



## Health Acknowledgment and Membership Agreement

### Health Acknowledgement

I, the Member, acknowledge and agree that:

1. I do not have coeliac disease;
2. I do not require a vegan, kosher or halal diet;
3. I am not pregnant nor have I given birth in the last 6 weeks;
4. I am not being treated with dialysis/ haemodialysis;
5. I am over the age of 18 years;
6. I do not currently have or have had anorexia, bulimia, or any other eating disorder within the last 2 years;
7. I am not currently being treated for cancer or have treatment planned (i.e. surgery, chemotherapy, radiation, radiotherapy);
8. if I have an allergy (that is serious, i.e. that may result in an anaphylactic reaction, or otherwise) or an intolerance, it is my responsibility to check the label of all products that I purchase prior to consumption to ensure they are safe for me to consume;
9. if I am unable to consume an ingredient, I may only have a limited number of Jenny Craig products to choose from. This may impact on my ability to follow the Jenny Craig Program (**Program**) long term;
10. if I:
  - have adult diabetes and are taking insulin,
  - have Crohn's disease, ulcerative colitis or removal of bowel
  - have had a heart attack less than 3 months ago
  - have had an organ transplant
  - have had stomach banding, stapling, sleeve or Roux-en-Y gastric bypass and/or
  - have had a stroke: less than 1 year ago,

then I must produce a letter from my doctor, before I can safely start on the Program.

11. if I have any of the following health conditions or are taking any of the following prescribed medications, I will discuss these (and any other health conditions that may inhibit my ability to participate in the Program) with my doctor:

Angina, arthritis requiring medication, breastfeeding, cancer (past), cardiac arrhythmia, depression (controlled), diabetes (not requiring insulin), epilepsy, food allergy or intolerance, gallbladder disease or gallstones, gastrointestinal disease (excluding Crohn's disease and ulcerative colitis, gout, heart disease, heart attack or coronary bypass surgery, high blood pressure or stroke, high cholesterol, IVF or other fertility treatment,



kidney or liver disease, major surgery within the past 3 months, medically advised to follow a special diet, medications (lithium, mono-amine oxidase (MAOI) medications, medication for high blood pressure or diabetes, thyroid disease and/or undiagnosed chest pain or severe shortness of breath.

12. I do not have any other health condition/s that would prevent me from enrolling in the program;
13. I am responsible for seeking professional advice as to my diet, exercise and any lifestyle change; and
14. I am responsible for my own health, will regularly consult my doctor regarding the need to modify medications and/or my level of physical activity, and will inform him/her if I experience changes in my health condition during the course of the Program.

### Membership Agreement

1. This is an agreement between the Member (**you/ your**) and Jenny Craig Weight Loss Centres Pty Ltd ABN 61 006 109 842 (**Jenny Craig/ us/ we**).
2. You agree to join the Jenny Craig Trial Membership (**Membership**) in accordance with the terms set out in this agreement (**Agreement**).

### **Term**

3. The Membership will commence upon your acceptance of this Agreement and will continue for the term you have purchased, until its expiration or until earlier cancelled or terminated in accordance with this Agreement (**Term**).
4. The Membership includes:
  - an initial weight assessment;
  - newsletters;
  - recipes e-books;
  - hints and tips on how to stay on track; and
  - access to purchase the Menu Items and Products for the duration of the Membership.
5. The cost of the Membership is set out in the Terms and Conditions of Offer document (**Membership Fee**). Full payment of any Membership Fee is due at the time of enrolment.
6. The cost of food items, meals and vitamin supplements sold by us (**Menu Items**) is additional, as set out below.



## Menu and Agreement Changes

7. Subject to any applicable legislation, statute, order, rule, regulation or subordinate legislation that may apply (**Law**), we may vary this Agreement by providing notice to you at [www.jennycraig.com.au/how-it-works](http://www.jennycraig.com.au/how-it-works) / [www.jennycraig.co.nz/how-it-works](http://www.jennycraig.co.nz/how-it-works) or the [www.jennycraig.com.au/terms](http://www.jennycraig.com.au/terms) / [www.jennycraig.co.nz/terms](http://www.jennycraig.co.nz/terms) if the variation is required to comply with any Law or requirement of any governmental agency or judicial body.
8. By entering into this Agreement, you further acknowledge and agree that the price of the Menu Items and the Menu Items themselves may vary from time to time.

