

# Terms and Conditions for Participants SwimGym

## 1. Definitions

- Participant: any person that has entered into an agreement with SwimGym including persons attending a trial session.
- SwimGym: the private limited liability company under the laws of the Netherlands SwimGym B.V., established in Amsterdam with its offices in (1091 GL) Amsterdam at the Wibautstraat 131B. Chamber of Commerce registration number: 67958311.
- Participant Agreement: the agreement between SwimGym and a Participant.
- Facilities: the SwimGym swimming facilities located in (1091 GL) Amsterdam at the Wibautstraat 131B.
- Costs: the costs for the use of the Facilities and other services provided by SwimGym as agreed upon in the Participant Agreement.
- Personal data: all data provided by a Participant to SwimGym.
- Website: the SwimGym website [www.swimgym.nl](http://www.swimgym.nl).

## 2. Applicability

- 2.1. These Terms and Conditions for Participants (hereinafter: 'Terms and Conditions') apply to all relations between SwimGym and a Participant.
- 2.2. These Terms and Conditions extend also to the benefit of SwimGym directors and all entities working for or involved with SwimGym.
- 2.3. Changes to these Terms and Conditions can be made only by means of a written agreement between SwimGym and a Participant.

## 3. Participant Agreement

- 3.1. A Participant Agreement is entered into when:
  - i) the Participant has filled in all the required information and has (electronically) signed for approval; or
  - ii) the Participant makes use of the Facilities.
- 3.2. Unless otherwise agreed upon, a Participant Agreement is entered into for an undetermined time and can be terminated in accordance with article 5 of these Terms and Conditions.
- 3.3. If a Participant Agreement is entered into by subscribing to a membership on the Website, then the Participant shall have a period of fourteen days to withdraw from that agreement without giving any reason and without incurring any costs, starting from the day of entering into the agreement. In order to use their right to withdraw, Participants may use the attached withdrawal form.
- 3.4. A Participant exercising his right to withdrawal in accordance with article 3.3 will receive back all payments made to SwimGym unless the Participant has already

accessed the SwimGym location.

- 3.5. The Participant Agreement and these Terms and Conditions together form the complete representation of the rights and obligations of SwimGym and a Participant and replace all earlier written and/or verbal announcements, agreements and all other correspondence.
- 3.6. Participants ensure that all data - which SwimGym has indicated to require or which Participants should reasonably understand to be required for the execution of the Participant Agreement – is delivered to SwimGym timely.
- 3.7. The Participant Agreement is person-specific. Participants are not allowed to transfer their rights and obligations under the Participant Agreement or these Terms and Conditions in whole or partly to third parties.
- 3.8. If the Participant enters into a new or additional Participant Agreement, then this Terms and Conditions apply without reservation unless explicitly otherwise agreed upon in writing.
- 3.9. A person younger than 18 years old cannot enter into a Participant Agreement.
- 3.10. Participants are sufficiently proficient swimmers, which means that they can at least meet the requirements of the Dutch swimming certificate level A as laid down in the Bepalingen, Richtlijnen en Examenprogramma's Zwem-ABC voor Licentiehouders from the Nationaal Platform Zwembaden.

#### **4. Article 4 - Prices and payment**

- 4.1. The Costs must be paid to SwimGym in accordance with the terms of the Participant Agreement. When the terms of the Participant Agreement do not sufficiently regulate the payment procedure, the Costs have to be paid to SwimGym before the Participant uses services of Facilities that are the subject of the Participant Agreement. When the Participant Agreement concerns a service for which the Costs are due periodically, the Costs have to be paid to SwimGym before the beginning of the month in which the Participant is entitled to using the services answering to the Costs.
- 4.2. By agreeing with these Terms and Conditions, the Participant authorizes SwimGym to debit the costs agreed upon in a Participant Agreement when they are due by means of a direct debit.
- 4.3. Save for when article 3.4 is applicable, payments made by a Participant in accordance with a Participant Agreement shall not be refunded.
- 4.4. SwimGym has the right to index and/or change the Costs. If the costs are indexed and/or changed within three months of concluding the Participant Agreement, then the Participant shall have the right to terminate the agreement.
- 4.5. Costs paid by the Participant shall not be refunded when the Facilities cannot fully be used as a consequence of *force majeure* or circumstances beyond the control of SwimGym.

