



Ninja Academy Pty Ltd (ACN 602 041 510)  
Unit 7, 443 Scarborough Beach Road, Osborne Park WA 6017  
Phone: (08) 9444 6269 Website: www.ninjaacademy.com.au

## MEMBERSHIP AGREEMENT

### Membership Terms and Conditions

#### 1. Definitions

In this Agreement unless the contrary intention appears:

- (a) **Administration Fee** means the reasonable fees incurred by Ninja Academy in relation to this Agreement;
- (b) **Agreement** means this membership agreement made between the Member and Ninja Academy incorporating the documents referred to in **clause 3(b)**;
- (c) **Casual Visitors** means visitors to the Centre who are not Members but who have completed a Liability Waiver Form;
- (d) **Centre** means the showroom/training facility operated by Ninja Academy at Unit 7, 443 Scarborough Beach Road, Osborne Park in the State of Western Australia;
- (e) **Class or Classes** means the classes being provided by the Instructors at the Centre;
- (f) **Commencement Date** means the date on which this Agreement is signed by the Member;
- (g) **Cooling Off Period** means the period ending at close of business 48 hours after the Commencement Date;
- (h) **Dishonour Fee** means a \$10.00 fee;
- (i) **Instructors** means the instructors and coaches appointed by Ninja Academy to provide training and coaching services at the Centre for the benefit of the Members;
- (j) **Kids** means anyone under the age of 16 years.
- (k) **Liability Waiver Form** means the liability waiver form signed by the Member at the time the Member signs the Membership Agreement and which forms part of the Agreement;
- (l) **Member** means the individual who has entered into this Agreement with Ninja Academy, and Members includes all of them;
- (m) **Membership** means a contract entered into by the Member, this can be a rolling monthly contract with recurring monthly direct debit payments or a longer term contract with up front and/or recurring monthly direct debit payments;
- (n) **Membership Agreement** means the online or paper form provided to the Member by Ninja Academy requiring the Member to provide their relevant details (including but not limited to name, address, payment details) relating to the Member's membership;
- (o) **Membership Fee** means the monthly fee due and payable by the Member for the Membership inclusive of any fees payable to the Payment Provider;

- (p) **Membership Policies** means the policies, features and benefits which are applicable in relation to each Membership Type and as amended from time to time. Full details of the Membership Policies are available at [www.ninjaacademy.com.au](http://www.ninjaacademy.com.au);
- (q) **Membership Type** means the level of Membership of the Member as specified in the Membership Agreement or as selected by the Member online;
- (r) **Minor** means members under the age of 18 years;
- (s) **Ninja Academy** means Ninja Academy Pty Ltd (ACN 602 041 510) and includes its heirs, estates agents, representatives, officers, directors, shareholders, successors, affiliates, subsidiaries and employees;
- (t) **Opening Hours** means the opening hours of the Centre which are located at the entrance of the Centre or at [www.ninjaacademy.com.au](http://www.ninjaacademy.com.au).
- (u) **Open Training** means unstructured training times during the Opening Hours that can only be attended by Members who have completed a safety induction as required by Ninja Academy;
- (v) **Payment Agreement** means the agreement between the Member and Ninja Academy permitting the Payment Provider to provide the direct debit and credit card payment facilities to the Member on Ninja Academy's behalf in accordance with the Payment Provider's Direct Debit Request Service Agreement.
- (w) **Payment Provider** means the payment provider specified from time to time by Ninja Academy, which is currently Ezidebit Pty Ltd (ACN 096 902 813) (Direct Debit User ID number 165969, 303909, 301203, 234040, 234072, 428198) unless Ninja Academy otherwise specifies;
- (x) **Payment Provider's Direct Debit Request Service Agreement** means the terms and conditions applicable to the Payment Agreement and as set out in **clause 8** of this Agreement;
- (y) **Products** means any products which are purchased from Ninja Academy;
- (z) **Term** means the term of this Agreement until this Agreement is terminated in accordance with the terms and conditions of this Agreement.

