



Terms and Conditions

Participation and Attendance at ABTC and your use of the Website

Ashy Bines Transformation Centre Pty Ltd: (ABN: 85 164 651 272) and **TC GYM**, 2532 Gold Coast Highway, Mermaid Beach QLD 4218

1. Ownership

1.1. Copyright © 2018 Ashy Bines Transformation Centre Pty Ltd [“**ABTC**”] ABN 85 164 651 272.

This copyright notice applies, and is not limited, to the following websites and any of its affiliate pages from time to time (“Websites”):

- a) <http://www.transformationcentre.com.au>;
- b) www.abtc.info;
- c) <http://www.abtransformationcentre.com/>; and
- d) www.ashybines.com

are owned by Ashy Bines Transformation Centre Pty Ltd ABN 85 164 651 272.

1.2. Copyright

Copyright exists in the websites and includes and extends to all text, images, graphics, photographs, designs, logos, icons, videos, audios and recordings, words, phrases, proprietary pages and product names referred to and included in the websites unless otherwise obtained from a third party who may itself have its own copyright in that material.

1.3. Intellectual Property

Intellectual property means all our proprietary rights and interests including but not limited to all intellectual or industrial property whether registered, or unregistered, non-existing or coming into existence in the future in connection with or related to or otherwise created, invented, designed or otherwise owned by us, as referred to in these terms and conditions as varied from time to time and without limitation includes copyright, trademarks, designs, patents, character names, writings, digital content, business names, inventions, ideas, symbols, artwork, confidential information and moral rights as defined in the Copyright Act 1966 (Commonwealth) and under the law of a country other than Australia.

2. Definitions

For the purposes of these terms and conditions in addition to paragraph 1 the following definitions apply:

- 2.1. “Our, ourselves, us, we”, refer to Ashy Bines Transformation Centre (ABTC), TC GYM, and its affiliates who for the purposes of these terms and conditions refers to any person or

entity we directly or indirectly own, control or operate, currently or in the future and/or which has a controlling interest in us and/or is an entity who has the right to operate with or on behalf of ourselves;

- 2.2. "Offer" includes any promotions, specials, discounts, giveaways, prizes and the like promoted and found on our Website which is subject to both the terms of the promotion and these Terms and Conditions.
 - 2.3. "Party" refers to a party to these terms and conditions and it includes that party's successors, administrators and assignors and where a party consists of more than person, then these terms and conditions bind them jointly and each of them severally;
 - 2.4. "You" or "yours" refers to you, the person accessing the Website, any and all members of the ABTC whom agrees to these terms and conditions of your use of the Website and its contents, and your participation and attendance at the ABTC;
 - 2.5. "Licence" means these terms and conditions for use of this Website and its contents;
 - 2.6. One gender includes each other gender;
 - 2.7. The single includes the plural and the plural includes the singular;
 - 2.8. "Challenge" means any challenge, class or program offered by the ABTC;
 - 2.9. "Forum" means the Ashy Bines Transformation Centre Forum where registered members are able to communicate together;
 - 2.10. "Plan" refers to any nutrition or training plans downloaded from the Website, provided by a ABTC Employee, and/or those nutrition or training plans found on the Squad App;
 - 2.11. "Registration" means:
 - 2.11.1. your use of the Website;
 - 2.11.2. your use of the Squad App;
 - 2.11.3. membership, participation and attendance at the ABTC; and
 - 2.11.4. participation in Challenges or Plans offered by the ABTC (or any affiliates such as Squad).
 - 2.12. "Website" collectively refers to the websites described above and subsequent website owned or operated by ABTC.
 - 2.13. "eBook" refers to any PDF (or other format) downloadable content that is part of any Plan or Challenge.
- 3. Scope of Licence**
- 3.1. By virtue of these terms and conditions, you are granted a non-exclusive, non-transferable, non-sub-licensable licence to personally access and use, for non-commercial purposes, the Website and the services offered on the Website.

- 3.2. You may not use any of the licenced eBooks on more than one computer system or device concurrently.
- 3.3. Full-scale reproduction of any eBook's contents is expressly prohibited.
- 3.4. The term of this Licence shall be for a term of five (5) years from the date of registration of your activation.

