

Revo Fitness HIITFIT Membership Agreement

Terms & Conditions

Version Date: 23 March, 2020

Unless otherwise agreed and stated in your Membership Form, this is an ongoing Membership Agreement. The agreement will continue until either you or we terminate it in accordance with this HIITFIT Membership Agreement.

Pursuant to the terms of your Direct Debit Authority, your Membership Fees will continue to be debited from your credit card or account until we cancel the arrangement by notifying the DD Provider following termination of this HIITFIT Membership Agreement. If you terminate the Direct Debit Authority in other than as permitted under this HIITFIT Membership Agreement, you may be liable to us for damages for breach of contract.

This HIITFIT Membership Agreement is subject to a Cooling Off Period in accordance with clause 8.2(a). You understand that you can terminate this agreement in writing without reason within this Cooling Off Period, and you will be refunded all amounts paid by You pursuant to this HIITFIT Membership Agreement, less administration costs. After this period ends, you acknowledge that you will be bound by the terms of this HIITFIT Membership Agreement.

The Cooling Off Period commences on the date and time you enter into this HIITFIT Membership Agreement.

These terms of use apply to Your use of the HIITFIT Training Program, the Revo Fitness app and all features, content and additional products and services which may be provided to you in conjunction with that purpose (**Services**). Capitalised terms used herein and not otherwise defined shall have the meaning as set forth in clause 10 (**Definitions**).

By using the Services, including registering to use the HIITFIT Training Program, you acknowledge that you have read and understood our Policies (including our Privacy Policy which details how we collect, store, use and disclose Personal Information), and this HIITFIT Membership Agreement.

You warrant that You are 18 years or older and accept that you are entering into an agreement which is legally binding upon you and any minor on whose behalf you register for use of the Services. You further warrant that you have the authority to accept this HIITFIT Membership Agreement on your own behalf and to act on behalf of any minor on whose behalf you register for use of the Services.

1 HIITFIT TRAINING PROGRAM

1.1 Licence to HIITFIT Training Program

- (a) Revo Fitness grants to You a personal, non-exclusive, non-transferable, non-assignable, non-sublicensable licence to access and use the HIITFIT Training Program in the Territory and during the Term as set forth in this HIITFIT Membership Agreement; and
- (b) Prior to accessing the Services (including the HIITFIT Training Program) for the first time, You must ensure that You have read, and consent to be bound by, this HIITFIT Membership Agreement and Policies (including our Privacy Policy).

1.2 New Versions and Features

Revo Fitness will provide You with access to all new features of the HIITFIT Training Program that Revo Fitness makes generally available to other users. If Revo Fitness charges its other users a fee for such additional features of the HIITFIT Training Program, You shall only be entitled to such additional features upon payment of an agreed additional fee to Revo Fitness. You acknowledge that Revo Fitness has no obligation to improve, update or further develop the HIITFIT Training Program for You or Revo Fitness's customers generally.

1.3 Access to the HIITFIT Training Program

- (a) You must select a unique user identification name and password for access to and use of the Services (**User ID**).
- (b) You must notify Revo Fitness immediately if Your User ID is lost or stolen, or compromised in any way. Revo Fitness will, within twenty four (24) hours after notification that Your User ID has been lost or stolen, or compromised in any way, suspend access to the HIITFIT Training Program through Your User ID until a new ID can be issued.
- (c) You acknowledge that You are fully responsible for all liabilities incurred through use of Your User ID (whether lawful or unlawful) and that any acts or omissions under Your User ID will be deemed to have been undertaken by You. Revo Fitness will not be responsible for any liability to You arising out of or in connection with such acts or omissions.

1.4 Availability of HIITFIT Training Program

- (a) You acknowledge and agree that there will be circumstances where the Services (including the HIITFIT Training Program) may be unavailable or its availability may be limited. This may be due to factors including (without limitation):
 - (i) routine or emergency maintenance;
 - (ii) updates, upgrades or other development activity; or
 - (iii) technical malfunctions of the underlying software, equipment, services or infrastructure (e.g. telecommunications connectivity, network congestion or delays) of Revo Fitness or third party providers.
- (b) Revo Fitness may limit or suspend the availability of the Services (including the HIITFIT Training Program) to You if, in Revo Fitness's reasonable opinion:

- (i) You breach this HIITFIT Membership Agreement, including Your obligation to pay the Membership Fees as and when they are due; or
- (ii) limitation or suspension is necessary for reasons of public safety, security or maintenance of the HIITFIT Training Program, interoperability, data protection or to perform work that is necessary for operational or technical reasons.

