

1Life 2018/19

## PART 1

### 1. DEFINITIONS

IN THESE CONDITIONS unless there is anything in the context inconsistent with them the following expressions shall have the following meanings:

"Agreement" means the agreement between the Company and the Student on these conditions (including the Application Form) as may be amended from time to time in accordance with its terms;

"Applicant" means anyone who completes an Application Form in accordance with Part 2. For the avoidance of doubt where the Student is a Minor the term "Applicant" shall include the Minor his or her parent;

"Application" means an application made pursuant to an Application Form;

"Application Form" means the application form in the form online or hard copy part of the Agreement;

"Centre" means the pool or leisure centre indicated on the Application Form to which the Student is given Rights pursuant to the Agreement;

"Company" means 1Life Management Solutions Limited (company number 2566586) or authorised third party agents;

"Consents" means all necessary consents permissions and licenses required for the use of the Centre and/or regulating its use;

"Course" means a course of swimming lessons on the terms of the Agreement;

"Earliest End Date" means the earliest end date indicated on the Application Form in the case of this agreement;

"Fees" means any fees payable by the Student pursuant to the Agreement and indicated on the Application Form;

"Force Majeure" means any cause affecting the ability of the Company to provide the Rights arising from or attributable to any other acts, events, omissions, incidents or accidents beyond the reasonable control of the Company;

"Group" means participation in Lessons in a group comprising of 3 or more Students;

"Lessons" means swimming lessons given by the Company to the Student in accordance with the Agreement;

"Membership" means membership of Swim School pursuant to an Agreement;

"Membership Card" means such form of documentary evidence of Membership as the Company shall from time to time provide to Students;

"Membership Period" means the period during which the Student is entitled to exercise the Rights in accordance with the terms of the Agreement;

"Membership Start Date" means the membership start date indicated on the Application Form;

"Minimum Payment Period" means either: -

"Payment for 4 calendar months; or Payment for the duration of the Course whichever is the shorter";

"Minor" means a person under the age of 16 years;

"Payment Terms" means the frequency and dates of payment of Fees as indicated on the Application Form;

"Private" means participation in Lessons where the ratio between Teachers and Students is not greater than 1:2;

"Regulations" means any regulations imposed by a third party having the appropriate authority to do so from time to time in respect of the use of the Centre including without limitation any Relevant Legislation;

"Relevant Legislation" means any Act of Parliament and any European Community

Legislation or decree or any other legislation or decree having effect of law of the United Kingdom and reference to "Relevant Legislation" shall include any statutory modification or re-enactment for the time being of any enactment

and any orders or regulations permissions or directions made or issued under it or any enactment replaced by it or deriving validity from it;

"Rights" means the rights to receive Lessons at and from the Centre for the Membership Period;

"Student" means an Applicant who has submitted an Application Form and been accepted as a Student and "Students" shall have a corresponding meaning. Where the Applicant includes a Minor and only the Minor is taking Lessons the term "Student" shall refer only to the Minor;

"Swim School" the provision of swimming lessons operated by the Company at and from the Centres;

"Teacher" means any suitably qualified person appointed by the Company to provide Lessons;

and "VAT" means Value Added Tax or any other tax for the time being replacing the same.

## PART 2

### 2. APPLICATION PROCEDURES & CONDITIONS

2.1. By signing the Application Form the Applicant applies for the Rights indicated on the Application Form upon and subject to the terms and conditions of the Agreement.

2.2. For the purposes of the Application:

2.2.1. the Applicant authorises the Company to use the information provided in the Application Form to ascertain the creditworthiness of the Applicant (including but not limited to making a credit scoring application to a credit reference agency, bank account check) and to deliver that information to the Company's bankers or authorised third party agents;

2.2.2. the Applicant agrees that he or she shall disclose to the Company or its bankers or third-party agent authorised by the Company in writing such information as the Company or its bankers or authorised third party agents may request (and if the Applicant fails to disclose such information promptly the Company may reject the Application);

2.2.3. the Applicant declares that all the information given in the Application Form and otherwise disclosed for the purpose of the Application is true and correct; and

2.2.4. the Applicant authorises the Company to deliver all or any of the information in the Application Form and otherwise disclosed for the purpose of the Application or the Agreement to any third party to whom the Company may assign, transfer or licence its interest in the Agreement and/or the Centre.

2.3. The Company will consider and notify the Applicant as soon as reasonably practicable after receipt of the completed Application Form whether or not it accepts an Application. The Company may accept or reject applications in its absolute discretion.