4. Use of Website

- 4.1. These terms and conditions govern your right to use the Website and your access to and use of any Plan, Forum, Challenge and/or any products or services acquired.
- 4.2. In downloading any content from the Website to your computer, you do not receive any ownership rights to such content and by downloading any content you agree not to use the content for any unlawful purpose and you agree that your use of the Website is only for your personal use and not for any commercial or other use contrary to these Terms and Conditions and our legal rights in respect of the Website, any Plan, any Challenge and/or the Forum.
- 4.3. You agree that when you register, activate and download any eBook that you will not reproduce, distribute in person, publish, republish, print, upload to any third party, post on any social media site or forum, or distribute or modify or otherwise deal with any content in the Website in whatever format, personally or otherwise, and/or provide it, or any part of it, to a third party that would otherwise infringe our intellectual property rights.
- 4.4. You agree that in downloading any service or product from the Website, you will not rent, lease or lend it to a third party nor decompile, reverse engineer, modify or derive content from the Website and/or make it available over a network where it could be used by multiple devices at the same time.
- 4.5. You agree that your use of the Website and/or Forum will not violate any laws without limitation, including those governing competition, advertising, consumer protection laws, privacy, obscenity, spamming, stalking, intellectual property rights and/or defamation in Australia and when accessed in another jurisdiction the laws of that jurisdiction and Australian law, so far as the laws are not inconsistent, in which case you agree to be bound by the laws for Queensland, Australia.
- 4.6. You agree that in using the Forum, you will not post threatening, harassing, defamatory, obscene, offensive, discriminatory, hate mail or speech or facilitate others to commit such acts in whatever format.
- 4.7. You agree that you will not post comments about the Website or Forum, any of its content, its individual representatives, officers, directors, consultants and/or employees without the prior written consent of ourselves.

5. Your Agreement

- 5.1. In accessing the Website, including any and all webpages, any Plans, Challenges and/or the services and products, information, text and images offered or provided on the Website or Squad App, you are deemed to have read and personally agreed to the Terms and Conditions.

6. Eligibility

- 6.1. You represent and warrant that you are at least 18 years old and will be responsible for completing all registration information or if between 16-18 years of age have provided written parental consent. If you are accessing and using the Website or registering for access to any Plan or Challenge, or any of the Website's services or products on behalf of a party who is not at least 18 years of age, then you are representing that you are that party's legal guardian and you are responsible for that party's compliance with these Terms and Conditions and you will indemnify us for any losses or damage that we suffer as a consequence of the party who is less than 18 years of age failing to comply with these Terms and Conditions. If you are under the age of 18 you and your parent or legal guardian must sign and submit a *'Payment Guarantor and Permission to Participate'* form to ABTC on registration.
- 6.2. Without limitation, the Website is available only to individuals that can form legally binding contracts under Australian law.
- 6.3. We have the right to refuse to deal with you, at any time, at our sole discretion, including the suspension or termination of your registration, if we believe that you may or will bring our reputation, those individuals who represent us in the market place, our other users, and Forum members into disrepute or otherwise will interfere with other parties' rights to have reasonable use of and access to the Website or to the contents and components of the Website or are in any way in breach of these Terms and Conditions.

7. Website/ Squad App Membership

- 7.1. You agree to provide accurate and truthful details about yourself for the purposes of your Registration to the Website, Squad App, Plan, Challenge and/or inclusion in the Forum. We reserve the right to suspend or terminate your Registration if we discover you have, at any time, provided inaccurate, incomplete or misleading personal information.
- 7.2. Once you register on the Website, you will be given access to a "Clients only" email subscription and Forum access.
- 7.3. Access to the information provided through email subscription, Squad App and the Forum is for your sole use only.
- 7.4. Any password or right given to you to obtain access to the "Clients only" email subscription and the Forum, and the contents or use of either the email subscription or Forum, is not transferrable to any third party.
- 7.5. We reserve the right, at our sole discretion, to terminate your access to the "Clients only" email subscription or Forum if, in our opinion, you have failed to comply with any of the provisions of these Terms and Conditions.

8. Forum Membership

- 8.1. You acknowledge that Forum membership provides for public communications.
- 8.2. To become a Forum member you agree to provide truthful, accurate personal details about yourself as required on the sign up page for the Forum.
- 8.3. You will use the Forum only for positive and supportive purposes and not post or comment negatively or in terms that could or might be offensive to other users of the Forum, either

on the Forum itself or otherwise, and/or the individuals representing the Website and/or their employees.