## 2. Construction

- (a) A reference to this Agreement includes any membership agreement, attachments, variations, amendments to or extension of this Agreement.
- (b) A reference to:
  - (i) The singular includes the plural and vice versa;
  - (ii) Any gender includes all other genders; and
  - (iii) A party includes that party's legal personal representative, heirs and assigns.

## 3. Terms and Conditions

- (a) The Member's Membership is governed by this Agreement.
- (b) This Agreement incorporates the following:
  - (i) The Membership Agreement;
  - (ii) The terms and conditions as enclosed herein;

(iii) The Membership Policies; and

(iv) The Liability Waiver Form.

(c) Ninja Academy reserves the right, in its sole and absolute discretion, to amend this Agreement.

#### 4. Membership

(a) The Membership permits the Member to enter the Centre during Open Training and attend Classes during the Term subject to the provisions of this Agreement and dependent on the Membership Type held by the Member.

(b) Ninja Academy **must be notified in writing** by the Member in the event of any changes to the Member's details, which are relevant to the membership.

#### 5. General Conditions of Entry

To ensure the Centre is able to provide a high level of service in a safe, healthy, and pleasant environment for all its Members and visitors, the Member must comply with the following conditions:

(a) The Member must conduct themselves in the Centre and whilst using the facilities provided in the Centre in a proper and civil manner respecting the rights and expectations of staff, other Members, and visitors to the Centre.

(b) The Member must comply with the reasonable requests and directions of the staff employed by Ninja Academy and any Instructors in the Centre.

(c) Entry will be refused or a Member will be requested to leave the Centre if the Member:

(i) is abusive or uses offensive language or if the Member's behaviour is threatening; and/or

(ii) is considered, in the reasonable opinion of the staff employed by Ninja Academy, to be under the influence of drugs, alcohol or any other behaviour altering substance.

(d) Smoking is not permitted in or about the Centre.

(e) Pets or animals are not permitted in the Centre.

(f) Sweat towels must be used by the Member at all times.

(g) All equipment and facilities provided in the Centre must only be used in the manner for which they are intended.

(h) Equipment provided at the Centre must be returned to its correct place after use at all times in a clean and hygienic condition.

(i) Appropriate training attire must be worn in the Centre; in particular, no sandals, thongs, or clothing that is likely to cause offence to others are permitted in the Centre.

(j) No person under the age of 16 years is allowed in the Centre unless accompanied by a guardian and a qualified instructor.

(k) The Member must not engage in the use, sale or distribution of alcohol, anabolic steroids, and other non-prescription drugs or illicit drugs in or about the Centre.

(l) The Member must ensure at all times that he or she is in possession of any medication which they require and agree and acknowledge that the Centre is not responsible for keeping any medication whatsoever on its premises.

## **6. Transfers**

The Membership is personal to the Member and is non-transferrable by the Member unless expressly approved in writing by Ninja Academy.

## **7. Payments**

- (a) The Member agrees to pay to Ninja Academy all fees, including but not limited to the Membership Fee as set out in this Agreement.
- (b) The Member agrees to be bound by the terms and conditions as described in the Payment Agreement.
- (c) The Member must make payments on a monthly basis in advance and agrees to pay the instalment amounts until the direct debit request and this Agreement are terminated in accordance with the terms and conditions set out in this Agreement.
- (d) Should there be any arrears in payments, the Member authorises the Payment Provider to debit the outstanding balance in order to bring the Member's account up to date.
- (e) Ninja Academy will endeavour to contact the Member by phone or email to inform the Member of any overdue payments. In the event that Ninja Academy cannot contact the Member, Ninja Academy will provide the Member with notice in writing of overdue payments.
- (f) The Member will be charged a Dishonour Fee which is payable to Ninja Academy in the event that a direct debit payment is dishonoured by the Member's financial institution.
- (g) If the Member fails repeatedly to meet his or her payment obligations (other than through the fault of Ninja Academy or its Payment Provider), without prejudicing Ninja Academy's rights to recover any overdue payments, the Member's membership may be suspended or terminated by Ninja Academy.
- (h) The Member acknowledges that Ninja Academy may change its Payment Provider and that Ninja Academy and/or the current Payment Provider may, in their sole discretion, assign or novate all existing Payment Agreements to a new payment provider. In the event that Ninja Academy or the current Payment Provider assigns or novates the existing Payment Agreements to a new payment provider, the Member consents to Ninja Academy or the current Payment Provider providing the Member's personal information (including but not limited to the Member's payment details) to its new payment provider in accordance with this Agreement.
- (i) Ninja Academy reserves the right at any time to change the Membership Fees charged to the Member for the use of the facilities in the Centre. Ninja Academy agrees to use reasonable endeavours to provide the Member with written notice of such changes. The changes will take effect 30 days after written notice of the changes has been deemed to have been received by the Member. Ninja Academy deems receipt to have occurred 2 business days after the notice in writing was sent to the Member. At the end of the 30 day period, the Member authorises Ninja Academy and/or the Payment Provider to debit the new amount to the Member's account.

