



www.fitvak.com **General Terms of Fit!vak**

Article 1 Definitions

The Entrepreneur: natural person or legal entity who, as a member of Fit!vak, concludes an Agreement concerning fitness activities.

The Consumer: natural person who does not act in the exercise of a profession or on behalf of a company and who concludes an Agreement with respect to fitness activities.

Fitness: a service focused on physical and/or mental activity.

The Agreement: Agreement between the Entrepreneur and the Consumer in the matter of Fitness.

Article 2 Applicability

These general terms apply to the establishment and implementation of all Agreements concerning Fitness that are concluded between the Entrepreneur and the Consumer.

Article 3 The Offer

1. The offer of the Entrepreneur is published in writing or electronically and is in effect during a period indicated by the Entrepreneur. If no period is set for the acceptance, then the offer remains in effect for two weeks after the date of this document.

2. After the offer is published, the Consumer will fill in a medical questionnaire that is made available to him by the Entrepreneur.

3. The offer will contain at least:

- a mention of an opportunity to view the fitness area(s) and facilities;
- the time for consideration, as mentioned in Article 5;
- the facilities and supervision which can be used; the days and times at which the facilities can be used;
- the costs of the subscription and the consequences for these costs in the event of premature cancellation based on Article 6. The offer makes it clear whether this concerns periodic costs or one-time costs;
- the time at which the costs can be annually increased by the Entrepreneur based on Article 7;
- the payment method and the payment term;
- the period covered by the Agreement and the associated period of notice or, in the case of a ticket strip, the period of validity and;
- the by-laws.

4. The description of the offer should be sufficient enough to enable the Consumer to make a good assessment of the offer.

5. The offer shall be accompanied by a – written or electronic – copy of these general terms.

Article 4 The Agreement

The Agreement is established by signing the offer.

The Agreement is strictly non-transferable.

Article 5 Time for Consideration

For a period of one week after signing the Agreement, the Consumer may rescind the Agreement cost-free. The aforementioned right of rescission ends at the moment the Consumer makes use of the fitness facilities prior to the end of this period.

Article 6 Duration and Termination

1. The Entrepreneur shall offer the Consumer a minimum choice of:

- an Agreement lasting 3 months or less;
- an Agreement for a longer period.

Unless otherwise agreed, the agreement concluded for 1 year or shorter should be terminated by observing a period of notice of 1 month towards the end of the subscription period, all in accordance with paragraph 4 of this Article. If notice of termination is given late, then the Agreement will be continued for an indefinite period after agreed period. An agreement for an indefinite period can be terminated at any time by observing a notice period of 1 month, all in accordance with paragraph 4 of this Article.

2. If the Agreement is concluded for a period longer than 1 year, then after 1 year the Consumer may terminate the Agreement by observing a notice period of 1 month, all in accordance with paragraph 4 of this Article.

3. The Consumer may terminate the Agreement prematurely if:

- the Consumer changes his living address and – as a result of an increase in travel time – the Consumer is no longer able to make use of the fitness activities under reasonable conditions. If another branch of the company concerned, with equivalent facilities and level of service, is located within a reasonable travel time from the new living address, then such a situation does not exist.
- it has become impossible for the Consumer, due to a demonstrable injury or illness, to make use of the fitness activities for the remainder of the subscription period.

This termination should occur by observing the notice period of 1 month towards the end of the month, all in accordance with paragraph 4 of this Article.

4. The Agreement should be terminated in writing or, if the Agreement was concluded digitally, digitally or in writing.

5. In the case of termination as referred to in paragraph 2 and paragraph 3, the Entrepreneur is entitled to recalculate the fee for the elapsed subscription period based on the actual period purchased and the associated, demonstrable (higher) subscription fee and/or registration fee.

6. In addition to the termination possibility referred to in paragraph 3, the Consumer can also make use of a possibility to freeze the subscription. If the Consumer is not able to use the fitness activities for a period that is longer than one month due to a demonstrable injury or illness, then the contract period will be extended by this period without extra subscription costs being charged for this period.

7. Premature termination by the Entrepreneur, effective immediately, is possible if:

- the Consumer violates one or more provisions of these terms or of the applicable by-laws, unless the violation does not justify a premature termination, or;
- the Consumer has behaved unjustly towards the Entrepreneur or towards a contracting party of the Entrepreneur.

In these cases, the remaining subscription fee will be refunded after deduction of demonstrable damages suffered by the Entrepreneur.

8. If the Entrepreneur shuts down his company, then the Entrepreneur may prematurely terminate the Agreement while observing a notice period of 1 month. The remaining subscription fee will be refunded in such a case.