2.4. The Applicant agrees to be bound by the terms of the Application and the terms and conditions of the Agreement.

2.5. The Applicant acknowledges that the Applicant has not been induced to make the Application by any promise, statement or representation inconsistent with or contrary to the Application and/or the Agreement and that the Application Form and the Agreement constitute the entire agreement between the Applicant and the Company in respect of the Membership of the Student.

2.6. Nothing in the Agreement affects the statutory rights of an Applicant.

## PART 3

### 3. RIGHTS

3.1. On acceptance of an Application an Applicant shall be deemed a Student and as such, the Student and the Company shall be bound by the terms and conditions of the Agreement (including the Application Form) which shall be legally binding for the duration of the Membership Period.

3.2. The Company shall, subject to and in return for the payment of the Fees by the Student pursuant to Part 4, and subject to these conditions use its reasonable endeavours to provide Lessons to the Student throughout the Membership Period.

## PART 4

### 4. TERMS

#### 4.1. Fees

4.1.1. Fees are payable without deduction or set off of any kind, strictly in accordance with the Payment Terms.

4.1.2. Fees are paid monthly by direct debit

4.1.3. Direct Debit payments will be collected by Debit Finance Collections PLC. All Direct Debit related communications will come from 1Life.

4.1.4. If the Company is unable to collect Fees for any reason the Company reserves the right to refuse

attendance to Lessons until all arrears of Fees and any other sums payable under the Agreement are paid in full by the Student.

4.1.5. In the event that the Student fails to pay any Fee or other sums due under the Agreement on the due date, we reserve the right to attempt further collection of unpaid fees without notification, together with a fee to cover the reasonable administration expenses incurred by The Company or its authorised third-party agent.

4.1.6. Fees are payable to the Company whether or not the Student attends the Lessons or any of them.

4.1.7. All Fees are inclusive of VAT. In the event of any change to the rate of VAT charged from time to time the Company reserves the right to apply any changes to the Fees at its discretion.

4.1.8. If a Member joins in the middle of a calendar month, the Member will be required to pay pro-rata Fees for that month.

4.1.9. Fees are payable without deduction or set off of any kind, strictly in accordance with the Payment Terms.

4.1.10. The Company reserves the right to review the Fees and other sums payable by the Member pursuant to the Agreement. Any change in Fees will be notified to Members no less than one calendar month from the date any variation is to take effect. In no circumstances will any variation take effect retrospectively.

#### 4.2. Medical Conditions

4.2.1. The Application Form will include a medical questionnaire within which the Student will be required to provide full disclosure concerning the medical conditions listed. It is the responsibility of the Student to notify the Company immediately if at any time during the Membership Period the Student suffers any of the medical conditions listed in the Application Form. On receipt of such notice the Company or the Student may terminate the Agreement in which event the provisions of clause 13.2 shall apply.

4.2.2. Any Student suffering from any infectious ailment or condition will not be allowed to participate in any Lesson. Notwithstanding any other provision of the Agreement it is the responsibility of the Student and his or her parent (where the Student is a Minor) to ensure that the Student is fit and well enough to participate in Lessons. The Company will not accept liability for any infection passed by one Student to another.

#### 4.3. Valuables

The Company will not accept liability for the loss of or damage to any personal effects brought to any Lesson.

#### 4.4. Attendance at Lessons

4.4.1. Students, parents, guardians, siblings or all other associates, must observe the Centre's entry rules whilst in the Centre.

4.4.2. Students must be on the poolside no less than 5 minutes before the commencement of each Lesson and (in the case of Minors) should be collected from the pool no more than 5 minutes after the Lesson has ended. No Minor will be released until they are collected by an adult.

4.4.3. Parents or other responsible adults must remain within the Centre for the duration of the Lesson.

4.4.4. Certain Centres may be under the control of third parties who will always have control over entry to those Centres. Students will not be entitled to any refund of Fees if they are refused entry to any Centre for any reason.

#### 4.5. Missed Lessons & Pool Closures

4.5.1 No refund or "catch-up" Lesson will be offered where a Student fails to attend or is refused permission to attend any Lesson.

4.5.2 If the event of a pool closure, customers will be provided with a "catch up" lesson to replace the missed session.

4.5.3 If a pool closure is likely to affect swimming lessons on the long term, every effort will be made to offer space at another pool within the area.

#### 4.6. Teachers

4.6.1. The Company cannot guarantee Lessons will be conducted by one Teacher throughout the Course or Membership Period.

4.6.2. All Teachers are ASA or STA qualified.

#### 4.7. Timing of Lessons

Students will be guaranteed a day and time for their Lesson for each week. The Company reserve the right to change the day and time of Lessons.