8.4. You will not use the Forum:

- 8.4.1. For any unlawful, disrespectful, harmful, threatening, abusive or otherwise objectionable purpose;
- 8.4.2. To incite others to conduct the activities described in sub-paragraph;
- 8.4.3. To interfere with the lawful and reasonable use of the Forum by others; and
- 8.4.4. To attempt to directly or indirectly, allow or facilitate a third party to enter the Forum through your registration.

9. **Model Release**

- 9.1. In accepting the terms and conditions, you give ABTC, and its authorised representatives, the right and permission to take photographs and video footage of you during ABTC group training and activities. You grant permission to ABTC and its authorised representatives to use these photographs and video footage and all photographs submitted by you including 'before and after' photographs for the purpose of promoting, advertisement, marketing, publicity or any other lawful purpose. You waive any right to inspect and approve the finished product that may be used or to which it may be applied now and/or in the future, whether that use is known to you or unknown, and you waive any right to royalties or other compensation arising from or related to the use of the image whether intentional or otherwise.

10. **ABTC + TC Gym Memberships: Membership Descriptions, Cancellation Process and Charges**
Membership Options

- a) ABTC Squad Pack Membership
- b) Flexi Membership

10.1. **ABTC SQUAD PACK MEMBERSHIP:**

- 10.1.1. Your ABTC Squad Pack Membership is a 52-week minimum Membership that is a monthly ongoing Membership thereafter. This means that after the initial contract period of 52 weeks at the agreed fees, your membership will continue on a monthly basis indefinitely until cancelled in the manner, and by the process, described below.
- 10.1.2. Note: Student discount rates are available to those holding valid Student ID Cards.
- 10.1.3. Note: There are also various offers and promotions available to current members who lock in their next year's ABTC Squad Pack Membership in advance.

Cancellation Process

- c) During the first 3 months of your Squad Pack Membership, you can terminate your Membership by buying out at the cost of \$500 AUD to ABTC.
- d) After the initial 3 months but before the conclusion of the first year of your Membership, you can terminate your Membership by buying out at the cost of \$300AUD to ABTC.
- e) Following the Initial Contract Period of 12 months, you may terminate your Membership at any time by providing ABTC with 30 days' notice by emailing support@transformationcentre.com.au with your request to finalise your ongoing membership. Your 30-day period will begin on the day your email was sent.
- f) You are able to Transfer your Membership at any time in accordance with the clause below.
- g) Upon cancelling your Membership:

- a) Upon cancelling your Membership:
- a. Ensure the ABTC access swipe is returned to ABTC authorised staff upon completion of the 30 days after termination or a \$10 fee will be charged; and
 - b. Complete the ABTC Client Cancellation survey and feedback appointment.

10.2. **FLEXI MEMBERSHIP**

- 10.2.1. Your ABTC Flexi Membership has a minimal term of 8 weeks and thereafter continues on an ongoing weekly basis. After the initial contract period of 8 weeks, your membership will continue on a weekly basis indefinitely until cancelled in the manner, and by the process described below.
- 10.2.2. The weekly fee for your Flexi Membership is as agreed at the time of Registering for your Membership.
- 10.2.3. Note: There are also various offers and promotions available to current members who lock in their next year's ABTC Squad Pack Membership in advance.

Cancellation Process

- h) You are unable to terminate your Membership in the first 8 weeks.
- i) After the initial 8-week period, you are able to cancel your Membership at any time.
- j) Flexi Memberships are unable to transfer their Membership.
- k) Upon cancelling your Membership:
 - a. ensure the ABTC access swipe is returned to ABTC authorised staff or a \$10 fee will be charged.
 - b. complete the ABTC Client Cancellation survey and feedback appointment.

10.3. **End of Year Special**

- 10.3.1. The ABTC is currently offering all non-current members the opportunity to sign up for their 2019 ABTC Squad Pack Membership (52-week membership) now and receive full membership access for the rest of 2018 at no cost.
- 10.3.2. The ABTC Squad Pack Membership will commence upon registration however no charges will be made until 2019 nor will any monies be owing with respect to any use of the membership in 2018.
- 10.3.3. This Special is subject to the ABTC Squad Pack Membership terms and Cancellation Policy described above.

10.4.

10.5. **Initial Joining Fee**

- 10.5.1. All TC Gym Memberships have a Initial Joining Fee that is payable prior to using our facilities.