1.5 Changes to the HIITFIT Training Program

Revo Fitness reserves the right to change or modify the Services (including the HIITFIT Training Program) at any time. If the change materially adversely affects the functionality of the Services (including the HIITFIT Training Program), Revo Fitness will give You not less than 30 days written notice of the change. If You do not wish to continue using the HIITFIT Training Program as a result of any such material adverse change, You may terminate this HIITFIT Membership Agreement by notice in writing to Revo Fitness not more than 30 days after Revo Fitness's notice to You of the change.

1.6 Third Parties

- (a) Revo Fitness may use third party software, hardware or services (including hosting services) in providing the HIITFIT Training Program and may change its providers from time to time.
- (b) Revo Fitness will use reasonable efforts to ensure use of such third party software, hardware or services does not result in diminution of the quality of the HIITFIT Training Program, but will not have any responsibility for any such diminution arising from a defect or failure of such third party software, hardware or services.

2 DATA AND CONTENT
Your Data You are solely responsible for Your Data complying with all related applicable laws and regulations (including Applicable Privacy and Data Protection Laws), and for obtaining all necessary consents and licences from third parties to the collection, processing, use and storage of Your Data, including any processing or use by Revo Fitness in connection with the HIITFIT Training Program. You further acknowledge and agree that Revo Fitness is not liable for any loss or damage arising from Your failure to comply with this clause.

- (b) Revo Fitness will not in any circumstances be responsible or liable for any loss of Your Data, or any consequential loss or other indirect or special damage suffered by You or any third party in respect of any data or content which is lost, damaged or corrupted.

2.2 Rights in Your Data

- (a) You grant to Revo Fitness, and Revo Fitness accepts, an irrevocable, non-exclusive, royalty-free, perpetual, sub-licensable, worldwide licence to use, modify or adapt, or authorise the use, modification or adaptation of and have used, modified or adapted on Revo Fitness's behalf, Your Data to the extent necessary to provide the Services to You under this HIITFIT Membership Agreement.
- (b) You represent and warrant that You own or have obtained all the rights necessary to grant to Revo Fitness the licence to Your Data as set out in clause 2.2(a). By submitting or causing the submission of Your Data to Revo Fitness through the HIITFIT Training Program, You acknowledge and agree that Revo

Fitness may create its own ideas that may be, or may obtain submissions that may be, similar or identical to Your Data. You agree that You shall have no recourse against Revo Fitness for any alleged or actual infringement or misappropriation of any proprietary or other right in Your Data.

2.3 Right of Removal

Revo Fitness shall have the right (but not the obligation) in its sole discretion to reject, remove or delete any of Your Data that violates this HIITFIT Membership Agreement or any applicable law or regulation, or that Revo Fitness otherwise considers to be inappropriate, unlawful or not conforming with its standards or policies. Revo Fitness will notify You as soon as practicable following any such rejection, removal or deletion.

2.4 Usage Data

Revo Fitness will own all right, title and interest in and to any anonymised, aggregated data derived from Your use of the Services, including the HIITFIT Training Program (**Usage Data**).

3 RESTRICTIONS ON USE

You acknowledge and agree as follows:

- (a) You may only use the Services (including the HIITFIT Training Program) as expressly permitted under this HIITFIT Membership Agreement and for Your own non-commercial purposes;
- (b) The Services (including the HIITFIT Training Program) are provided only for Your benefit and not for the benefit of any other third party; and
- (c) You shall not:
 - (i) sublicense, transfer, sell, rent or otherwise provide access to the Services (including the HIITFIT Training Program) to any third party;
 - (ii) interfere in any manner with the Services (including the HIITFIT Training Program) or any services associated therewith, including by uploading any virus, worm, Trojan horse, Easter egg, time bomb, spyware, or other computer code, file or program that is potentially harmful or invasive, or may or is intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment;
 - (iii) reproduce, disclose, decompile, disassemble, reverse engineer or modify the HIITFIT Training Program, or any aspect of any of the foregoing, or be involved in development or commercialisation of any product or service which competes with the HIITFIT Training Program or any aspect thereof;
 - (iv) access or attempt to access any data on the HIITFIT Training Program which is not owned by you or provided on Your behalf;
 - (v) remove, alter or obscure any proprietary notice of Revo Fitness or its affiliates, partners, suppliers or the licensors, including any notice of copyright or trade mark, advertisements, or other notices displayed in connection with the HIITFIT Training Program from time to time;