## **8. Payment Provider's Direct Debit Request Service Agreement**

- (a) The Member authorises the Payment Provider to make debits on a monthly basis on behalf of Ninja Academy by debiting either:
  - (i) the Member's account at the Member's financial institution as indicated in the Membership Agreement through the Bulk Electronic Clearing System (BECS) in accordance with the direct debit request indicated in the Membership Agreement and on the terms and conditions of this clause; or
  - (ii) payments from the credit card specified in the Membership Agreement in which case the Member acknowledges that the Payment Provider will appear as the merchant on the said credit card statement.

## Direct Debit

(b) The Member acknowledges that:

- (i) the Payment Provider is acting as a direct debit agent for Ninja Academy and that the Payment Provider does not provide any goods or services (other than the direct debit collection services provided to the Member on behalf Ninja Academy pursuant to this clause) and has no express or implied liability in relation to the goods and services provided by Ninja Academy or the terms and conditions of any agreement that the Member has with Ninja Academy;
- (ii) the debit amount will be debited from the Member's account in accordance with the terms and conditions of this Agreement;
- (iii) it is the Member's responsibility to ensure that there are sufficient cleared funds in the Member's nominated account by the due date to enable the direct debit to be honoured on the debit date. Direct debits normally occur overnight; however, transactions may take up to three (3) business days depending on the Member's financial institution. Accordingly, the Member acknowledges and agrees that sufficient funds will remain in the Member's nominated account until the direct debit amount has been debited from the account and in the event that there are insufficient funds available, the Member agrees that the Payment Provider and/or Ninja Academy will not be held responsible for any fees that may be charged by the Member's financial institution;
- (iv) there may be a delay in processing the debit if:
  - A. there is a public holiday or bank holiday on the day of the debit, or any day after the debit date;
  - B. a payment request is received by the Payment Provider on a day that is not a banking business day in Queensland;
  - C. a payment request is received after the normal cut off times of the Payment Provider, being 3:00 p.m. Queensland time, Monday to Friday.

Any payment which falls due on any of the above will be processed on the next business day;

- (v) the Payment Provider may vary the amount of the payments from time to time as may be agreed by the Member and Ninja Academy pursuant to this Agreement and the Member authorises the Payment Provider to vary the amount of the payments upon receiving instructions from Ninja Academy of such variations. The Member acknowledges and agrees that the Payment Provider is not required to notify the Member of any such variations to the debit amount;
- (vi) the Payment Provider will provide at least fourteen (14) days' notice if it proposes to vary any of the terms and conditions of this clause;
- (vii) any disputed debit payments will be directed to Ninja Academy and/or the Payment Provider and if no resolution is forthcoming, the Member will contact their financial institution;
- (viii) in addition to the Dishonour Fee, the Member will be responsible for any failed payment fee imposed by the Payment Provider and any fees and charges applied by the Member's financial institution for each unsuccessful debit attempt together with any failed payment fee and collection fees, including but not limited to any solicitor fees and/or collection agent fees as may be incurred by the Payment Provider;
- (ix) the Payment Provider will attempt to re-process any unsuccessful payments as advised by Ninja Academy and the Member authorises the Payment Provider to do so; and
- (x) certain fees and charges (including setup, variation, SMS or processing fees) may apply to the direct debit request and may be payable to the Payment Provider. The Member agrees to pay those fees and charges to the Payment Provider.