10.6. **Transfer of Membership**

- a) Your ABTC Membership may be transferred to another person who is not a current Member but only if ABTC agree, your account is up to date, and the person you transfer to:
 - a. is eligible to become a Member
 - b. You're at least 18 years old or if between the ages of 16-18 years, have provided written parental consent.
 - c. is able to take up your Membership.
 - d. signs a new agreement to become a Member for at least the balance of the Minimum Term noting there is no cooling off-period in a Membership Transfer;
 - e. agrees to the terms of membership;
 - f. pays applicable Fees in accordance with this agreement.

10.7. **Membership Suspensions**

All Memberships may be suspended for the following reasons and maximum duration:

- a) Holidays
 - a. An ABTC member who is going on holidays can suspend their pack and go into 'Holiday Mode' for up to 4 weeks per year. During this period, all Members will pay \$9.95 (GST inclusive) per week.
- b) Pregnancy
 - a. After providing proof of pregnancy an ABTC members contract may be suspended for up to 8 weeks. During this period, you will pay no membership fees.

10.8. **Transaction Charges and Contract Durations**

Every customer transaction will incur a 3% bank transaction fee which is to be paid by the customer.

11. Termination of Membership by ABTC

ABTC reserves the right to terminate this contract in accordance with the following conditions:

- 11.1. Failure to abide by rules of use of equipment and/or failure to act in a responsible and safe manner on the premises;
- 11.2. Action upon a complaint by either another member or an employee or contractor of ABTC; and
- 11.3. Default of scheduled payments for a period of three (3) weeks or more.

12. Membership Termination Process by ABTC

If, for any reason stated in clause 11, ABTC terminates your membership, the following process will be followed:

- a) Advice in writing of pending termination no later than seven (7) days prior to proposed date of termination (except where the reason for termination presents a risk to other clients or ABTC staff).
- b) Scheduling of face to face meeting between ABTC Management and client to discuss issues or complaints with the view to resolution by both parties.
- c) Return of client's personal property.
- d) Refund of any membership fees will be based on the nature of the reason for membership termination and at the sole discretion of ABTC.

13. Cooling Off Period

13.1. ***New Members + Re- Joining Members***

The Risk Free Period applies for 7 days from payment date of the Initial Joining Fee. **Note that the initial joining fee is non-refundable.* After close of business on this day, full contract terms are in effect.

14. Credit/Debit Reporting Agencies

- 14.1. Upon default by the customer in regard to any payment obligation, the customer authorises notification to any Debit Collection/Credit Reporting agency of the default. Should this occur then at ABTC'S total discretion, it may terminate the contract at which the full outstanding balance for the remainder of the minimum term or payments (including any current arrears) shall be due in full. The customer authorises ABTC to add to the outstanding debt an additional amount of 25% of the full outstanding balance (including penalties) to offset ABTC's expenses reasonably incurred in the collection of the debt and upon the initial referral to the Debt Collection/Credit Reporting Agency.

15. ABTC Membership Terms

15.1. Use of Equipment

- 15.1.1. We will provide you with an instructional consultation with a staff member before using the facilities and services which you must attend before use. In any case, you will ensure that you take care when using the facilities and services and make sure that you use the facilities and services including equipment appropriately and safely. If you are ever not sure how to operate any equipment properly, please ask a staff member before you use it.

15.2. Refusal of Entry

- 15.2.1. We can refuse you entry to the ABTC and services or cancel your membership immediately if you behave in a way that is seriously risky or inappropriate, such as if you threaten or harass others, deliberately or recklessly damage equipment or facilities or if you use or distribute illegal or performance enhancing drugs.

15.3. Follow Direction

- 15.3.1. You agree to follow any reasonable direction of a member of our sta relating to health and safety or any other matter.

15.4. Members Only

- 15.4.1. Use of ABTC facilities is strictly for members.
15.4.2. A penalty fee will be charged if you allow access to non-ABTC members.
15.4.3. ABTC membership and participation is exclusive to Females.

15.5. Your Health – Injuries or Risk of Harm

- 15.5.1. Members must conduct themselves in a manner which will not cause harm or discomfort to themselves or other members.
15.5.2. Members must advise their Group Fitness Instructor, Personal Trainer or Member Motivator if they are injured or there is any change to their health that may impact their ability to continue their exercise program or use ABTC facilities.

15.6. Bring a Towel

- 15.6.1. Members must bring a towel to the club to use the ABTC facilities. Please use the towel to wipe down the equipment after use.

