

## **STANDARD TERMS AND CONDITIONS FOR MEMBERSHIP OF THE VIRGIN LIFE CARE SERVICES (FOR INDIVIDUAL MEMBERS)**

### **1. Introduction:**

Please read through these terms and conditions carefully. To become a member of the Virgin Life Care Services and/or to enjoy the use and benefit of the Virgin Life Care products and services, you must accept to be bound by these terms and conditions. You acknowledge that you have read and understood these terms and conditions, and have agreed to be bound by them a) by signing this agreement; or b) by using your PIN number either at the HealthZone or to access your LifeZone on the Virgin Life Care website; or c) by clicking on the "I AGREE" button when using the HealthZone or when accessing your LifeZone on the Virgin Life Care website for the first time, or when applying for membership online (whichever occurs first).

### **2. Definitions:**

In this agreement:

2.1 "application date" means the date on which you complete the membership application (telephonically, on-line or in writing);

2.2 "this agreement" means the terms and conditions set out below and the membership application which you have completed;

2.3 "the Corporate" means any health insurer, life insurer, medical insurer, medical aid scheme, health care management company and/or any loyalty/reward programme associated with any of the foregoing, with which you and Virgin Life Care each have a contractual relationship;

2.4 "HealthZone(s)" means health and fitness data capturing and measuring stations, the locations of which will be displayed on the Virgin Life Care website from time to time;

2.5 "LifeZone" means your personal folder on the Virgin Life Care website;

2.6 "membership application" means the application form which you have completed (through your verbal instructions, if telephonically, or on-line or in writing) to become a member of the Virgin Life Care Services;

2.7 "membership charges" means the charges, if any, which you must pay to Virgin Life Care as set out in the membership application which you have completed or as otherwise determined by Virgin Life Care from time to time;

2.8 "membership date" means the date on which you agree to be bound by these terms and conditions (as set out in 1 above);

2.9 "PIN number" means the personal identification number allocated to you by Virgin Life Care;

2.10 "services" means the use which forms part of the Virgin Life Care Services;

2.11 "Virgin Life Care" means Virgin Life Care (Pty) Limited;

2.12 "Virgin Life Care Services" means the health and fitness product which you have applied for on your membership application.

### **3. Membership:**

From the membership date you will be a Virgin Life Care member and will become entitled to receive the Virgin Life Care product and services ("the use") on the terms and conditions set out in this agreement.

### **4. Duration:**

This agreement commences on the application date (notwithstanding the membership date) and continues for a fixed period of 12 (twelve) months thereafter. In the event that after the expiration of this agreement, Virgin Life Care continues to provide you with any services (whether the Virgin Life Care product and services or otherwise), the same shall, in the absence of a written agreement to the contrary, be subject to the terms and conditions set out in this document.

### **5. Undertakings by you:**

5.1 When you are required to provide Virgin Life Care with details and personal information from time to time (including in the membership application) you undertake to do so and warrant that they will be true, accurate and complete. You accept that the details and information which you have supplied and will supply to Virgin Life Care will be relied upon by Virgin Life Care to provide you with the use and for statistical and research purposes.

5.2 In addition to the terms and conditions in this agreement, you undertake to be bound by the privacy policy posted on the Virgin Life Care website and, when using the website, the terms of use of the website.

5.3 You undertake not to use, in any circumstances, the trademarks, logos, designs, trade names, copyright, know-how and patents relating to Virgin Life Care or the Virgin Life Care Services. If you do use any of these intellectual property rights, you will be liable for any damages that may be suffered, and you may also be liable to criminal prosecution. You indemnify Virgin Life Care for

every single consequence flowing from your use of these intellectual property rights.

### **6 No liability and indemnity:**

6.1 You acknowledge and accept that you become a member of the Virgin Life Care Services and use the Virgin Life Care product, services (including advice), equipment, software and facilities, including participation in the exercise plan ("the use") at your sole risk. It is up to you to determine whether medical clearance is required to participate in the Virgin Life Care Services and your failure to do so will be at your sole risk. Similarly following the nutrition plan forming a part of the use is at your sole risk and it is your responsibility to ensure that you do not consume food/drinks to which you may have an adverse reaction. You agree that you shall have no claim against Virgin Life Care, its directors, employees, subcontractors, agents, representatives, consultants, HealthZone hosts, licencees and/or licensors ("Virgin Life Care associates") for any loss, damages (whether direct, indirect, general, special, incidental, punitive or consequential damage), harm, injury, death and/or expense which may be suffered by you or by any third party, from any cause whatsoever, howsoever arising, in connection with your membership and/or the use and/or otherwise..