## Credit Card Payments

- (c) The Member acknowledges that:
- (i) the Payment Provider will appear as the merchant for all payments from the credit card;
  - (ii) the Payment Provider will not be held liable for any disputed transactions resulting in the non-supply of goods and/or services and all disputes will be directed to Ninja Academy;
  - (iii) in the event that a claim is made, the Payment Provider will not be liable for the refund of any funds and the Member agrees to reimburse and indemnify the Payment Provider for any successful claims made by the holder of the said credit card through the card holder's financial institution against the Payment Provider;
  - (iv) other than as provided in this Agreement, the Payment Provider will keep the Member's information about the Member's nominated account at the financial institution private and confidential unless this information is required to investigate a claim relating to an alleged or wrongful debit, to be referred to a debt collection agency for the purpose of debt collection or as otherwise required or permitted by law;
  - (v) the Payment Provider may require further personal information of the Member and the Member authorises, directs and instructs any third party which holds or stores the Member's personal information to release and provide such information to the Payment Provider on the Member's request.

## **9. Cooling Off Period**

### **All new memberships are subject to the Cooling Off Period.**

- (a) The Member may terminate this Agreement without cause or reason during the Cooling Off Period.
- (b) The Cooling Off Period commences at the close of business on the Commencement Date.
- (c) A request for termination of membership during the Cooling Off Period must be made by written notice by the Member to Ninja Academy.
- (d) For any membership terminated validly during the Cooling Off Period, Ninja Academy will refund to the Member the Membership Fee less the Administration Fee within 14 days of Ninja Academy receiving written notice of termination from the Member.

## **10. Minimum Age**

- (a) The Member must be a minimum age of 16 years.
- (b) All Minors must have a parent or legal guardian agree to the terms and conditions set out in this Agreement.

## **11. Access by Non-Members**

- (a) Except for Casual Visitors, Ninja Academy only grants the Member, unless otherwise specified in this Agreement, access to the Centre. No Member is permitted to bring a non-Member into the Centre.
- (b) If a Member breaches the preceding **clause 11(a)**, the Member acknowledges that:
  - (i) the Member accepts responsibility and liability on their personal behalf for any injury, loss or damage attributed to the non-Member whether or not caused through any negligent act or omission of Ninja Academy;
  - (ii) the act of bringing a non-Member into the Centre constitutes automatic acceptance by the Member of a new membership for the non-Member which will be charged to the Member accordingly;

- (iii) Ninja Academy reserves the right to terminate the membership of a Member who brings a non-Member into the Centre.

## **12. Safety Induction**

- (a) It is a condition of this Agreement that the Member participates in a scheduled safety induction program prior to using the Centre and its facilities.
- (b) The safety induction program focuses on various aspects of the Centre, including but not limited to, the layout of the Centre, amenities, entry and exit areas and how to use the facilities and equipment provided at the Centre.
- (c) Ninja Academy may, in its absolute discretion, suspend or terminate this Agreement in the event of unsatisfactory completion of the safety induction program by the Member.
- (d) The Member acknowledges and represents to Ninja Academy that the Member will seek assistance from the staff at the Centre prior to using any facilities and equipment to which the Member is not familiar.

## **13. Suspension**

- (a) Members can suspend their membership by written notice via email to Ninja Academy.
- (b) Suspensions can be for a maximum of three (3) months.
- (c) All suspensions will incur a \$15 admin charge to be paid in advance.
- (d) The Member's Membership will automatically continue after the end of a suspension, meaning Membership fees will begin to be charged as usual after the suspension.
- (e) It is the Member's responsibility to track their suspension and terminate in accordance with this contract at least 14 days prior to the end of the suspension in order to avoid any additional Membership fees being charged.

## **14. Lockers**

- (a) The Member acknowledges that limited open lockers are provided for daily use by the Member on a first come first served basis.
- (b) The Member should not store any valuables in the lockers and if so, the Member does so at his or her own risk.
- (c) Ninja Academy will not be liable in any way whatsoever for loss of, or damage to, the Member's personal property and belongings stored in the lockers.

