

# Membership Terms and Conditions

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THIS IS AN IMPORTANT DOCUMENT – PLEASE ENSURE TO YOU READ IT CAREFULLY

## 1. DEFINITIONS

In this Membership Agreement:

**Membership Agreement** means these Terms and Conditions, the Membership Form and the Direct Debit Request.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the city of the Salon.

**Cancellation Form** means any Cancellation Form completed and submitted by you, to which these Terms and Conditions apply.

**Commencement Date** means the date specified as such in the Membership Form.

**Direct Debit Request** means the section on the Membership Form completed by you.

**Membership** means the type of membership that you select on the Membership Form, as set out in the "Membership Options" section of the Membership Form.

**Membership Services** means the services that you are entitled to receive from us under your Membership as outlined in the "Membership Options" section of the Membership Form.

**Membership Fees** means the fees set out in the Membership Form that are payable by you for the type of membership that you have selected.

**Membership Form** means either a written Membership Form completed by you, or an online or electronic Membership Form completed by you on our Website or in our Salon, to which these Terms and Conditions apply.

**Minimum Term** means the minimum number of payments described in the "Payment Details" section of the Membership Form, subject to extension in accordance with the terms of this Membership Agreement.

**Salon** means the salon at which you applied to have your Membership with, as set out in the "Salon" section of the Membership Form.

**Terms and Conditions** means the terms and conditions set out in this Membership Agreement which apply to each Membership offered by us.

**We, us or our** means Beautify Hair Design Pty Ltd ACN 607 796 476.

**Website** means [www.beautifyhairdesign.com.au](http://www.beautifyhairdesign.com.au).

**You or your** means the person described in the "Member Details" on the Membership Form.

## 2. INTERPRETATION

In this Membership Agreement, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a party includes that party's legal personal representative, heirs and assigns;
- (c) headings are used for convenience only and are to be disregarded in the interpretation of this Membership Agreement;
- (d) where any word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning; and
- (e) a reference to an agreement or document is to that agreement or document as amended.

## 3. MEMBERSHIP AGREEMENT

This Membership Agreement is made between us and you. This Membership Agreement is legally enforceable and binding on you for the Minimum Term.

## 4. TERMS AND CONDITIONS

In submitting a Membership Form with us, you acknowledge and confirm that you have read, understood and unconditionally agree to be bound by these Terms and Conditions in relation to your Membership.

## 5. COMMENCEMENT AND TERM

This Membership Agreement will commence on the Commencement Date and continue for the Minimum Term, unless terminated earlier in accordance with this Membership Agreement.

## 6. MEMBERSHIP FORM

Your submission of a Membership Form with us is your offer to sign up to a Membership subject to these Terms and Conditions. We reserve the right to reject any Membership Form for any reason at our absolute and unfettered discretion.

## 7. MINIMUM AGE

You must be at least 18 years old to become a member.

## 8. EXTRA SERVICES

You may wish to obtain services from us in addition to the Membership Services that you receive under your Membership. You will be required to immediately pay the standard fees associated with these services to us in addition to your Membership Fees. Any additional services requested by you shall be at the sole discretion of the Salon. The prices for these additional services are available on our Website or in the Salon and subject to change from time to time. Please note that no discounts and/or any other offers can be applied to any of our Membership Services.

## 9. BOOKING A STYLIST

You must book your preferred stylist in advance. If your preferred stylist is not available to look after you on your appointment day for any reason, we will endeavour to allocate a new stylist to you.

## 10. APPOINTMENT

If on the day of your appointment you elect not to use any or all of the Membership Services that you receive under your Membership, any unused Membership Services from that particular appointment shall be forfeited and you will still remain liable for the Membership Fees and the Minimum Term.

## 11. CANCELLING AN APPOINTMENT

You must give us at least 48 hours' notice of any cancellation of an appointment. If you cancel within 48 hours of your appointment, or do not attend a booked appointment, we reserve the right to forfeit your Membership Services for that appointment. If we have to cancel your appointment for any reason, we will contact

you and/or text message you to reschedule your appointment within a reasonable time frame. This does not affect your Minimum Term and your weekly payments will continue as normal.

