

Welcome to YMCA live online gymnastics!

At the Y, we understand the importance of remaining active for both physical and mental health. With the closure of our facilities, we are providing a variety of ways to stay active and are really excited to launch live online gymnastics classes! Our online live classes have been tailored to each class by our talented gymnastics team and can all be done in the comfort of your very own home. Please ensure you read the below information including acknowledgement of the terms and conditions, as your participation in our classes will be subject to these terms and conditions.

Our online gymnastics classes are run by Victorian YMCA Community Programming Pty Ltd ACN 092 818 445 (**YMCA, we or us**) which is an entity within the YMCA Victoria Group.

Classes will be held via ZOOM. You will need to download the APP or access ZOOM via the web in order to participate.

Classes are only available to gymnasts who are currently enrolled for gymnastics classes at one of our facilities, as participation in classes will be based on the skills they obtained prior to facility closure. Classes should only be completed by suitably trained gymnast and gymnasts must ensure they participate within their own limits.

Any questions about our online gymnastics classes should be directed to 9851 0444 or sent to bsc.gymnastics@ymca.org.au.

Terms & Conditions

- 1 For the purpose of these terms and conditions:
 - (a) If the participant (referred to as the "Gymnast" in these terms and conditions) is less than 18 years old, their parent/guardian assumes overall responsibility for the Gymnast and must accept these terms and conditions on behalf of the Gymnast. The parent/guardian must comply, and must ensure that the Gymnast complies, with these terms and conditions. Reference to the Gymnast includes the Gymnast's parent/guardian in such circumstances.
 - (b) If the Gymnast is more than 18 years old, the Gymnast accepts these terms and conditions on their own behalf.
- 2 The Gymnast is responsible to ensure that there is adequate and appropriate space in the location from which the Gymnast accesses the online class to participate in all activities and exercises run during the class (i.e. flat surface, no obstructions, not slippery or a hard surface). The space must be clear of any obstacles and safe to participate in the class.
- 3 If the Gymnast is less than 18 years old, their parent/guardian must be present and supervise the Gymnast at all times during the class.
- 4 The Gymnast is responsible for ensuring that they have a device from which they can see and hear the class without the use of headphones or a requirement to hold the device.

- 5 The Gymnast must ensure that, if they experience any soreness completing an exercise or injure themselves during a class, they immediately cease participating in the class and notify the coach.
- 6 Classes will not include any aerial work. Gymnasts must ensure that, at a minimum, they have one foot or hand on the ground at all times.
- 7 Classes will not be recorded by YMCA and **must not** be recorded by any person(s) (including the Gymnast).
- 8 We may terminate a Gymnast's access to the class if we believe that the Gymnast has engaged in any conduct in breach of these terms and conditions or their behaviour is otherwise deemed inappropriate. We may also prevent the Gymnast from participating in future classes, at our discretion, depending on the nature of the breach or behaviour.
- 9 Gymnasts must wear clothing appropriate for gymnastics.
- 10 Each class will have a YMCA staff member moderating the session in addition to the coach.
- 11 Subject to clause 12 below, Gymnasts are encouraged to have their video turned on during the class to allow coaches to actively provide feedback on technique.
- 12 While we make every reasonable effort to ensure the security of Gymnasts participating in classes (including by monitoring who can enter the class via the ZOOM platform), we cannot ensure the security of that platform, which is operated by a third party. In addition, Gymnasts and their parent/guardian (where relevant) are responsible for determining whether it is appropriate for their video to be turned on during classes. There may be some circumstances (such as court orders or custody arrangements in place) that impact this decision. The Gymnast and their parent / guardian (where relevant) is responsible and liable for making such a determination and if that determination is to ensure that the video function is turned off, to ensure that this is done.
- 13 Gymnasts will be able to interact with the coach using the comments function.
- 14 The Gymnast must ensure the screen name is the name of the Gymnast participating, using their first name and first letter of their surname. This allows for privacy while ensuring we can identify each participant.
- 15 Gymnasts must respect the diversity, background and individuality of all participants, YMCA staff including coaches, and members of the public. YMCA is not tolerant of language or behaviour that is homophobic, sexist, racist, or in any other way aggressive, bullying or discriminatory, in an in-person or online capacity. Words or actions displaying these tendencies may result in removal of a Gymnast from the class, at the discretion of YMCA. Actions of this nature may also result in the Gymnast not being accepted onto future YMCA programs.
- 16 YMCA is not liable for any loss, damage, claims or liability connected with any property damage caused or contributed to by the Gymnast in connection with their participation in any class.