6.2 You also acknowledge and accept that neither Virgin Life Care nor any persons (incorporated or unincorporated) associated with, employed by or otherwise representing Virgin Life Care (including its subsidiary and/or holding companies and/or other persons under the same control as Virgin Life Care) ("the Virgin Life Care associates") have made no representations to you in regard to the Virgin Life Care Services, any of their competencies or in regard to the safety and/or quality of any of the equipment and/or software supplied or used by Virgin Life Care in connection with your membership and/or the use. You waive any common law warranties that may be applicable in respect of Virgin Life Care's supply of its products and equipment.

6.3 You indemnify Virgin Life Care and the Virgin Life Care associates and hold them harmless against any claims which may arise from any loss, death, harm, expense, liability, damage and/or injury to person or property which may be suffered by you, your spouse, dependant(s) or any other third party whatsoever as a consequence of any act or omission of Virgin Life Care and/or the Virgin Life Care associates, whether negligent or not arising and whether arising out of your membership and/or the use, and/or from any other cause whatsoever, howsoever arising. If Virgin Life Care and/or the Virgin Life Care associates are found to be liable, such liability will never exceed the lesser of the amount that you have paid to Virgin Life Care in the 12 months immediately preceding the date the liability arose or the proceeds available from any insurance procured by Virgin Life Care in relation to the Virgin Life Care Services (if any).

6.4 These provisions are binding on your estate, heirs, executors, administrators, parents and guardians.

### **7 Personal Information and no liability:**

7.1 Virgin Life Care recognises that you wish your personal information to remain private. Virgin Life Care will not willfully disclose personally identifiable information to any party other than the Corporate, and only if there is an arrangement between Virgin Life Care and the Corporate allowing this. It is up to you to ascertain whether Virgin Life Care and the Corporate have such an arrangement and to advise Virgin Life Care and the Corporate if you object to the disclosure to the Corporate of personally identifiable information. You hereby authorise Virgin Life Care to: a) make your personal data available in terms of this clause; b) collect, collate and process your personal data; c) use your personal data for statistical, research and related purposes and d) provide third parties with your data, once it has been depersonalised so that it is not linked to you, for statistical, research and related purposes.

7.2 Whilst Virgin Life Care will take all reasonable steps to ensure and maintain the security and privacy of your personal information, you acknowledge that maintaining complete security and privacy of your personal information is not possible and you agree that you will have no claims against Virgin Life Care in the event of a failure of security or privacy.

7.3 Should your relationship with the Corporate terminate, it is your responsibility to advise Virgin Life Care, so that Virgin Life Care can remove your personal information from the data provided to the Corporate.

### **8. Payment**

8.1 You shall pay to Virgin Life Care the charges set out on the membership application and any other amounts which may be due to Virgin Life Care in terms of this agreement. Should you fail to pay any amount due to Virgin Life Care on due date, then Virgin Life Care is entitled to charge interest on the outstanding amount at maximum rate permissible at law from time to time, calculated from due date to date of payment. Virgin Life Care has the right to appropriate all payments first to any costs incurred by Virgin Life Care in pursuing the outstanding amount, thereafter to interest which has accrued and thereafter to the arrear payment. All amounts which you are required to pay to Virgin Life Care shall be paid without deduction or set-off and free of exchange and bank

charges. Unless otherwise agreed in writing, any consideration payable to Virgin Life Care for shall be payable without deduction or set-off. Virgin Life Care shall in its discretion be entitled at any time on written notice to you to such effect to amend its payment terms.

8.2 You may not withhold payment due to Virgin Life Care for any reason, nor will you be entitled to a reduction in charges or any credit should the use be unavailable for a period.

#### **9. Breach:**

Should you fail to pay any amount on due date or fail to observe or perform any of the other terms and conditions of this agreement, then Virgin Life Care shall be entitled, if it so decides, to claim immediate payment of all amounts payable in terms of this agreement, even if such amounts are not due and/or immediately suspend your entitlement to membership of the Virgin Life Care Services until such time as all outstanding amounts have been paid and/or to terminate this agreement immediately. Whichever remedy Virgin Life Care may select, it may still claim damages against you and exercise any rights against you which it has in law. Virgin Life Care has no obligation to notify you which of the actions it intends to take against you.