## 12. MEMBERSHIP PAYMENT OPTIONS

It is a condition of this Membership Agreement that you pay your Membership Fees either by a direct debit or an up-front lump sum payment as follows:

- (a) a direct debit requires that you complete the Direct Debit Request in the Membership Form (or separate form, subject to change from time to time) and pay your Membership Fees each week in advance from a bank account or credit card. You can pay your weekly Membership Fees as far in advance as you like; or
- (b) an up-front lump sum payment requires that you pay your Membership Fees in full at the Commencement Date of your Membership.

A pro rata payment may apply if the Commencement Date of your Membership is not at the beginning of the month. All Membership Fees include goods and services tax ('GST'). Your Membership Fees will change in line with any government GST rate changes, even if you are in your Minimum Term.

## 13. DIRECT DEBIT PAYMENTS

If you elect to pay your Membership Fees by direct debit, you agree that:

- (a) we will debit your weekly Membership Fees from your nominated account every week commencing on the date specified on the Direct Debit Request until this Membership Agreement is terminated in accordance with its terms;
- (b) if you use a credit card (including VISA debit facilities), there is no surcharge, however, if you use Amex, the surcharge will be 4.4% per transaction (i.e. a minimum of \$1.10 per transaction);
- (c) if your direct debit falls on a public holiday, we will debit your account on the next Business Day;
- (d) debits may take up to 5 business days to come out of your account;
- (e) we will not be liable for any fees incurred by you from your designated bank or card provider for any late fees or charges incurred for failing to meet the direct debit arrangement;
- (f) we may use the services of a third party billing company to deduct payments and you will be liable for their surcharge fee, administrative fee (if any) or any other associated fees directly to that third party billing company;
- (g) it is your responsibility to ensure that:
  - (i) your nominated account can accept direct debits;
  - (ii) there is sufficient funds in your nominated account on the payment day and the next 5 days;
  - (iii) your account details are correct (and if the details you give us fail, you are liable for any resulting fees);
  - (iv) you inform us if you are transferring or closing your account at least 48 hours before your next direct debit;
  - (v) you inform us about any changes to your credit card, such as its expiry date or number, at least 48 hours before your next direct debit; and
  - (vi) you must inform us with at least 48 hours' notice if you want to change or stop your direct debits.

If you query a payment, we will do our best to respond to you within 7 days of receiving the query.

## 14. LATE OR FAILED PAYMENTS

If you do not fully pay your Membership Fees on the due date, we will suspend your Membership and access to any Salon until all your payments are up to date and you have given us your current direct debit account details. It is your responsibility to ensure you have sufficient funds in your nominated account when the weekly payments are to be debited and if the debit is unsuccessful you will be responsible for a late payment fee, interest, any administration fees and/or collection fees. We will charge you a late payment fee of \$14.80 for a late or failed payment. This will be debited from your account and you hereby authorise us to do this. If payments are managed by a third party billing company, you will be responsible for their late payment fees, any administration fees and/or collection fees.

## 15. OUSTANDING DEBTS

We will continue to debit your nominated account without notice to you, until we have received the total amount you owe us. We will make a reasonable effort to inform you in advance about this by:

- (a) phoning you or speaking to you in the Salon;
- (b) writing to your last known address; or
- (c) sending you a text message or email.

## 16. VARIATIONS TO THE TERMS AND CONDITIONS

- (a) **Right to make changes.** We may add to, change or remove our Terms and Conditions. This includes changing the Salons opening and closing hours, its services, staff, facilities and Membership Fees. We may also close a Salon for refurbishment to improve its facilities. We will not reduce your Membership Fees because the Salon is closed for renovations or for a public holiday. The most up-to-date terms and conditions always apply, which can be found on our Website.
- (b) **Right to assign.** We may assign or transfer any rights or benefits under these Terms and Conditions at any time without notice to you.
- (c) **Notification about changes.** We will give you at least 7 days' notice of any changes, for instance by:
  - (i) publishing them in our newsletter or on our Website; or
  - (ii) phoning you or writing to the post or email address you last gave us.
- (d) **Receiving a refund for prepaid membership.** If you pay for a Membership in full in advance, we may refund the remaining Membership Fees (if any) within 6 months of payment if your Membership is lawfully terminated in accordance with the terms of this Membership Agreement and without default by you. Unless the law states otherwise, you do not have any other claim against us if this happens.