15.7. Appropriate Behaviour

- 15.7.1. Members and staff must conduct themselves with appropriate decorum in the ABTC and treat others with respect at all times. Foul language and inappropriate behaviour will not be tolerated.

15.8. Dress

15.8.1. Members are asked to dress appropriately for their workouts and wear suitable training shoes at all times while in the ABTC.

15.9. **Facilities and Equipment**

15.9.1. Members must immediately replace all weights and equipment upon completion of exercise. Members must not leave equipment on the floor. This is a safety issue and will be strictly enforced. Members must immediately report any breakage or damage to equipment to a staff member. Members are asked to treat the equipment and facilities with care.

15.10. **Lost Property**

15.10.1. Lost property will be kept for two weeks, after which, if unclaimed, will be donated to charity.

15.11. **Group Fitness Classes**

15.11.1. Members attending group fitness are encouraged to arrive 10 minutes prior to the scheduled commencement time of the class to ensure that they have time to set up equipment.

16. Purchases

16.1. **Online and in store Purchases**

16.1.1. In purchasing any product or services from the Website, Squad App or at the TC Gym ("the Purchase") you agree to:

16.1.1.1. Pay using a valid credit card;

16.1.1.2. Provide ABTC with current and complete information as detailed in the purchase order form including full legal name, street address, telephone number, email address, credit card details and billing information as required and without limiting any of our rights and remedies. If we discover or believe that any information provided by you is inaccurate or incomplete, we reserve the right to refuse to continue with your purchase, or put on hold or terminate your access to the website, the Plan or any of the services or products provided by us at any stage at our sole discretion and you forfeit any right to a refund of any payment made by you for the Purchase;

16.1.1.3. Pay all costs, fees, charges, applicable taxes and other charges as may be incurred in respect of the Purchase ("the costs"); and

16.1.1.4. All costs are in Australian dollars unless otherwise indicated.

16.1.2. It is your responsibility to ensure that the mobile number and email address you have registered with are kept current. You can make these changes by emailing support@transformationcentre.com.au with your new contact details and authorise them to make the changes on your behalf.

16.2. **Risk**

16.2.1. Title of the purchase will pass to you on receipt of full payment from you or when you receive the purchase, whichever happens later.

16.2.2. Risk of loss or damage to the Purchase will pass to you when we provide the Purchase to a third party for delivery of it to you and we provide no estimate as to time of delivery and you agree that time is not of the essence with respect to delivery.

16.2.3. Where we send you the Purchase by email delivery, and you claim that you have not received such delivery, then you must contact our Billing Department email at support@transformationcentre.com.au within 7 days of the date by which you placed the order for the Purchase for us to investigate your claim.

17. Warranty/Refund for Online Purchases and Memberships

17.1. Subject to the rights granted to you by statutory consumer protection legislation, which cannot be excluded, due to the nature of the Plan, the Challenge and/or the products and services offered by the Website, and as we make no representations to you in respect of your use of the Plan, the Challenge and/or the products or services offered by the Website, we provide no warranty as to any results or outcomes associated with using the Plan, the Challenge, nor in respect of any use of the products or services offered by the Website.

17.2. You expressly acknowledge that your use of the Website, Squad App and ABTC Membership and its products and/or services is at your sole risk.

17.3. At our sole discretion, any claim for a refund will be considered on a case by case basis and we reserve the right to either provide you with a refund once the case is reviewed, or refuse your claim.

17.4. Be aware that your joining fee at the TC Gym is non-refundable. Due to the high demand of clients this joining fee does not secure your spot in any future programs. If the ABTC decides the program for which you have registered will not go ahead for any reason then your joining fee will be refunded in full.

18. Medical Disclaimer

18.1. We are not a medical organisation and we do not and cannot give or purport to give you any medical advice or assistance in any form. Nothing in the Website, Forum, Challenge, Plan or Squad App or anything associated with it should be taken or understood as medical advice or assistance nor should it be interpreted in substitution for any medical advice or assistance or used or referred to instead of seeking appropriate medical advice or assistance from qualified practitioners for your particular circumstances and needs.

18.2. You are solely responsible for evaluating and assessing your own health and wellbeing and whether, in all the circumstances, you should access and use the Website and/or participate in the Website, Forum, Challenge, and or Plan and/or its products and services. We encourage you to seek appropriate medical advice or assistance before embarking on any use of the Website, Challenge or Plan and/or its products or services.