## Cancellations and Refunds

9. You may cancel this Agreement immediately:
  - a. any time before 5:00pm on the fifth day following the date of entering into this Agreement (**Cooling Off Period**) for any reason once you have provided notice in writing to us (**Notice**).
  - b. outside of the Cooling-Off Period, if you are diagnosed by a medical practitioner with a physical or mental illness that results in it being detrimental for you to continue the Membership, and you provide us with the Notice and a medical certificate;
10. We may cancel this Agreement immediately if a medical consultant of, or appointed by, us determines, in its absolute discretion, that your medical circumstances are such that it would be detrimental for you to continue the Membership.
11. If this Agreement is cancelled pursuant to clause 9 and 10, we will provide a pro-rata refund of the Membership Fee, within 20 Business Days, calculated based on the length of any unused Term.

## Menu

12. Menu Items are not included in the Membership Fee. Menu Items must be purchased at an additional cost.
13. The price of the Menu Items shall be specified on the written menu items list in place from time to time.
14. You may place orders for Menu Items at a Jenny Craig Centre.
15. All orders for Menu Items and any other products sold by us (such as accessories) (**Products**) are subject to stock availability together with minimum and maximum order quantities, as determined by us from time to time.
16. We may, from time to time, alter or vary the Menu Items and/or the Products, in our absolute discretion.



## Consultations

17. You will only be entitled to receive personal consultations with one of our consultants in any week of the Term that you purchase a full menu for that week. A 'full menu' means a full week of the Jenny Craig menu, being 7 breakfast, 7 lunch, 7 dinner and 7 snack items each week.
18. We cannot guarantee that the same consultant will be assigned to you throughout the Term. Consultations may vary in length and duration.

## Delivery

19. If available, you may choose to have the Menu Items or Products delivered to you, to the address nominated by you, at your cost (**Delivery**).
20. Once you have paid for the Menu Items and Delivery costs (where applicable) and your order has been dispatched by us from our warehouse, through a third-party courier and/or delivery provider, the order cannot be cancelled by you.
21. You must verify the quantity of the Menu Items and Products upon their Delivery to you, and if any of the Menu items or Products are missing or damaged (to the extent that such damage is apparent), you must notify our Customer Care Team (on [jennycare@jennycraig.com.au](mailto:jennycare@jennycraig.com.au)) within 3 business days of Delivery. A business day means a day banks are open for business in the State of Victoria, Australia (**Business Day**). Once delivered, you are responsible for appropriately storing the Products and the Menu Items as directed on the packaging. For the avoidance of doubt, this clause does not in any way impact or derogate from your rights set out under the heading Refunds and Returns (below) or your rights under the *Competition and Consumer Act 2010 (Cth)* (**Consumer Law**), as amended or replaced from time to time.
22. We will endeavour to conduct Deliveries in a timely manner, however we will not be liable for:
  - a. delay in Delivery;
  - b. any damage or loss incurred after Delivery;
  - c. any damage or loss caused as a result of your interference with the Delivery; or
  - d. damage to property caused by third parties entering the premises to provide you with your Delivery.
23. You may grant us authority to leave the Menu Items or Products at a designated area (for example, at the front door) when placing your order. If you do, you understand and agree that this authority gives us and/or our couriers permission to leave the Menu Items or Products unattended at the place specified by you without obtaining a signature confirming Delivery. In such circumstances, you understand and agree that by granting us authority to leave the Menu Items or Products, we and our couriers are released of all responsibility



and liability for the Menu Items or Products delivered and left unattended, and that this responsibility and liability transfers to you on Delivery.

## **Refunds and Returns**

24. The Membership Fee may not be refunded except as set out under the heading Cancellations and Refunds (above).
25. Faulty Menu Items or Products must be promptly returned by you to the Centre or our warehouse, at our election and cost, and include the following information:
  - a. the return authorisation number applicable to the Menu Item and/or the Products that you previously obtained from us;
  - b. whether you prefer a refund or an exchange, and if an exchange, which alternative Menu Item or Product you would like, for equal or lesser value; and
  - c. your contact details, including your name, email address and telephone number.
26. When returns of Menu Items and/or Products are completed in accordance with this Agreement, we will provide the replacement or the refund (as the case may be), including your reasonable costs in returning the Menu Items and/or Products to us, within 10 Business Days of receipt of the returned faulty Menu Item and/or Products.
27. Except as required by applicable Laws, including the Consumer Law, we will not be under any obligation to accept Menu Items and/or Products returned for any other reason.

## **Payment, Risk and Title**

28. You must pay any Membership Fee in full up front when accepting the terms of this Agreement and making the online purchase.
29. If you place orders for Menu Items or Products during the Term, the price of the Menu Items and the Products will be the then current price at the time of ordering, plus any applicable charges for Delivery, payable in full at the time of ordering.
30. You are responsible for all duties and taxes (including GST) levied on the Menu Items or Products.
31. Title in the Menu Items and/or the Products passes to you once payment is made in full by you. Risk in the Menu Items and/or the Products passes to you on collection from our Centre or on Delivery to the address nominated by you.