## 17. OUR TERMINATION RIGHTS

We may terminate this Membership Agreement in the following circumstances:

- (a) at any time by written notice if you breach the terms of this Membership Agreement and you fail to rectify the breach within 14 days of receiving our notice of breach;
- (b) in the case of a serious breach of the Membership Agreement, with immediate effect and without notice;
- (c) you fail to pay your Membership Fees as they fall due;
- (d) we are of the opinion that you are not suitable for continued Membership; or

- (e) you put the health, safety or well-being of our staff, customers, guests and other members at risk.

For the purpose of this clause, a serious breach will be deemed to have occurred if you commit an illegal act, an assault or abuse (physically or verbally) of another member, guest or staff at a Salon, or you breach the privacy of another member or staff.

## 18. YOUR TERMINATION RIGHTS

You may terminate this Membership Agreement during your Minimum Term if:

- (a) you cannot continue to use your Membership Services because you are sick or incapacitated, provided you give us 14 days' written notice of your termination together with a certificate from a qualified medical practitioner stating you are unable to continue to use your Membership Services due to serious medical reasons; or
- (b) you relocate to an area more than 60 kilometres away from our nearest Salon, provided you give us 14 days' written notice of your termination together with written evidence from your real estate agent or Australia Post proving that you have relocated to an area that is more than 60 kilometres away from our nearest Salon.

## 19. TERMINATION FEES

There are no termination fees if you terminate your Membership for valid medical reasons in accordance with clause 18(a). However, in all other cases:

- (a) we will charge a termination fee based on how much of your Membership remains;
- (b) if less than two months remains under the Minimum Term of your Membership, you will be liable for the full amount owing under the Membership; or
- (c) if two months or more remains owing under the Minimum Term of your Membership, you will be liable to pay us 50% of the full amount of the Membership Fees owing under your Membership.

All termination requests made under this clause must be made by submitting a Cancellation Form with us. Your termination request will be effective by the date that is 14 days after the date that we receive your Cancellation Form provided that you are eligible to terminate your Membership under this Membership Agreement. You may wish to submit your Cancellation Form by emailing us at [salon@beautifyhairdesign.com.au](mailto:salon@beautifyhairdesign.com.au).

## 20. NON-CONTINUING AGREEMENT

This Membership Agreement will be at an end upon expiry of the Minimum Term.

## 21. FREEZING YOUR MEMBERSHIP

- (a) **Using a membership freeze.** You may freeze your Membership for four (4) consecutive weeks within your 12 month Minimum Term. Any Membership freeze taken will be added to your Minimum Term so that all minimum payment requirements are met. For avoidance of doubt, a membership freeze may not be available for all Membership options, please contact your Salon for more information.
- (b) Before freezing your Membership, you must ensure your Membership Fees are fully paid up to date and you do not owe us any money. We cannot backdate any Membership freeze request(s). You must request a freeze of your Membership in advance and in writing when you need it, subject to our approval.

## 22. HEALTH AND INJURIES

It is your responsibility to seek medical clearance from a suitably qualified medical practitioner before commencing Membership with us. You agree to declare to us your medical history for any health or physical condition that may affect your safety during your Membership. You further warrant and represent to us that you will not use your Membership or any Membership Services whilst you are suffering from any infections or contagious illness, disease or other ailment where there is a risk, however small, to other staff, members, customers and guests. We reserve the right to refuse entry to you or to terminate your Membership based on health reasons for the safety of our staff, members, customers and guests.

## 23. FEEDBACK

- (a) **We welcome your feedback.** Your feedback is important in helping us to provide a great service. If you have any comments or questions about our Salon, Website or Membership Services, please contact us via one of our methods listed below. If you have a complaint, we will follow our complaint process outlined in clause 32 of this Membership Agreement.
- (b) **How to contact us:**
  - (i) **In Salon.** Our team members are always happy to help. Ask at our Salon reception or call us on 07 3820 9818. If you would like to speak with the manager, let our team members know. If no managers are immediately available, the reception team will ensure someone contacts you as soon as possible.
  - (ii) **Online.** Send us an email at the following email address: [salon@beautifyhairdesign.com.au](mailto:salon@beautifyhairdesign.com.au). We recognise that some enquiries are more complex than others and may require more time to resolve but we will always let you know.
  - (iii) **Postal.** If you are not satisfied with our response, you may write to Beautify Hair Design at PO Box 3738 Victoria Point West QLD 4165. You will hear from us within a reasonable time of us receiving your letter about what if anything we plan to do and how long it is likely to take.