Article 7 Price and Price Changes

1. The subscription fee will be agreed to in advance.

2. Any price increases will be announced sufficiently by the Entrepreneur 2 weeks in advance.

3. If a price increase occurs, the Consumer has the right to dissolve the Agreement within 4 weeks after the announcement of the increase. The subscription fee paid in advance will be refunded.

4. The possibility of dissolving the Agreement from paragraph 3 does not apply to price adjustments based on the retail price index nor to price adjustments that ensue directly from law, such as those connected to VAT. If this price increase occurs within 3 months after the establishment of the Agreement, then the right to dissolve the Agreement as referred to in paragraph 3 does exist.

Article 8 Obligations of the Entrepreneur

1. The Entrepreneur guarantees that the facilities and services provided comply with the Agreement.
2. The Entrepreneur shall submit the facilities to the required maintenance.
3. The Entrepreneur guarantees that the instructors or supervisors possess such sufficient knowledge that may reasonably be expected of them.
4. The Entrepreneur shall ensure that sufficient first-aid equipment is on hand.
5. The Entrepreneur shall comply with the quality protocol of Fit!vak, namely: "Lerf Basis" (see: www.keurmerkfitness.nl), including the doping covenant.
6. The Entrepreneur shall take measures to prevent damage to or the loss of the property of Consumers.

Article 9 Obligations of the Consumer

1. The Consumer shall comply with instructions given by the Entrepreneur and with the by-laws.
2. The Consumer should report any medical contraindication for Fitness to the Entrepreneur.
3. The Consumer should follow the instructions given by the Entrepreneur or by employees appointed by him. The Consumer is not permitted to use equipment or facilities with which the Consumer is unfamiliar. If the Consumer is unfamiliar with one or more pieces of equipment or facilities, then he should make this known to the Entrepreneur so that the Entrepreneur can provide an explanation.
4. The Consumer is not permitted to use the equipment and facilities if he is under the influence of alcohol, drugs, medicines or substances designated as dope.
5. The Consumer is not permitted to smoke in the fitness areas made available by the Entrepreneur.
6. The Consumer should report changes to his postal address, e-mail address, bank account number and telephone number in writing or electronically to the Entrepreneur on time.

Article 10 Interim Changes

1. The Entrepreneur can introduce interim changes to the offered facilities and to his business hours. The Entrepreneur shall announce the planned changes at least 4 weeks in advance in a satisfactory manner.
2. If changes are made, as referred to in paragraph 1, to the detriment of the Consumer, then the Consumer has the right for 4 weeks after the announcement of the changes to end the subscription without observing a period of notice, unless the change does not justify a termination. If the aforementioned termination is justified, the subscription fee paid in advance will be refunded.

Article 11 Proof of Participation

1. After paying the amount owed and after submitting a copy of a recent proof of identity, the Consumer will receive proof of participation. The proof of participation shall, if requested, be used for the registration of a visit on entering the premises.
2. If the proof of participation is lost or damaged, a new proof can be requested. An Entrepreneur is entitled to charge the reasonably incurred expenses for this.

Article 12 Payment

1. The subscription fees owed shall be charged and paid in the manner agreed.
2. If payment is not made on time, then the Consumer is legally in default of payment. The Entrepreneur will inform him of this fact in writing and he shall be given the opportunity to pay the outstanding amount within 2 weeks.
3. After the expiry of the new payment date, the Entrepreneur has the right to charge legal interest and reasonably incurred (extra judicial) costs pursuant to Article 6:96, paragraph 2, of the Dutch Civil Code, all from the expiry of the original payment date. Furthermore, the Entrepreneur is authorised to refuse to grant the Consumer access to the fitness facilities.
4. If the Consumer fails to meet his payment obligation, the Entrepreneur is authorised to take legal measures.

Article 13 Liability

1. The Entrepreneur is liable to the Consumer for damage suffered as a result of a culpable shortcoming in complying with his obligations ensuing from the Agreement and for damage for which the Entrepreneur must bear the costs and risk. The Entrepreneur is not liable for damage to or loss of property in so far as the Entrepreneur has taken measures to prevent damage to or loss of property.
2. The Entrepreneur shall sufficiently insure himself against business risks. The liability of the Entrepreneur is limited to the amount that the Entrepreneur can claim in payment from the insurance company, with a minimum of 1,000,000 Euros per case.
3. The Consumer is liable to the Entrepreneur for damage suffered as a result of a culpable shortcoming in complying with his obligations ensuing from the Agreement and for damage for which the Consumer must bear the costs and risk.