- (vi) submit or transmit through the HIITFIT Training Program any material, or otherwise engage in any conduct that:
 - (A) is contrary to law (including Applicable Privacy and Data Protection Laws), defamatory or libellous or is contrary to moral standards; or
 - (B) victimises or degrades, or is threatening or harassing to any individual or group of individuals;
 - (C) infringes a third party's Intellectual Property Rights;
 - (D) breach any applicable laws in the jurisdiction in which You are accessing the Services (including the HIITFIT Training Program), including Applicable Privacy and Data Protection Laws; or
- (vii) permit, encourage or take any action to facilitate any person to do any of the foregoing.

4 MEMBERSHIP FEES AND PAYMENT

4.1 Membership Fees

- (a) During the Term, You will pay to Revo Fitness the Membership Fees monthly in advance by using the DD Provider Direct Debit Authority payment method pursuant to clause 4.2.
- (b) You acknowledge that at any time, we may change the DD Provider. You acknowledge, agree and consent to Revo Fitness assigning or novating all existing payment agreements to a new payment provider and providing your Personal Information (including but not limited to your payment details) to the new payment provider in accordance with this HIITFIT Membership Agreement and our Privacy Policy which is available on our website in order to continue to provide you with the Services.

4.2 DD Provider

- (a) You must sign a Direct Debit Authority with the DD Provider in favour of Revo Fitness which enables direct debit payments from an approved credit card or bank account in the amounts and frequency set out in your Membership Form.
- (b) You must ensure that your nominated credit card or bank account is able to accept direct debits and have sufficient funds available to pay the Membership Fees and any other applicable fees on each applicable Direct Debit Date.
- (c) You acknowledge that the contract that you enter into with the DD Provider (or such other direct debit service provider in accordance with clause 4.1(b) as applicable) is a separate contract to this HIITFIT Membership Agreement and that any problems or issues that you have with the Direct Debit Authority should be raised directly with DD Provider.
- (d) You must keep the Direct Debit Authority in place until after this HIITFIT Membership Agreement has been terminated.

- (e) You acknowledge that you will be liable to continue paying the Membership Fees to Revo Fitness in accordance with this HIITFIT Membership Agreement until this HIITFIT Membership Agreement has been terminated.
- (f) It is Your responsibility to ensure the Direct Debit Authority is cancelled upon termination or expiry of this HIITFIT Membership Agreement.

4.3 Dishonoured and Overdue Payments

- (a) Revo Fitness will endeavour to notify you of any dishonoured or overdue payments by informing you via the contact information provided by you in your Membership Form, or any change in details notified to us by You in writing from time to time.
- (b) A dishonour fee of \$21.00 will be charged to you in the event a payment is dishonoured. Additional fees and charges may also be incurred by You for any dishonoured payments by DD Provider or Your financial institution pursuant to your agreements with them.
- (c) Any dishonoured payment remains due and payable by You and will be re-debited to your account if not paid to us by other means.
- (d) If any Membership Fees or other amounts owing to Revo Fitness under this HIITFIT Membership Agreement remain outstanding for more than 14 days, Revo Fitness may:
 - (i) charge interest on all outstanding amounts at the lower of 3% per annum above the Reserve Bank of Australia 'Cash Rate' target or the maximum permitted by law, calculated from the date such amounts were due until the date that payment is received by Revo Fitness; and
 - (ii) contact a debt collection agency to collect all outstanding amounts.

4.4 Change of Payment Details

- (a) If You close the credit card account or bank account which is subject to the Direct Debit Authority, it is Your responsibility to provide the DD Provider with a replacement Direct Debit Authority over another approved credit card or bank account prior to the next applicable Direct Debit Date.
- (b) Failure to provide a replacement Direct Debit Authority will constitute a breach of this HIITFIT Membership Agreement.