## Representations

32. You represent and warrant that:
- you are in good health and are unaware of any medical or other reason why you cannot participate in the Membership or purchase the Menu Items or the Products from us; and
  - any questions concerning your health and your ability to purchase and participate in the Membership have been discussed with your own doctor, or you acknowledge will be discussed with your own doctor, before you purchase any Menu Items or Products from us.
33. You acknowledge and agree that:
- you are responsible for your own health and will inform your doctor and us if you experience any changes in your health while obtaining any Menu Items or Products, including pregnancy;
  - you are responsible for, and will inform us of, any physician directed exercise modifications or restrictions, all prescription medications, non-prescription medications and diet aids and supplements that you are taking and any changes in dosage, on an ongoing basis, while you obtain any Menu Items or Products; and
  - neither Jenny Craig nor any (a) any related body corporate or associate of Jenny Craig as defined by the Corporations Act 2001 (Cth) (**Related Corporation**); or (b) any officer, employee, agent, adviser or contractor of Jenny Craig or a Related Corporation (**Related Person**) are health care practitioners or otherwise provide a health service, and consequently none of them can be expected to diagnose, recognise or treat individual health problems that you may experience (or have experienced) prior to or during the Term and/or while you obtain any Menu Items or Products.

## Termination

34. We may immediately terminate this Agreement if:
- you breach a provision of this Agreement, and you fail to remedy that breach within 10 Business Days of receiving a written notice from us identifying the breach and requiring it to be remedied;
  - you have breached this Agreement on 3 separate occasions during the Term (whether or not the breaches have been remedied);
  - you become bankrupt, or otherwise unable to pay your debts as and when they fall due;
  - your conduct towards Jenny Craig, or a Related Person, is deemed unacceptable by us, acting reasonably, including but not limited to physical violence, threats, harassment or displaying sexual or obscene behaviour.
35. Any termination pursuant to clause 34, does not provide you with a ground for any claim for a refund, including refund for the Membership Fee, Menu Items or Products, damages, compensation, costs or expenses and shall not prejudice the rights of either party in respect of any antecedent breach of this Agreement.



36. Upon the expiration or earlier termination of this Agreement, your Membership will expire and your right to access the membership benefits associated with the Membership, including access to purchase the Menu Items or Products and to receive consultations, will end.

### **Exclusions and Limitations**

37. Our liability is limited to the extent permitted by Law.
38. To the extent permitted by Law, we will not be liable to you (whether in contract, tort, or otherwise) for any consequential, special, incidental or indirect loss or damage, including loss of profit.
39. To the maximum extent permitted by Law, you agree to indemnify, and keep us indemnified, against all damages, losses, costs and expenses suffered by us arising out of any breach by you of this Agreement or arising out of your negligence or wilful act or omission.

### **General**

40. You agree to your photograph being taken, stored and utilised to assist in visual motivation, for comparative purposes and for our records. You approve of your photograph being supplied to our Marketing Department as a success story (but not to be used publicly without further consent from you).
41. You agree for us to use and disclose the information in your Health Acknowledgement Form, and any other sensitive information about your health that we may obtain from you from time to time in conjunction with your participation in the Membership or by you purchasing and following the weekly Menu, to your doctor, or to a Jenny Craig medical consultant, if such use and disclosure is reasonable necessary for us to provide the Membership and associated products and services to you.
42. This Agreement is personal to you and may not be transferred to another person. You may however transfer the Membership to another of our participating Centres by prior arrangement.
43. We may sub-contract, or otherwise arrange for another person to perform, any part of this Agreement.
44. We can only waive our rights under this Agreement by written notice, and a waiver will be limited to the specific instance to which it relates and to the specific purpose for which it is given.
45. If any provision or part of this Agreement is void or unenforceable for any reason, then that provision or part will be severed from this Agreement and the rest of this Agreement shall be read as far as possible as if the severed provision or part had never existed.



46. Failure or delay in performance of any obligation by either party shall be deemed not to be a breach of this Agreement if that failure or delay is due to an event that is not caused or contributed to by that party's fault or negligence, but due to an event that is outside the reasonable control of that party, which event may include an act of God, outbreak of hostilities, riot, civil disturbance or acts of terrorism, strikes, lock outs, fire, flood or drought.
47. This Agreement is governed by and must be construed in accordance with the laws of the State of Victoria, Australia and each party hereby submits to the non-exclusive jurisdiction of the Courts of that State.

**Last updated: May 16 2019**