## 24. TRANSFERRING YOUR MEMBERSHIP

You can transfer your Membership to another person (the 'transferee') within the Minimum Term of your Membership so long as the transferee:

- (a) is not a current member;
- (b) has not been a member in the last 3 months;
- (c) completes a new Membership Form;
- (d) is eligible to take up a new Membership with us (i.e. is at least 18 years old); and
- (e) has not previously been banned by us or failed to pay any Membership Fees.

The transfer is effective only after the transferee has completed a new Membership Form. We do not allow transfers once you have completed your Minimum Term.

## 25. OUR RULES

- (a) **Respecting others.** Be respectful and do not behave inappropriately towards other members, guests, customers, our staff and outside providers. Examples of inappropriate behaviour include without limitation:
  - (i) verbal or physical intimidation;
  - (ii) harassment; or
  - (iii) discrimination on the basis of race, sex, age or any disability another person may have.

- (b) **Parking.** You may park in the Victoria Point Lakeside premises at your own risk and cost (including but not limited to the cost of parking). We are not liable for any loss or damage to your vehicle or its contents. Please keep to the set time limits for parking or your car may be towed away at your own cost.
- (c) **Being refused entry or receiving a warning.** We can refuse entry to anyone, including members, if they act unreasonably or break the Salon code. We may also warn you that you risk having your Membership cancelled. If you continue to behave in the same way, we may cancel your Membership immediately.
- (d) **Instant termination.** We can terminate your Membership without notice if you behave in a way that is risky or seriously inappropriate, such as:
  - (i) threatening or harassing others including staff;
  - (ii) damaging salon equipment;
  - (iii) using illegal or performance-enhancing drugs; or
  - (iv) stealing salon products.

## 26. OUR PRIVACY POLICY

You acknowledge and agree that you have read, understood and unconditionally accept our privacy policy which can be found on our Website.

## 27. OUR WEBSITE TERMS AND CONDITIONS

You acknowledge and agree that you have read, understood and unconditionally accept our website terms and conditions which can be found on our Website.

## 28. YOUR PERSONAL INFORMATION

You accept full responsibility for updating your personal information with us for the purpose of billing and receiving notices. You are responsible for advising us of changes to your personal information. Where we are required to provide any written notification to you, we will send the notice to the address specified in the Membership Form or any updated address you have provided to us in writing since joining. Any notice sent by us to you in accordance with this Membership Agreement will be deemed received by you two days from the date of issue.

## 29. EMAIL NOTIFICATIONS

You agree to receive email notifications from us. These communications can be unsubscribed from via the 'unsubscribe' button on each email communication.

## 30. LIMITATION OF LIABILITY

Unless we are grossly negligent, you acknowledge and agree that neither we (nor our employees, servants, agents or contractors) will be held liable to you or any third party for (and you forever release us from, hold us harmless against and waive all rights in respect of) any direct or indirect loss, damage, costs, expenses, theft or any other liabilities resulting from, arising from or in any way connected with:

- (a) a Membership, the use of our Membership Services or your occupation of our Salons;
- (b) your death, personal injury or illness, or the death, personal injury or illness of any other person; or
- (c) the loss of or damage to your or anyone else's property.

Without limiting the foregoing, to the maximum extent permitted by law, we will not be liable to you or any third party for any indirect, special, incidental or consequential damages, loss of profits or loss of earnings, suffered by you or any other person due to any breach of this

Membership Agreement by us. If we are found to have been negligent, our liability shall be limited to \$200.

## 31. INDEMNITY

You are liable for and agree to indemnify us (including but not limited to our employees, servants, agents or contractors) from and against all and any liability claims, actions, proceedings, demands, loss, damage, fines, charges, expenses and costs (including, without limitation, our legal costs on a solicitor and own client basis) incurred, suffered by or claimed against, us in relation to, or in connection with or arising from:

- (a) this Membership Agreement;
- (b) any breach of this Membership Agreement by you;
- (c) any demand or claim by any person for death, personal injury, illness or damage to any property;
- (d) any demand or claim for loss of profit, loss of revenue, loss of opportunity, indirect or consequential loss; or
- (e) any unlawful, reckless or negligent act, error or omission committed by you.