4.5 Changes to Charges

- (a) We reserve the right to change your Membership Fees at any time. We agree to provide you with at least 30 days' written notice of such change via email.
- (b) The new Membership Fees will be effective 60 days after the date we provide notice under clause 4.5(a),

after which period you authorise Revo Fitness and the DD Provider to debit the new Membership Fees from your account. If you do not agree to the new Membership Fees, you may terminate this Membership Agreement in accordance with clause 8.4.

5 WARRANTIES

- (a) You represent and warrant that each of the following statements is true and correct and will be true and correct during the Term:
 - (i) You have the power to enter into and perform Your obligations under this HIITFIT Membership Agreement; and
 - (ii) you are in good physical condition and have considered any necessary medical advice prior to embarking on a fitness program or exercise routine;
 - (iii) if you are suffering from an illness, injury or long-term medical condition, or if you have not visited a fitness facility or gym for a period of greater than 6 months as a result of an illness or injury, you will provide to Revo Fitness a medical certificate from your doctor permitting use of a fitness facility prior to utilising the HIITFIT Training Program; and
- (b) You acknowledge that Revo Fitness does not provide medical advice in any way in connection with your use of the HIITFIT Training Program and you utilise the HIITFIT Training Program at your own risk.
- (c) You warrant and represent to us that:
 - (i) all information you have provided to us in connection with the HIITFIT Training Program is true, accurate and complete in all respects and is not misleading or deceptive in any way; and
 - (ii) You will update us as soon as practicable following any change in your circumstances.

6 PROPRIETARY RIGHTS

6.1 Ownership

- (a) As between You and Revo Fitness, You agree that all right, title and interest in and to the HIITFIT Training Program (including all Intellectual Property Rights therein) is owned exclusively by Revo Fitness. Other than as expressly set forth in this HIITFIT Membership Agreement, Revo Fitness does not grant to You any rights or licences of any kind, and all implied rights and licences are hereby expressly excluded.
- (b) Subject to clauses 2.2(a) and 6.1, as between You and Revo Fitness, Revo Fitness acknowledges and agrees that all right, title and interest in and to Your Data (including all Intellectual Property Rights therein), is owned exclusively by You.

6.2 Feedback

You grant to Revo Fitness, a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual licence to use, share, commercialise, exploit and incorporate into the HIITFIT Training Program any suggestions, enhancement requests, recommendations or other feedback provided by You relating to the HIITFIT Training Program.

7 INDEMNIFICATION; DISCLAIMER; LIMITATION OF LIABILITY

7.1 Indemnification

You agree to defend, indemnify, hold harmless, and release Revo Fitness and all employees, volunteers, agents and officers thereof from and against all claims, liabilities, injury, loss or damage you may suffer or incur, including to a third party (including any minor or other person for whom you are responsible), arising from out of or in connection with your use of the Services, including for personal injury. Further, you agree not to bring or assert or allow to be brought or asserted any claim, demand, cause of action, proceeding, action or the like against Revo Fitness or any employee, volunteer, agent or officer thereof in contravention of this clause.

7.2 Disclaimer; Limitation of liability

- (a) You acknowledge that there are some significant and inherent risks involved in any physical activity and you assume all such risks, and agree that you are using the Services (including the HIITFIT Training Program) voluntarily and entirely at your own risk.
- (b) Revo Fitness does not represent that use of the Services (including the HIITFIT Training Program) will be secure, timely, available, uninterrupted, bug-free or error-free or that the Services (including the HIITFIT Training Program) will meet Your requirements or that all errors in the Services (including the HIITFIT Training Program) will be corrected or that the Services (including the HIITFIT Training Program) will be free of viruses or other harmful components. The HIITFIT Training Program is provided 'as is' and Revo Fitness hereby disclaims all other warranties, express or implied. You assume all responsibility for determining whether the HIITFIT Training Program and the information generated thereby is accurate or sufficient for your purposes.
- (c) In no event shall Revo Fitness be liable to You for any incidental, consequential, punitive, special or indirect damages of any type or kind arising out of or in connection with this HIITFIT Membership Agreement, however caused, whether from breach of agreement, tort (including negligence) or any other legal cause of action and whether or not the party has been advised of the possibility of such damages.
- (d) Revo Fitness's maximum aggregate liability to liability arising out of or in the connection with this HIITFIT Membership Agreement shall in no case exceed the fees paid by You to Revo Fitness in the 12 months preceding the occurrence of the event giving rise to such liability.
- (e) Terms, conditions, warranties and guarantees implied by law (including the *Competition and Consumer Act 2010* (Cth)) may apply to this HIITFIT Membership Agreement to the extent required by those laws (**Non-Excludable Guarantees**). Nothing in this HIITFIT Membership Agreement restricts, excludes or modifies, or purports to restrict, exclude or modify, any Non-Excludable Guarantee. Where Revo Fitness is permitted to limit Your remedy against it for breach of a Non-Excludable Guarantee, Revo Fitness's liability to You for breach of that Non-Excludable Guarantee is limited, at Revo Fitness's election, to:
 - (i) in the case of goods: replacement of the goods or the supply of equivalent goods, repair of the goods, payment of the cost of replacing the goods or acquiring equivalent goods, or payment of the cost of having the goods repaired; and