Article 14 Complaints

1. The Entrepreneur has a sufficiently publicised complaints procedure and handles complaints he receives in accordance with this procedure.
2. The Consumer should submit complaints about the implementation of the Agreement as soon as possible – but no later than within two months after the Consumer has discovered the shortcomings – to the Entrepreneur, unless this cannot reasonably be expected of him. These complaints should be described fully and clearly and should be accompanied by any evidence to substantiate them.
3. Failing to submit a complaint on time can result in the Consumer losing his rights in the matter.
4. The Entrepreneur shall handle the complaints submitted to him by the Consumer as quickly as possible – but no later than within four weeks – calculated from the date of reception. If a complaint requires a foreseeably longer period to be handled, then the Entrepreneur shall respond immediately with a message confirming reception and an indication of the period within which a more detailed response can be expected.
5. If the complaint cannot be solved in mutual consultation, then a dispute has arisen that is subject to the rules governing the settlement of disputes.

Article 15 Arbitration Board

1. Disputes between the Entrepreneur and the Consumer that pertain to:
 - the establishment of Agreements or,
 - the implementation of Agreements,

can be brought by the Consumer and by the Entrepreneur before the Arbitration Board for Sports and Physical Activity, Bordewijklaan 46, 2509 LP Den Haag (www.degeschillencommissie.nl).

2. A dispute is taken into consideration by the Arbitration Board only if the Consumer has first submitted his complaint, described fully and clearly in accordance with Article 14, to the Entrepreneur.
3. A dispute should be brought before the Arbitration Board within three months after it has arisen. The dispute is submitted in writing with a statement of the names of the Consumer and the Entrepreneur, a clear and full description of the dispute and the submission of any evidence.
4. When the Consumer presents a dispute to the Arbitration Board, the Entrepreneur is bound by this choice. If the Entrepreneur wishes to present a dispute to the Arbitration Board, he must ask the Consumer to state within five weeks whether or not he consents to this. The Entrepreneur should also announce that, after the lapse of the aforementioned period, he shall feel free to bring the dispute before the court.
5. Disputes that pertain to the non-payment of the subscription fee and which are not based on a substantive complaint or that pertain to death, physical injury or illness shall, on the exclusion of the Arbitration Board, only be settled by the court.
6. The Arbitration Board shall issue a ruling in compliance with the provisions of the regulations to which it is subject. The regulations of the Arbitration Board will be posted on request. A fee is charged for the handling of a dispute.
7. The Arbitration Board shall issue a ruling in the form of a binding recommendation. The ruling is binding on both parties. The binding recommendation can only be set aside by bringing the recommendation before the court within two months after the recommendation is posted. The court can only set aside the binding recommendation if the ruling is unacceptable, according to the criteria of reasonableness and fairness, in view of its contents or the manner in which it was realised under the given circumstances.

Article 16 Compliance Guarantee

1. Fit!vak guarantees compliance with the binding recommendation, unless one of the parties brings the binding recommendation before the court for assessment within two months after it has been posted. This guarantee revives if the binding recommendation remains intact after assessment by the court and the judgement that makes this so is final and conclusive. Up to a maximum amount of € 10,000 per binding recommendation, this amount shall be paid by Fit!vak to the consumer under the condition that the consumer, at the same time as honouring the appeal to the compliance guarantee, cedes his claim based on the binding recommendation in the amount of the paid amount to Fit!vak. In the case of amounts larger than € 10,000 per binding recommendation, the consumer will be paid an amount of € 10,000. For the rest, Fit!vak is required to do its best to ensure that the member complies with the binding recommendation. This requirement to do its best in this regard means that the consumer is given the opportunity to transfer his claim to Fit!vak, after which this organisation, under its own name and at the cost of Fit!vak, shall request the full payment thereof in court to the consumer or the consumer will be given the opportunity to have Fit!vak, in the name of the consumer and at the cost of Fit!vak, conduct the (extra judicial) collection procedure, all at the discretion of Fit!vak.

2. Fit!vak shall not provide any compliance guarantee if – before the dispute is handled by the Arbitration Board for Sports and Physical Activity in session, and at this hearing a final decision is pronounced in the dispute – one of the following situations exists:

- suspension of payment is granted to the Entrepreneur;
- the Entrepreneur is declared bankrupt;
- the operations of the Entrepreneur have actually ended.

Decisive for this situation is the date on which the end of the business is registered in the Trade Register or an earlier date on which Fit!vak can make a reasonable case that the operations have actually ended.

Article 17 Applicable Law

All Agreements to which these terms are deemed to apply are subject to Dutch law unless mandatory law determines otherwise.