#### 4.8. Behaviour

In the event a Student, his or her parent or guardian, refuses to obey an instruction from a Teacher or behaves in an unruly manner towards a Teacher or other Student,

or causes damage, the Student shall not be permitted to continue with Lessons and the Agreement will be terminated immediately.

- 4.9. Condition of pool premises  
Whilst the Company will make all reasonable efforts to ensure that the condition of the changing rooms, washing facilities, the pool and poolside area are in suitable condition, the Company does not accept liability for any injury to a Student unless caused by the negligence of the Company, its servants or agents.

4.10. Rules and Regulations

- 4.10.1. Students must shower before entering the pool.  
4.10.2. Students should wear bathing caps, for reasons of hygiene & safety and where it is mandatory to do so.  
4.10.3. Students should not enter the pool area unless a Teacher is present.  
4.10.4. No food or drink must be consumed in the pool area.

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- 4.10.5. Recording, filming or photographic equipment including mobile phones with camera facilities may not be used for any reason.

**PART 5**

**5. MEMBERSHIP CARD**

- 5.1. Students will be issued with a Membership Card.  
5.2. All Membership Cards remain the property of the Company and must be returned to the Company when Membership ends for any reason.  
5.3. Membership Cards must be presented to Centre staff on reception on each visit to the Centre. If Membership Cards cannot be produced for any reason Students will only be permitted to access the Centre and exercise the Rights if they provide reasonably acceptable proof of identity.  
5.4. Lost Membership Cards must be reported to the Company immediately. The Company reserves the right to charge a reasonable fee for replacement of a Membership Card.

**PART 6**

**6. OBLIGATIONS OF THE STUDENT**

The Student shall:

- 6.1. comply with all rules and regulations made by the Company in connection with the Centre as published in the reception area of the Centre from time to time and must comply with all applicable Regulations and all Relevant Legislation in exercising the Rights;  
6.2. not do anything which may cause a nuisance or annoyance to the Company, the Centre or to any other Students in the exercise of the Rights, as determined in the absolute discretion of the Company;  
6.3. make all payments due by the Student to the Company under the Agreement on the due date and pay any interest and administration fees that may be chargeable by the Company;  
6.4. not cause any damage to any part of the Centre or any fixtures, fittings, furnishings or equipment contained therein and indemnify the Company for the costs of any damage which is so caused by the Student;  
6.5. not to allow any litter to be deposited on any part of the Centre;  
6.6. at all times when at the Centre behave in a proper and respectable manner;  
6.7. notify the Company of any change of address or other contact details of the Student from time to time within 7 days of such change;  
6.8. indemnify the Company, its officers, employees and representatives against all losses, costs, claims, demands, proceedings or any other liability howsoever incurred by the Company as a result of any breach by a Student of any of the Student's obligations contained in the Agreement or otherwise as a consequence of a Student's negligent act(s) or omission(s); and  
6.9. in signing the Agreement, warrant that the Student has not, relied upon any written or oral representation made to the Student by the Company, its officers, employees or agents or any descriptions, illustrations or specifications contained in any catalogues and any publicity material provided in respect of the Rights, which the Student acknowledges are intended to convey a general description of the services and facilities offered by the Company.

**PART 7**

**7. THE COMPANY'S OBLIGATIONS**

The Company shall:

- 7.1. use all reasonable endeavours to procure that the Rights are made available to the Student in accordance with the terms of the Agreement; and  
7.2. provide the Student with all such information as it may reasonably require concerning Membership and the exercise of the Rights by the Student.

**PART 8**

**8. STUDENT'S PERSONAL INFORMATION**

- 8.1. The Company undertakes to the Student to hold and use all and any information held by the Company in respect of the Student in accordance with the requirements of all Relevant Legislation (including, without limitation, the Data Protection Act 1998).  
8.2. Without prejudice to clause 8.1 the Company will store for a reasonable time copies of all documents and information provided by the Student as part of their Membership Application. The information stored will include information relating to any medical conditions disclosed by the Student which will be kept confidential and will not be revealed to anyone else.  
8.3. The Company may from time to time use personal information to update Students about new services the Company offers. The Company reserves the right to contact the Student by post, e-mail, SMS or MMS. The Student should indicate when completing the Application Form whether or not they wish to receive this information.