## **15. Safety, Maintenance, Service Demand, Bookings, and Event Hosting**

- (a) Ninja Academy may from time to time as reasonably necessary:
  - (i) close off any part of the Centre or isolate any piece of equipment in the Centre for maintenance and safety reasons;
  - (ii) change the hours of opening and closing of the Centre or alter class time tables in order to meet demand; or
  - (iii) vary the Centre rules provided that if the Centre rules are varied, Ninja Academy will provide reasonable notice of such changes on the Ninja Academy website at [www.ninjaacademy.com.au](http://www.ninjaacademy.com.au) or notice boards located at the Centre.

- (b) The Member acknowledges and agrees that entry to the Centre is only available during Open Training and at the times at which Classes are run. Ninja Academy may close off the Centre or any part of the Centre from time to time in its absolute discretion for the purposes of hosting an event, workshop, competition, etc. In that instance, it is the Member's responsibility to check and ensure that the Class and Open Training times have not been altered and that classes are being run at the Centre as usual.

#### **16. Liability for Property**

Ninja Academy is not liable to the Member for any personal property that is damaged, lost, or stolen while on or around the Centre, including but not limited to any vehicle or its contents, or any property left by the Member in the Centre. Any lost property will only be kept for 7 (seven) days before becoming the property of Ninja Academy.

#### **17. Damage to the Centre**

- (a) Any Member who wilfully, or through their negligent act or omission, damages the Centre or any equipment in the Centre will be liable for any repair and/or replacement costs.
- (b) The Member will be responsible for any damage caused to or in the Centre by any non-Member accompanying the Member.

#### **18. Damage and Personal Injury**

- (a) The Member must sign the Liability Waiver Form before using the facilities provided by Ninja Academy at the Centre.
- (b) The Member acknowledges and agrees that the Member is using the facilities provided by Ninja Academy at the Centre at the Member's own risks and that the use of the Centre may involve risk of injury, whether caused by the Member or another party.
- (c) The Member further acknowledges and agrees that there is no relationship of employer and employee between Ninja Academy and the Instructors at the Centre and that Ninja Academy shall not be liable in any way whatsoever to the Member for any acts or omissions of such Instructors.
- (d) To the extent permitted by law, Ninja Academy shall not be held liable to the Member in tort, statute or in any other way for any injury, damage or loss of any kind whatsoever (including without limitation, any liability for direct, indirect, special or consequential loss or damage), sustained by the Member and/or any other person, or for any costs, charges or expenses incurred by the Member, arising from or in connection with this Agreement and/or the equipment and facilities provided by Ninja Academy unless such injury, damage or loss is caused as a result of a negligent act or omission of Ninja Academy.
- (e) The Member indemnifies and keeps indemnified Ninja Academy against all and any claims that may be made by the Member or the Member on behalf of a Minor or any other non-Member accompanying the Member.

#### **19. Breach of Terms and Conditions**

- (a) Any breach of this Agreement will result in a warning being provided by Ninja Academy to the Member and any further breach will result in a second warning being provided to the Member and the membership may then be suspended or terminated by Ninja Academy in its absolute discretion.
- (b) Notwithstanding the preceding clause, Ninja Academy reserves the right to terminate any membership immediately as a result of a proven serious breach of the general conditions of entry set out in **clause 5** of this Agreement.



## **20. Member's Right to Terminate Membership**

A Member may terminate their membership at any time on the following basis:

- (a) A written request for termination of the Member's membership is provided in writing via [members@ninjaacademy.com.au](mailto:members@ninjaacademy.com.au) by the Member to Ninja Academy.
- (b) If the Member's request for termination is by reason of permanent sickness or physical incapacity and this prevents the Member from using the Centre:
  - (i) the Member's request must be accompanied by a medical certificate evidencing such permanent sickness or physical incapacity; and
  - (ii) there will be a refund to the Member of any unused Membership Fees.
- (c) In the event of a Member's death, the Member's estate must provide written evidence in the form of a death certificate and all unused Membership Fees will be refunded.
- (d) If the Member's request for termination is for reasons other than permanent sickness or physical incapacity:
  - (i) the Member may terminate his or her membership at any time provided that the Member provides Ninja Academy with at least 14 days' prior notice in writing of such termination;
  - (ii) the Member will not incur any financial obligation under this Agreement on and from the date that the written notice is processed and accepted by Ninja Academy;
  - (iii) the Member may continue attending the Centre until the Member's prepaid period expires; and
  - (iv) the Member will not be entitled to a refund of any unused Membership Fees.
- (e) Where a member fails to provide at least 14 days' notice in writing, their termination request will be processed in the following payment period instead.
  - (i) the Member will not be entitled to a refund of any unused Membership Fees where they fail to provide adequate notice.