- (ii) in the case of services: either resupplying the services or payment of the cost of having the services supplied again.

8 TERM, TERMINATION AND EFFECTS

8.1 Term

This HIITFIT Membership Agreement shall commence on the Commencement Date and continue until terminated by either party (**Term**).

8.2 Termination during Cooling Off Period

- (a) This HIITFIT Membership Agreement is subject to a Cooling-Off Period equal to the greater of 48 hours after the date and time at which You sign this HIITFIT Membership Agreement, or the cooling-off period prescribed under the Regulations (**Cooling Off Period**).
- (b) This Cooling-Off Period applies to new members only and excludes renewals, renewals of cancelled memberships or additional memberships.
- (c) To terminate this HIITFIT Membership Agreement during the Cooling-Off Period you must complete a Cancellation Form within the timeframe specified in 8.2(a) and send it to us at the address for notice set forth in clause 10.11.
- (d) If you terminate this HIITFIT Membership Agreement during the Cooling-Off Period we will refund all monies (if any) paid by you prior to termination, less any reasonable administration fees or fitness service fees that may be charged in our discretion and in accordance with the Regulations, within 14 days.

8.3 Termination for Permanent Sickness or Physical Incapacity

- (a) If you suffer a permanent sickness or physical incapacity preventing you from using the HIITFIT Program you may request immediate cancellation of this HIITFIT Membership Agreement by completing a Cancellation Form and sending it to us to the address for notices set forth in clause 10.11, along with a medical certificate from a qualified medical practitioner.
- (b) Upon receiving the Cancellation Form and medical certificate, we will cancel your Direct Debit Authority and refund any payments made in advance from the date we received the Cancellation Form.

8.4 Termination Due to Other Reasons

- (a) Cancellation of your Membership for reasons other than those described in clauses 8.2 and 8.3 is subject to the following conditions:
 - (i) you may send us a request to terminate this HIITFIT Membership Agreement by completing the Cancellation Form and delivering a scanned copy to us at the address for notices set forth in clause 10.11.
 - (ii) Revo Fitness will confirm receipt of your termination request within 7 days of receipt of a Cancellation Form and we will terminate Your HIITFIT Membership Agreement within 30 days after receipt of the signed Cancellation Form. We are not responsible for lost Cancellation Forms, so please contact us if you have not received a response from us within 10 days after posting your Cancellation Form;

- (iii) your Membership Fees will be due and payable during the 30 day notice period; and
- (iv) you will have the same access rights to HIITFIT Program under this HIITFIT Membership Agreement during that 30-day period.

8.5 Termination by Revo Fitness

- (a) Revo Fitness may terminate this HIITFIT Membership Agreement at any time during the Term;
 - (i) for convenience upon not less than 30 days' written notice to you; or
 - (ii) immediately by notice in writing to You if You breach clause 1.1 (Licence), 3 (Restriction on Use), 6.1 (Proprietary Rights); or
 - (iii) on 5 days' notice to you if you are in breach of any other term of this HIITFIT Membership Agreement.
- (b) Without limiting Revo Fitness's rights under clause 8.5, Revo Fitness may suspend this HIITFIT Membership Agreement (and all access to and use of the HIITFIT Training Program through Your account) if:
 - (i) any amount owing to Revo Fitness under this HIITFIT Membership Agreement remains outstanding;
 - (ii) Revo Fitness reasonably suspects You have engaged in any illegal activity;
 - (iii) Revo Fitness has formed a genuine concern for your health and/or safety based on reasonable grounds; or
 - (iv) on any other ground, acting reasonably.