## 32. DISPUTE RESOLUTION

You agree to comply with the following dispute resolution procedure:

### (a) Application

- (i) If a dispute between the parties arises in relation to, or in connection with, this Membership Agreement or its subject matter, then this clause 32 will apply.

### (b) Dispute

- (i) If a dispute arises from this Membership Agreement ("**Dispute**") then either party ("**Complainant Party**") will give to the other party a notice of dispute specifying the nature of the Dispute, what outcome the Complainant Party desires and what action the Complainant Party proposes be taken in order for the Dispute to settle ("**Notice**").
- (ii) The parties must endeavour to resolve the Dispute set out in the Notice in good faith within ten (10) Business Days of the respondent party ("**Respondent Party**") receiving the Notice ("**Resolution Period**").
- (iii) In the event that the parties are not able to resolve the Dispute themselves during the Resolution Period, the parties must then participate in mediation in accordance with this clause ("**Mediation**").

### (c) Mediation

- (i) If the parties do not agree within ten (10) Business Days from the end of the Resolution Period on:
  - A. the procedure to be adopted in a mediation of the Dispute;
  - B. the timetable for all the steps in those procedures; and
  - C. the identity and fees of the mediator; then:
    - (1) the President of the Queensland Law Society will appoint the mediator and determine the mediator's fees;
    - (2) each party agrees to pay for half the cost of the mediator; and
    - (3) the parties must participate in the Mediation.
- (d) The parties must pay their own costs for attending at or being represented at the Mediation.
- (e) The parties must first comply with the dispute resolution procedures in this clause before applying

for relief in any court (unless the relief required is urgent).

- (f) The parties must keep all aspects of any meeting held pursuant to this clause, except the fact of its occurrence, confidential and agree that all communications between the representatives at the meeting are made on a without prejudice basis.

### **33. GOVERNING LAW AND JURISDICTION**

This Agreement is governed by the laws of Queensland. The parties submit to the exclusive jurisdiction of the courts of Queensland.

### **34. NO WAIVER**

The failure, delay or omission by us to exercise any power or right conferred upon us under this Membership Agreement will not operate as a waiver of that power or right, nor will any single exercise of any power or right preclude any other future exercise of the power, or the exercise of any other power or right under this Membership Agreement. A waiver of any provision of this Membership Agreement, or consent to any departure by a party from any provision of this Membership Agreement, must be in writing and signed by all parties and is effective only to the extent for which it is given.

### **35. AUSTRALIAN CONSUMER LAW**

If you are a consumer, for the purposes of the consumer protection legislation, the rights of a consumer set out in these Terms and Conditions are in addition to the rights the consumer has under applicable consumer protection legislation, including the Australian Consumer Law. Such rights are not excluded, restricted or modified by this Membership Agreement. The only conditions, warranties or guarantees which are binding on us in respect of the services or any goods supplied by us, our employees, servants or agents, to you are those imposed or required

to be binding by statute and those (if any) expressly stated in these Terms and Conditions. To the extent permitted by law, all other conditions, warranties and guarantees are expressly excluded. You can find out more about your consumer rights from consumer organisations and bodies such as the Australian Competition and Consumer Commission and State/Territory fair trading authorities.

### **36. SEVERABILITY**

Unenforceability of a provision of this Membership Agreement does not affect the enforceability of any other provision. If any provision is void, voidable or unenforceable, it will be severed from the Membership Agreement to the extent of the inconsistency.

### **37. ENTIRE AGREEMENT**

This Membership Agreement constitutes the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Membership Agreement shall not be binding on either party except to the extent incorporated in this Membership Agreement.

### **38. NON-MERGER**

This Membership Agreement commences on the Commencement Date and continues in full force and effect until it is terminated in accordance with this Membership Agreement. Termination of this Membership Agreement does not extinguish, or otherwise affect, any rights of any party to this Membership Agreement against the other which accrued before the time at which the Membership Agreement was terminated, or otherwise relates to or may arise at any future time from any breach or non-observance of obligations under this Membership Agreement, which arose before the time at which this Membership Agreement was terminated.