#### **10. Cession and Delegation:**

You may not cede any of your rights nor delegate any of your obligations under this agreement to any person. Virgin Life Care shall be entitled to cede any of its rights and delegate any of its obligations to any third party, in its discretion.

#### **11. Termination:**

11.1 This agreement may only be terminated in terms of clause 4 above or clause 9 above.

11.2 Should you purport to terminate this agreement otherwise than as aforesaid, you will remain liable to pay Virgin Life Care all amounts due in terms of this agreement, and Virgin Life Care will not be required to refund to you any prepayments made prior to the date of termination.

11.3 Upon termination you will no longer be entitled to receive any benefits from Virgin Life Care.

11.4 Termination of your relationship with Virgin Life Care for any cause shall not release you from any liability which at the time of termination has already accrued to Virgin Life Care or which thereafter may accrue in respect of any act or omission prior to such termination.

11.5 To the extent that that this agreement constitutes an installment sale agreement as contemplated in Section 1(1) of the National Credit Act (No. 34 of 2005) ("the NCA"), you shall be entitled to terminate this agreement in terms of Section 121 of the NCA within 5 (five) business days after the application date, in which event Virgin Life Care shall be obliged to comply with its obligations in terms of clause 121 of the NCA.

#### **12. Domicilium:**

12.1 You choose domicilium citandi et executandi for all purposes under this agreement, as the physical address, fax number and e-mail address, which you have specified in the membership application.

12.2 All notices in terms of this agreement shall be in writing.

#### **13. General:**

12.3 If a notice is delivered by hand, it will be deemed to have been received at the time of delivery. If a notice is transmitted by facsimile or e-mail, it shall be deemed to have been received on the first business day following transmission.

13.1 You consent to the jurisdiction of the Magistrate's Court in South Africa in respect of any proceedings that may be bought by Virgin Life Care against you arising out of this agreement, provided that Virgin Life Care is entitled to institute such proceedings in the High Court if it so chooses.

13.2 If Virgin Life Care so decides, it may also refer any dispute between you and it to arbitration (in accordance with the rules of the Arbitration Foundation of South Africa), to which you hereby consent.

13.3 This agreement constitutes the entire agreement between Virgin Life Care and you relating to your membership of the Virgin Life Care Services and Virgin Life Care shall not be bound by any undertakings, representations, warranties, promises or the like not recorded herein. Any changes to this agreement must be in writing and may take the form of notifications by Virgin Life Care to you.

13.4 Virgin Life Care's documentation and records shall be prima facie proof of the volume of any goods or the nature of any services supplied to you and you shall bear the onus of disputing the accuracy thereof.

13.5 In the event that Virgin Life Care procures and/or nominates the rendering of services to you by any third party, Virgin Life Care shall not be liable for any breach, default or failure by such third party.

13.6 All consideration payable by you to Virgin Life Care is quoted and provided for exclusive of value added tax and unless expressly provided to the contrary, all or any value added tax payable on any vatable supply hereunder shall be paid by you.

13.7 A certificate by any director of Virgin Life Care, whose appointment authority need not be proved, shall be prima facie proof of the amount of your indebtedness to Virgin Life Care for purposes of obtaining summary judgement or provisional sentence.

13.8 In the event of Virgin Life Care instructing its attorneys to recover monies from you, you shall be liable for and shall pay all legal costs incurred by Virgin Life Care on an attorney/client scale, inclusive of collection commission.

13.9 The terms and conditions shall be governed by the laws of South Africa.

13.10 Virgin Life Care shall not be liable to you in the event that Virgin Life Care is prevented from complying with any of its obligations to you by any act of God (which for the purposes hereof shall mean war, political riots, civil commotions, insurrection, sabotage, legal prohibitions or restrictions) or any other cause whatsoever beyond the control of Virgin Life Care, howsoever and whensoever arising.

13.11 No latitude, indulgence, consent or forbearance or any other similar act by Virgin Life Care in enforcing any provisions of this document shall constitute a variation or novation of this document or a waiver of or estoppel in respect of any of its rights hereunder.

13.12 Any provision expressed for the benefit of Virgin Life Care shall constitute a stipulatio alteri in favour of the Virgin Life Care Associates.

13.13 The rule that an agreement will be interpreted against the party responsible for the drafting, and any similar rules of interpretation shall not apply to this document and you waive any right it has to rely on such rules. The eiusdem generis rule shall also not apply and whenever a provision is followed by the word "including" and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.