8.6 Effects of Termination

- (a) If Revo Fitness terminates this HIITFIT Membership Agreement pursuant to clause 8.5, your Membership Fees will be due and payable until the next Direct Debit Date.
- (b) Upon termination or expiration of this HIITFIT Membership Agreement for any reason:
 - (i) all amounts owing by You to Revo Fitness become immediately due and payable;
 - (ii) all rights, including rights of access to the HIITFIT Training Program granted in this HIITFIT Membership Agreement will immediately cease, and Revo Fitness will cease making the HIITFIT Training Program available to You;
 - (iii) You must promptly discontinue all use of the HIITFIT Training Program and Your User ID; and
 - (iv) You must promptly discontinue all use of Your User ID.

- (c) Sections 2.2 (Rights in Your Data), 2.4 (Usage Data), 3 (Restriction on Use), 4 (Indemnification), 8.6 (Effects of Termination), 6 (Proprietary Rights), 9 (Privacy) and 10 (General Provisions) will survive expiration or termination of this HIITFIT Membership Agreement.

9 PRIVACY

- (a) You acknowledge that during the process of entering into this HIITFIT Membership Agreement with us, You will be required to provide us with certain Personal information. We will only use Your Personal Information for the purposes of giving effect to this HIITFIT Membership Agreement and otherwise in accordance with our Privacy Policy. Further, you warrant that the use of any Personal Information by Revo Fitness as contemplated by this HIITFIT Membership Agreement will not result in a breach of Applicable Privacy and Data Protection Laws.
- (b) You acknowledge that in entering into the Direct Debit Authority agreement with DD Provider in accordance with clause 4.2 (or any other direct debit service provider as applicable) you will be required to provide the DD Provider with certain Personal Information which will be handled in accordance with the Privacy Policy of DD Provider.

10 GENERAL PROVISIONS

10.1 Complaints Handling

If you have any complaints regarding our service or any other issue regarding this HIITFIT Membership Agreement please contact us at the address for notices set forth in clause 10.11. We will:

- (a) make a record of your complaint and inform you that we have received and recorded your complaint within 7 days; and
- (b) undertake every reasonable effort to resolve your complaint quickly and fairly.

10.2 Novation to another service provider

We reserve the right to transfer, assign, sell or novate your membership, including this HIITFIT Membership Agreement, to another service provider on the same or substantially similar terms to your existing membership under this HIITFIT Membership Agreement where doing so does not result in diminution of the quality of the Services under this HIITFIT Membership Agreement (including the HIITFIT Training Program).

10.3 Independent contractors

The parties are independent contractors with respect to each other. Nothing in this HIITFIT Membership Agreement shall be construed as creating an employer-employee relationship, a partnership, agency relationship or a joint venture between the parties.

10.4 Assignment

You may not assign this HIITFIT Membership Agreement (by operation of law or otherwise) without Revo Fitness's prior written consent (which consent Revo Fitness may grant or withhold in its sole discretion).

10.5 Exclusivity

The rights granted to You to use the HIITFIT Training Program are personal and non-exclusive. Nothing shall prevent Revo Fitness from providing the HIITFIT Training Program or any other product, software, goods or services to any third party.

10.6 Modifications

Except as otherwise set forth in this HIITFIT Membership Agreement, Revo Fitness may modify this HIITFIT Membership Agreement by providing notice in writing to You and posting the modified terms on the Revo Fitness Website. You will be deemed to have accepted the modified terms unless You give Revo Fitness written notice of non-acceptance within fourteen (14) days after such notice from Revo Fitness.

10.7 Governing Law

This HIITFIT Membership Agreement and any disputes arising out of or in connection with this HIITFIT Membership Agreement, shall be governed by and construed in accordance with the laws of the State of Western Australia. The parties unconditionally submit to the non-exclusive jurisdiction of the courts located in or exercising jurisdiction in the State of Western Australia to adjudicate any disputes arising out of or in connection with this HIITFIT Membership Agreement.

10.8 Severability

In the event that any provision of this HIITFIT Membership Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction:

- (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law; and
- (b) the remaining terms, provisions, covenants and restrictions of this HIITFIT Membership Agreement shall remain in full force and effect.

10.9 No waiver

No waiver of any breach of any provision of this HIITFIT Membership Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof and no waiver shall be effective unless made in writing and signed by an authorised representative of the waiving party.