**9. VARIATION**

- 9.1. The Company may from time to time vary the terms of the Agreement if it is obliged to do so by any applicable Regulations and/or Relevant Legislation or if it is necessary to do so in the best interests of the Centre and the proper management of the Centre and the Rights (as determined in the absolute discretion of the Company).  
9.2. Save where it is not lawful or reasonably practicable to do so, variations will only be effective upon giving to the Student no less than fourteen days' notice in writing of such variation.  
9.3. Any variation to Membership Terms and Conditions, pricing changes or operational updates shall be displayed in Centre.

**10. LIMITATIONS**

- 10.1. The Company accepts no liability for injury loss or damage suffered by the Student unless caused by the negligence of the Company, its servants or agents.  
10.2. The Company shall not be liable to the Student in the event that the Rights are not available for use by reason of an event of Force Majeure or other reason outside the reasonable control of the Company.  
10.3. The Company shall not be liable to the Student for cancellation of any Lesson for any reason whatsoever. The Student acknowledges that Lessons may be organised by parties other than the Company.  
10.4. Insofar as the Company incurs any liability to the Student whether for breach of contract, breach of statutory duty, negligence (apart from death or personal injury) or in any other way) and such liability is not excluded by any other term of the Agreement, the Company shall not be liable for any financial or consequential loss incurred by the Student and in all respects the Company's maximum aggregate liability to the Student shall not exceed Fees paid by the Student during the calendar year in which liability is incurred.  
10.5. The exercise of the Rights including, without limit, entry into and use of the Centre by the Student or (where relevant) their children and dependants will at all times be at the sole risk of the Student (save where the exclusion or restriction of liability is prohibited by Relevant Legislation).  
10.6. Nothing in this Agreement shall exclude or limit the Company's liability for death or personal injury caused by its negligence, fraudulent misrepresentation or any other liability that cannot be limited or excluded under English Law.

**PART 11**

**11. NOTICES**

- 11.1. Any notice required to be served by either party on the other party pursuant to the Agreement shall be in writing either delivered personally at Centre or on website or sent by email or post. In the case of the Student, notices shall be sent to the address or email address specified on the Application Form or such other address as may from time to time be notified by the Student to the Company in writing. In the case of the Company or authorised third party agent of the Company, notices from the member should be sent to its registered office (or such other address as has been notified by the Company to the Student in writing). Any such notice shall be deemed properly served two days after the date of posting in the case of personal delivery or posting notices.

**PART 12**

**12. CANCELLATION**

- 12.1. Students who pay Course Fees in advance may cancel Membership at any time but will not receive any refund of Course Fees for any reason.  
12.2. Subject to payment during the Minimum Payment Period, Students who pay fees by direct debit may cancel Membership giving no less than one calendar months' notice.

**PART 13**

**13. TERMINATION**

- 13.1. The Company is entitled to terminate Membership if:  
13.1.1. the Student commits a serious or repeated breach of the Agreement which, if capable of remedy is not remedied within 7 days of being notified of the breach;  
13.1.2. any Fee remains unpaid for 30 days;  
13.1.3. the Student provides the Company any information in the Application Form which, had the Company known the information to be false, would have reasonably affected its decision to offer or continue to offer Membership.  
13.2. In circumstances to which the Agreement is terminated pursuant to clause 4.2.2 the Company may, in its discretion:  
13.2.1. refund Course Fees for the unexpired period of any Course; or  
13.2.2. cancel any direct debit forthwith.

**14. THIRD PARTY RIGHTS**

- 14.1. No third party including for the avoidance of doubt any child or dependant of a Family Student shall have any rights under the Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.

**15. GENERAL TERMS AND EXECUTION**

- 15.1. The Company and the Student warrant to each other that they have the necessary power and authority to execute, deliver and perform the Agreement and become bound by it.  
15.2. Each of the provisions of the Agreement shall be separate and severable. Should any provisions be held by a court of competent jurisdiction to be invalid or unenforceable it shall be severed from the Agreement and the remaining provisions of this Agreement shall continue in full force and effect.  
15.3. No waiver by a party of any breach or default by any other party of the Agreement is effective unless reduced to writing and signed by the party making such waiver in addition to which any such waiver does not constitute a waiver of any other continuing breach or default under this Agreement.  
15.4. Nothing in or arising out of the Agreement is to be taken as constituting a partnership, joint venture or agency between the parties.  
15.5. Any failure by the Company to enforce any of its right at any time and for any reason shall not be deemed a waiver by the Company of its rights under the Agreement.  
15.6. The Company may assign or transfer the Agreement without the consent of the Student provided that the Student's rights under the Agreement and the Student's statutory rights shall not be prejudiced or affected by such transfer.  
15.7. The Agreement is subject to English Law.