## **5. Article 5 – Termination Participant Agreement**

- 5.1. When a Participant Agreement is entered into for an undetermined time, or when the period agreed upon in a Participant Agreement has past, the Participant Agreement may be terminated by written notice given with due observance of a reasonable term of not less than one calendar month. After receiving notice, SwimGym will send the Participant a confirmation within fourteen days. A Participant who does not receive a confirmation should contact SwimGym immediately. When the Participant does not contact SwimGym immediately, then notice has not been given with due observance of a reasonable term.
- 5.2. In case of a long-term illness, injury or pregnancy of the Participant, the Participant Agreement can be temporarily suspended or terminated after the Participant provides SwimGym with a doctor's statement. The minimal suspension is 2 months, the maximum suspension is 6 months.
- 5.3. SwimGym has the right to terminate the Participant Agreement with immediately when:
  - SwimGym is of the opinion that the Participant exhibits wrong or unacceptable behavior;
  - the Participant violates these Terms and Conditions or the SwimGym house-rules which are on display in the Facilities;
  - a third party uses the Facilities by pretending to be the Participant by, for example, using the Participant's membership card, and the Participant is or should be aware of this.

## **6. Article 6 – Risk and Liability**

- 6.1. Using the Facilities, following a training program and/or participating in activities of any kind, included but not limited to swimming, at any location, included but not limited to the Facilities, is at the risk of the Participant.
- 6.2. If a Participant is being trained, and/or participates in activities of any kind, included but not limited to swimming, by a SwimGym employee at any location, included but not limited to the Facilities, he/she is obligated to alert the employee of any physical condition of which the trainer should reasonably be aware such as injury or illness before, during and after the training
- 6.3. Neither SwimGym nor it's employees shall be liable for material or immaterial damage or (sport related) injury caused to a Participant and/or third parties.
- 6.4. Neither SwimGym nor it's employees shall be liable for any damage, loss or theft to or of objects belonging to a Participant or a third party.
- 6.5. The Participant is liable for damage or injury caused to SwimGym employees, the Facilities or objects belonging to SwimGym as a result of fault, gross misconduct or intent on the part of the Participant.
- 6.6. These limitations of liabilities also extend to SwimGym employees and any other entities assisting SwimGym in executing the Participant Agreement.

## **7. Article 7 – Use of the Facilities**

- 7.1. For reasons of health and hygiene, showering before entering the swimming pool

located in the Facilities is mandatory.

- 7.2. Entering the swimming pool is allowed only by using the pool ladder and by diving from the platforms.
- 7.3. Participants are obliged to wear swimwear appropriate for swim training. The wearing of ordinary bikinis, swimming trunks or any other recreational swimwear is prohibited.
- 7.4. Participants are allowed to enter the Facilities only when they have made a reservation via the online schedule on either [www.swimgym.nl](http://www.swimgym.nl) or the mobile application.
- 7.5. Reservations can be made for one-hour periods. SwimGym has the right to remove a Participant from the Facilities when the reserved one-hour period has expired.
- 7.6. SwimGym has the right to change its class and training schedule at all times and to close the swimming pool to Participants in case of a special event.
- 7.7. Participants are responsible for the costs of replacing lost locker keys issued to them by SwimGym as well as for the costs of repairing lockers which are damaged as a result of fault, gross misconduct or intent on the part of the Participant.
- 7.8. Lockers may only be used for periods of twenty-four hours or less. SwimGym has the right to remove the contents of any locker which is in use for more than twenty-four hours. SwimGym will store those contents for fourteen days during which a Participant can collect items belonging to him/her.

## **8. Article 8 – Personal data and privacy policy**

- 8.1. A Participant is aware of the fact that he/she provides Personal data to SwimGym such as his/her name, age, address and email address.
- 8.2. Participants are aware of the fact SwimGym stores and collects the Personal data provided by the Participant whilst using the SwimGym Online Coaching Program.
- 8.3. By agreeing with these Terms and Conditions, the Participant gives SwimGym permission to process his/her Personal data and to use it for commercial purpose. SwimGym processes Personal data in accordance with the Dutch law concerning the protection of Personal data (Wet Bescherming Persoonsgegevens). SwimGym shall destroy all Personal data provided by a Participant upon receiving a request in writing from him/her to do so.
- 8.4. By agreeing with these Terms and Conditions, the Participant gives SwimGym permission to send him/her offers, special promotions etc. per e-mail or otherwise.

## **9. Article 9 – Dispute settlement**

10. If any of the provisions of these Terms and Conditions are found to be unenforceable or void, the remainder shall be enforced as fully as possible. The unenforceable or void provision(s) shall be deemed modified in a way reflecting the intent, purpose and effect of that provision to the extent required to permit the enforcement of these Terms and Conditions as a whole.

11. Disputes arising out of or in connection with any relation or agreement between SwimGym and a Participant will be governed exclusively by Dutch law and resolved by the competent court in Amsterdam.