10.10 Entire Agreement

The foregoing constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements or communications, including any quotations or proposals submitted by the parties.

10.11 Notices

A notice, demand, consent, approval or communication under this HIITFIT Membership Agreement (**Notice**) must be in English and duly authorised by the sender and sent by email to:

- (a) if addressed to Revo Fitness: info@revofitness.com; and
- (b) if addressed to You: at the email address provided to Revo Fitness on account sign-up,

as varied by any Notice given by the recipient to the sender prior to sending.

10.12 Execution

This HIITFIT Membership Agreement may be executed or adopted online, or in counterparts which, taken together, shall be regarded as one and the same instrument.

10.13 Interpretation

In this HIITFIT Membership Agreement, except where the context otherwise requires: headings are inserted for convenience only and do not affect the interpretation or construction of this HIITFIT Membership Agreement; the singular includes the plural and vice versa; a reference to a clause or schedule is to a clause of, or schedule to, this HIITFIT Membership Agreement, and a reference to this HIITFIT Membership Agreement includes any schedule; another grammatical form of a defined word or expression has a corresponding meaning; a reference to a party is to a party to this HIITFIT Membership Agreement; a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity; a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions; and a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this HIITFIT Membership Agreement or any part of it.

10.14 Definitions

In this HIITFIT Membership Agreement:

Applicable Privacy and Data Protection Laws means the following:

- (a) the privacy, security, and data protection laws, rules, and regulations of any jurisdiction which apply to the collection, storage, use or disclosure of Personal Information under this HIITFIT Membership Agreement, and all then-current industry standards, guidelines, and practices with respect to privacy, security, and data protection; and
- (b) the applicable privacy policies of either party as well as policies and guidelines applicable to any of the foregoing provided by one party to the other in written form from time to time.

Cancellation Form means the cancellation form required to cancel your membership which is located at www.revofitness.com.au/hiitfit-on-demand/.

Cooling-Off Period has the meaning given to that term in clause 8.2.

Direct Debit Authority means the direct debit payment method you authorise the DD Provider to establish which is located at www.revofitness.com.au/hiitfit-on-demand/.

Direct Debit Date means the date Your Membership Fees are deducted from your account as specified in your Membership Form.

DD Provider means the direct debit service provider used by Revo Fitness and stated on the Membership Form and/or Direct Debit Authority.

HIITFIT Membership Agreement means the terms and conditions governing the use of the HIITFIT Training Program as set forth in this document or communicated to the You from time to time.

HIITFIT Training Program means the current version of the Revo Fitness self run functional training circuit program known as HIITFIT and all proprietary APIs, software, innovations, methodologies and technology which are embodied in the platform or used by Revo Fitness to provide the software platform.

Intellectual Property Rights means all intellectual property rights, including:

- (a) patents, copyrights, trade secrets or rights to have information kept confidential, rights in circuit layouts, database rights, design rights, trade marks, service marks (in each case, whether registered or unregistered, registrable or unregistrable throughout the world), and domain names; and
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a).

Membership Fees mean the fees payable by You in connection with Your access to the HIITFIT Training Program each month, or part thereof.

Membership Form means the form which is located at www.revofitness.com.au/hiitfit-on-demand/.

Personal Information has the meaning given to that term in the *Privacy Act 1988* (Cth).

Policies means our Privacy Policy and any other policies implemented by Revo Fitness from time to time and notified to you.

Privacy Policy means the privacy policy located at https://revofitness.com.au/wp-content/uploads/2018/10/181010_REVO_Privacy-Policy-1.pdf.

Regulations means the *Fair Trading (Fitness Industry Interim Code) Regulations (No. 2) 2017* and any equivalent regulations within another State or Territory of the Commonwealth of Australia, as varied from time to time.

Revo Fitness, us, we and similar expressions means Revo Fitness Pty Ltd ABN 90 953 729 745.

Revo Fitness Website means the website located at <https://revofitness.com.au/> and all subdomains thereof.

Territory means Australia.

Usage Data has the meaning given to that term in clause 2.4.

You means the person named as the account holder on the Membership Form.

Your Data means all data and content uploaded to the HIITFIT Training Program by You or on Your behalf, or otherwise made available via the HIITFIT Training Program, but excluding Usage Data.