17 All personal information will be handled in accordance with the YMCA Australian Privacy Policy which can be found at <https://ymca.org.au/Pages/privacypolicy.aspx>.

18 Cancellation by YMCA

(c) We reserve the right to cancel, postpone or change classes on short notice. If a class is cancelled, all Gymnasts will be notified by phone and email as soon as possible.

(d) Other than as set out in clause 20, YMCA will not be liable to any Gymnast for any loss or damage (including, but not limited to, indirect or consequential loss or damage) suffered as a result of or arising from or in any way connected to the cancellation or postponement of, or change to, any class.

19 Cancellation by Gymnast

Gymnasts may decide not to attend any class that they have registered for without consequence and without notifying us.

20 **Release from liability**

Subject to the remainder of this clause 20, YMCA accepts no liability whatsoever in respect of the Gymnast's entry into these terms and conditions or the Gymnast's participation in the class.

Release from Liability under the ACL

For the purposes of this clause, the following terms have the following meanings:

ACL means Schedule 2 of the CCA.

ACLV means the *Australian Consumer Law and Fair Trading Act 2012 (Vic)*.

CCA means the *Competition and Consumer Act 2010 (Cth)*.

Reckless Conduct means if YMCA Victoria and/or YMCA Victoria's Personnel is aware, or should reasonably have been aware, of a significant risk that the conduct could result in personal injury to another person, and, engaged in the conduct despite the risk and without adequate justification, in accordance with section 139A(5) of the CCA.

Recreational Services means services that consist of participation in a sporting activity or a similar leisure time pursuit, or any other activity that involves a significant degree of physical exertion or physical risk and is undertaken for the purposes of recreation, enjoyment or leisure, in accordance with section 139A(2) of the CCA and section 22(4) of the ACLV.

To the maximum extent permitted by the law in respect of any Recreational Services, the Gymnast hereby releases and discharges YMCA and all of its related bodies corporate from and against all and any claims, loss, damage, costs and expense arising from any:

(a) death;

- (b) physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- (c) contraction, aggravation or acceleration of a disease; or
- (d) coming into existence, aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual that is or may be harmful or disadvantageous to the individual or community, or, that may result in harm or disadvantage to the individual or community,

however it may be caused and even if caused by negligence or lack of due care and skill (other than Reckless Conduct) of YMCA or its related bodies corporate or their personnel.

This release is intended to exclude the Gymnast's rights under Subdivision B of Division 1 of Part 3-2 of the ACL and all other rights which may legally be excluded.

Release from liability under the ACLV

The release of liability under the ACL is mirrored in the ACLV, and as such, clause 20 of these terms and conditions applies to the discharge of each of YMCA and its related bodies corporate from all and any claims, loss, damage, costs and expense in relation to the Recreational Services under the ACLV arising from death or personal injury (as defined in the ACLV).

The below 'WARNING' and 'NOTE' are mandatory wording in accordance with regulation 6 of the *Australian Consumer Law and Fair Trading Regulations 2012* (Vic) that you accept upon entering into these terms and conditions. For the purpose of the below “the supplier” shall mean and include YMCA, any of its related bodies corporate and any of their personnel (including YMCA's personnel).

WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012 (VIC)

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that the recreational services it supplies to you—

- are rendered with due care and skill; and
- 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.

Under section 22 of the *Australian Consumer Law and Fair Trading Act 2012*, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you agree to these terms and conditions, you will be agreeing that your rights to sue the supplier under the *Australian Consumer Law and Fair Trading Act 2012* if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in these terms and conditions.

NOTE: The change to your rights, as set out in this notice, does not apply if your death or injury is due to gross negligence on the supplier's part. Gross negligence, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the *Australian Consumer Law and Fair Trading Regulations 2012* and section 22(3)(b) of the *Australian Consumer Law and Fair Trading Act 2012*.

21 General

These terms and conditions are governed by the laws in force from time to time in Victoria. The parties submit to the exclusive jurisdiction of the courts of Victoria.

If a clause in these terms and conditions is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in these terms and conditions.

Each release or exclusion of liability in this document is for the benefit of YMCA and is held on trust by YMCA for YMCA's personnel as well as YMCA's related bodies corporate and their personnel.

We will notify you if we make any change to these terms and conditions. You acknowledge and agree that you will not be able to participate in any further classes unless and until you confirm your acceptance to the amended terms and conditions.