18.3. You are responsible for making your own enquiries about your ability to participate in any exercise sessions provided and obtain your own medical advice concerning this issue and we shall not be responsible for any injury or health problem that may, or could arise, from your participation in any exercise sessions and/or the Challenge.

18.4. You agree that neither we, nor any of our affiliates, service providers and/or suppliers, warrant or make any representation about the contents, products, services or

offers referred to in the Website, and specifically do not make any representation about the risks, results, reasonableness, or accuracy or otherwise of such contents, products, services or offers and your use of the Website, Plan, Challenge or its products and services, is at your sole risk.

18.5. You agree to notify us of any changes to your health or medical conditions, or if you believe there is a risk to your health or the health of other members and guests.

18.6. We reserve the right to cancel your membership if, in our reasonable opinion, you do not satisfy the medical or physical conditions required to participate in the activities of ABTC, the Challenge, or Plans and you do not provide us with evidence from a medical practitioner to state otherwise.

19. Express Assumption of Risk

19.1. By agreeing to the terms and conditions of the Website you acknowledge and accept that there are significant risks involved in all aspects of athletic activities and physical training. These risks include, but are not limited to: falls which can result in serious injury or death; injury or death due to negligence on the part of yourself, your training partner, or other people around you; injury or death due to improper use or failure of equipment; strains and sprains. You are aware that any of these abovementioned risks may result in serious injury or death to yourself. You understand that the training may involve weightlifting, gymnastics movements, strenuous bodyweight exercises and other high exertion activities, and that you are not obligated to perform nor participate in any activity that you do not wish to do, and that it is your right to refuse such participation at any time during your training session. You understand that should you feel light-headed, faint, dizzy, nauseated, or experience pain or discomfort, you are to stop the activity and inform your trainer. You willingly assume full responsibility for the risks that you are exposing yourself to and accept full responsibility for any injury or death that may result from participation in any activity, or under direction from a representative of ABTC.

19.2. You acknowledge and understand it is your choice to undertake activities on beaches, sandy soil and water without footwear and accept full responsibility for any injury arising from doing so.

20. Limitation of Liability

20.1. Subject to the rights granted to you by statutory consumer protection legislation, which cannot be excluded, in no event shall we be liable to you for any injury, or incidental, undue damages, whatsoever including damages for loss of income, data, or personal injury or consequential damages except to the extent such limitation or exclusion of liability is not permitted by law.

20.2. You acknowledge and understand that participation in activities within your membership require varying degrees of physical exertion and/or physical risk which may cause your death or personal injury. The *Australian Consumer Law* (ACL) contained in the *Competition and Consumer Act 2010* (Cth) (CCA) provides certain guarantees in sections 60 to 62 (statutory guarantees) which generally require that services supplied to you:

20.2.1. are rendered with due care and skill;

20.2.2. are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier and might reasonably be expected to achieve any result you have made known to the supplier; and

20.2.3. are supplied within a reasonable time (when no time is set).

20.3. Permitted exclusion: The CCA permits a supplier of recreational services to ask you to accept some limitations on those statutory guarantees. Accordingly, to the extent permitted by section 139A of the CCA, you acknowledge and agree that we exclude all liability to you for death or injury resulting from a failure by us to comply with any statutory guarantee.

20.4. In the previous sentence, "injury" means: physical or mental injury (including the aggravation, acceleration or recurrence of such the contraction, aggravation or acceleration of a disease; or the coming into existence, the aggravation, acceleration or recurrence of any condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to you that is or may be harmful or disadvantageous to you or the community, or that may result in harm or disadvantage to you or the community.

20.5. Reckless conduct: This exclusion of liability does not apply if you have suffered any significant personal injury that is caused by our reckless conduct (within the meaning given to those terms by the CCA).

20.6. General exclusions: Please note that nothing in these Terms excludes, restricts or modifies any term, condition, warranty, guarantee, right or remedy (including under a statutory guarantee) which cannot lawfully be excluded, restricted or modified. Otherwise, and except as expressly included in this membership agreement, all implied terms, conditions, warranties, rights or other additional obligations that can be lawfully excluded are excluded from this membership agreement. In particular, but subject to the preceding paragraph, we are not liable for:

20.6.1. Negligence;

20.6.2. breach of terms implied that services will be provided with reasonable care and skill, at common law that in either case results in your death or in connection with or under this membership agreement, but to avoid doubt we do not exclude liability for our reckless conduct.