## **21. Ninja Academy's Right to Terminate Membership**

- (a) Ninja Academy may restrict a Member's membership at any time on the following basis:
  - (i) If Ninja Academy has concerns for the health and/or safety of the Member; or
  - (ii) In the event the Member engages in non-compliance, improper or harmful conduct at the Centre.
- (b) Ninja Academy may terminate a Member's membership at any time on the following basis:
  - (i) the Member fails to make any payments of the Membership Fee;
  - (ii) Ninja Academy reasonably suspects that the Member is engaging in illegal activity in the Centre;
  - (iii) the Member fails to follow any of the policies or rules of the Centre, or violates any part of this Agreement;  
or
  - (ii) the Member's conduct is improper or harmful to the best interest of the other Members or visitors of the Centre.

- (c) In the event that Ninja Academy terminates a Member's membership in accordance with **clause 21(b)**, termination will be effective on the date that Ninja Academy sends written notice of the termination to the Member. The Member will be liable for all their financial obligations until that date.
- (d) Upon termination of a Member's membership by Ninja Academy, the Member will cease to have access to the Centre and any money owing to Ninja Academy at the time of termination remains immediately due and payable by the Member to Ninja Academy.
- (e) Termination or expiration of this Agreement shall be without prejudice to the rights of each party against the other in respect of anything done or omitted under this Agreement prior to such termination or expiration.

## **22. Termination and Unauthorised Cessation of Direct Debit**

The Member may be liable to Ninja Academy for any unpaid fees, or fees incurred by Ninja Academy if the Member terminates this Agreement or stops the automatic debit arrangement in a manner not described in this Agreement.

## **23. Video and Audio Surveillance**

- (a) For security purposes, Ninja Academy uses video and audio surveillance equipment to monitor the Centre on a 24 hour basis.
- (b) By signing this Agreement, the Member acknowledges and agrees that video and audio surveillance is in the best interest of the staff, visitors, and Members of the Centre.
- (c) The Member further acknowledges and agrees that in order to promote the Centre, Ninja Academy may take photographs and/or videos of the Centre, its facilities, equipment and that these photographs and/or videos may include photographs and/or footage of the Member. The Member hereby authorises Ninja Academy to use such photographs and/or video footage in its absolute discretion for promotion and marketing purposes.

## **24. Severance**

In the event that any part of this Agreement being or becoming void or unenforceable, then that part shall be severed from this Agreement with the intention that the balance of this Agreement shall remain in full force and effect, unaffected by the severance.

## **25. Privacy**

A Member's "personal information" (as that term is defined in the *Privacy Act 1988* (Cth)) will only be used by Ninja Academy and the Payment Provider to provide the Member with the services contemplated by this Agreement.

## **26. Entire Agreement**

This Agreement constitutes the entire agreement, understanding and arrangement (express and implied) between the Member and Ninja Academy and supersedes and cancels any previous agreement, understanding and arrangement relating thereto whether written or oral.

## **27. Member Acknowledgement**

**This is an ongoing membership agreement. The agreement will continue until either the Member or Ninja Academy terminates it in the way described in the agreement.**

**If an automatic debit arrangement is in place, membership fees will continue to be debited from the Member's credit card or account until the Member or Ninja Academy cancels the agreement by notifying the Member's bank or credit provider. If the Member terminates the agreement or stops the automatic debit arrangement in a manner not described in this agreement, then the Member may be liable to Ninja Academy for damages for breach of contract.**