20.6.3. We take no responsibility for the loss of or damage to your personal belongings.

20.6.4. You agree to pay for any damage to the facilities of ABTC caused by you or your guests through a wilful act or negligence.

21. Our Rights to Modify Services

21.1. You acknowledge that ABTC are entitled at any time, to change, modify, vary, delete or otherwise deal with the Website and/or the Terms and Conditions, as we see fit.

21.2. You acknowledge that we may in our sole discretion from time to time alter:

21.2.1. our opening hours, group fitness timetable, facilities, items of equipment or any of the products and services we offer or supply; or

21.2.2. our pricelist and your membership fees that apply; or

21.2.3. our policies or rules.

21.3. We will prominently display the proposed change(s) at the ABTC or on our website if there are changes to the above.

21.4. Your membership will be amended with effect from the effective date (note this does not include fixed term/fee periods).

21.5. If we need to close temporarily for any reason, including but not limited to, renovation and/or building repairs and maintenance, we will place your membership on deferral where the closure is greater than 10 days in duration.

- 21.6. ABTC will publish any intended changes on the Website and Forums and you will be deemed to have accepted such changes once they are published on the Forums whilst ever you are included as a member on the ABTC Facebook Forums.

22. Increase in Fees

ABTC may at any time after the minimum term, upon notification in the ABTC Facebook Forum and giving a minimum of fourteen (14) days' notice, increase the instalment amount. If the customer wishes to terminate the contract as a result of this increase, the customer has the right to do so if they notify ABTC in writing to support@transformationcentre.com.au within fourteen (14) days of the date of notification of instalment increase being posted in the Facebook Forum. The contract will be terminated upon receipt of this notice. If the customer does not notify ABTC of the intention to terminate the contract as a result of the fee increase within the specified timeframe, then the contract will remain in force and the increase in instalment fees will be deemed to have been accepted by the customer.

23. Breach of Contract

The customer and ABTC each hold reciprocal rights of termination for a material breach of any term or condition of contract. The contract will be terminated upon receipt of written notice outlining the relevant breach.

24. Jurisdiction

These Terms and Conditions are governed by the laws of Queensland, Australia and you agree to the non-exclusive jurisdiction of the Courts of that jurisdiction and any appeals from those Courts.

25. Indemnity

- 25.1. You agree to indemnify us to the full extent needed from any and all third-party claims, liabilities, costs, expenses including solicitor/client costs on an indemnity basis, that we may incur or suffer as a result of your improper or illegal use of the Website, your Membership, use of the Plan (Squad App) and or the Forum and/or from your breach of any of the Terms and Conditions and/or any facilitation or support by you of a third party causing any loss or damage to us.
- 25.2. You shall indemnify us from any claim, liability, costs and/or expenses arising from any injury or health problems that could or may arise from your participation in the Challenge and its exercise sessions.
- 25.3. You are liable for all content posted by you on the Forum.
- 25.4. You are required to exercise due care to conform to any Australian laws relating to publication, broadcasting, media controls, advertising standards and social media legal considerations, as they may arise or be applied to you in respect of any content you post on the Forum or in relation to the Website or that by your actions of conduct.
- 25.5. You agree to indemnify us for any claims, losses, liabilities, costs or expenses ("losses") incurred by us you may cause, or contribute to such losses.

26. Privacy

- 26.1. We will use our best endeavours to protect your privacy with respect to your personal information. By the provision of your personal information as referred to in these Terms and Conditions, you have expressly agreed to our collection, use and retention of your personal information.
- 26.2. We will manage your personal information in accordance with the requirements of Australian laws.
- 26.3. We will use our best endeavours to ensure your personal information is not accessed illegally or without authorisation but we cannot guarantee that our systems will, or can be free from third party interference or be interrupted and so we do not warranty the security or privacy of your personal information including payment and/or account details and you acknowledge that when you provide us with any personal information, you are doing so at your own risk.

27. General

- 27.1. **Entire agreement:** These Terms and Conditions form the entire agreement between the two parties in relation to the website and your use of it.
- 27.2. **Waiver** Any failure or delay on our part to exercise a power or right we have under these Terms and Conditions (unless in writing to you) does not amount to a waiver of that power or right and will not preclude our entitlement to exercise that power or right at a later date.