

## GENERAL TERMS AND CONDITIONS

Status: 2017.02.27

### 1. Conclusion of contract

1.1 These General Terms and Conditions (Terms) form an integral part of the membership contract between Lifestyle Concept Austria GmbH (hereinafter "EVO") and the member. Membership refers only to the club agreed in the membership contract.

1.2. MINIMUM AGE: Membership with EVO is possible only for persons who have reached the age of 18.

#### 1.3. VIDEO SURVEILLANCE, DATA PROTECTION.

**Members are expressly informed and acknowledge that video cameras are installed to monitor the entrance area and the training zones of the club. Video surveillance is in place to fulfill legal care obligations, to protect property and to prevent and investigate infringements and crimes. Video surveillance data are stored for a period of 72 hours by the security services provider NOKAS Secure Solutions AS. Data will be evaluated only if an incident described above occurs.**

1.4. An EVO membership, including but not limited to all rights, benefits or obligations, are personal and may not be transferred by a member to third parties.

1.5. All EVO offers are available on the website [www.evofitness.at](http://www.evofitness.at). An EVO membership contract is created if you click on the "Accept payment" button (application) and if EVO accepts your application and sends you an online booking confirmation. That booking confirmation may be stored or printed. For the purpose of information, an automatic e-mail containing the booking confirmation (and a summary of the booking information) will be sent to a member within 24 hours.

1.6. **The following provisions apply to individuals who are consumers pursuant to the Austrian Consumer Protection Act (KSchG):** A member has the right to withdraw from the membership contract without giving any reason within 14 days from receipt of the booking confirmation. If you withdraw from the contract, EVO shall reimburse to you all payments received from you not later than 14 days from the day on which EVO was informed about your decision to withdraw from the contract. If, when the contract is concluded, a member wants to have access to EVO's services prior to the expiry of the withdrawal period, EVO is entitled to reimbursement of a reasonable payment upon withdrawal which, in comparison to the agreed total price (registration fee and membership fee), is proportionate to the services EVO has provided up to the

withdrawal date (proportionate reimbursement). EVO will carry out such reimbursement using the same means of payment as the member used for the initial transaction, unless expressly agreed otherwise. The member shall return the chip bracelet (see Section 4.1) to EVO not later than 14 days from the day on which the member has withdrawn from the contract.

### 2. Registration fee and membership fee

2.1. The one-off registration fee pursuant to the membership contract and the first monthly membership fee are payable after receipt of the booking confirmation by way of credit card debit.

2.2. The membership contract will lay down the amount of the following monthly membership fees, and these are payable in advance on the first working day of a calendar month. Payment is made by debit of the member's credit card.

2.3. Return debit charges of the bank, if any, are payable by the member.

2.4. Unless the registration fee or the respective membership fee is paid into EVO's account within 10 days after it was due, EVO may bar the member from entering the club until such time as payment is made.

2.5. In case of delay in payment, EVO may also charge default interest at a rate of 4 % p.a. Furthermore, we may charge a service fee of €10.00 for each dunning letter and any other collection charges arising for appropriate legal enforcement as well as charges incurred for legal enforcement, provided these are reasonably proportionate to the claim to be recovered. Furthermore, if a member is in default with two monthly membership fees or an equivalent payment, EVO may terminate the membership contract with immediate effect, if the member has not made the payments within a grace period set by EVO.

### 3. Stable value clause

It is agreed that the value of the membership fee shall be stable. The continuing value of membership fees will be established on the basis of the Consumer Price Index 2015 (reference year 2015) published by Bundesanstalt Statistik Austria on a monthly basis, or any index replacing the same. EVO reserves the right to check the membership fees on an annual basis and to adjust them in relation to the alteration of the published index figure for the previous year, lying at least 2 months after the conclusion of the contract. If the Consumer Price Index decreases, EVO is obliged to



decrease the membership fees accordingly. EVO will announce well in advance every increase or decrease of the fees. If EVO does not exercise its right to adjust the membership fees, this shall not constitute a waiver of that right. .

#### 4. Use of EVO clubs and facilities

4.1. Every member is given a chip bracelet which grants access to clubs during opening hours and may not be loaned or transferred to third parties. A member shall return the chip bracelet upon termination of the club membership. EVO will charge its members a fee of EUR 15.00 if a member loses, damages or fails to return a chip bracelet more than 2 years after termination of the club membership. A member is obliged to notify EVO immediately of any loss of or damage to the chip bracelet. EVO is entitled to terminate the membership contract with immediate effect if a member demonstrably misuses the chip bracelet, including but not limited to passing it on to third parties.

4.2. Members undertake to use the facilities of the EVO club with care and in compliance with the instructions attached to the specific facilities (equipment). Members are obliged to compensate any damage to property that was caused by intent or gross negligence. For his own safety, the member should only use the facilities when in good health and condition.

#### 5. Term and termination

5.1. The contract is concluded for an indefinite period and may be terminated by either party; notice of termination may be given online at [www.evofitness.at](http://www.evofitness.at) by clicking on „Terminate membership“ or by post by written (signed) notification to EVO and will be effective on the last day of the month.

5.2. Furthermore, the contract may be terminated by either party for good cause with immediate effect.

EVO shall have good cause for immediate termination if a member

- a) damages facilities of the club by intent or gross negligence or repeatedly infringes the instructions attached to the facilities (equipment),
- b) endangers the safety of other members or behaves in a very improper manner
- c) passes the chip bracelet on to third parties.

If EVO terminates a club membership with immediate effect for good cause, that member will automatically be excluded from all EVO clubs.

#### 6. Liability and restriction of liability

6.1. EVO shall not be liable in case of slight negligence, except for personal injury and breach of primary contractual obligations.

6.2. Each member is himself or herself responsible for properly storing any items brought to the club. Each member therefore undertakes not to leave personal items unattended at the club or to lock these in the lockers. EVO shall not be liable for missing or damaged items (money, valuables etc.) that were not properly locked in the lockers. Liability for properly stored valuables shall not exceed an amount of EU 550.00. Members are asked to procure their own insurance for personal items (such as household insurance etc.).

#### 7. Data protection, consent to receive advertising materials

**By accepting this contract, I give my approval, revocable at any time, that EVO stores and processes by electronic means the personal information (especially name, date of birth, address, e-mail address, phone number) I have provided in the membership application for marketing, statistical and accounting purposes during the legal retention period. I also agree for EVO to send me on a continuous basis by post, fax, e-mail, text message or on the telephone information on services and products offered, on special offers, activities and news throughout and also after termination of the membership contract. This consent may be revoked at any time. Furthermore, I give my approval, revocable at any time, that my personal information is transmitted for marketing purposes, for statistical and accounting purposes to the parent company, Holmes Place Wien GmbH, registered under number FN 182108g in the companies register of the Vienna Commercial Court. This consent may be revoked at any time. Members hereby expressly acknowledge that EVO may transmit the data provided in the membership contract to collection agencies and law firms for the purpose of appropriate legal enforcement.**

#### 8. Governing law and venue

This contract shall be governed by and construed in accordance with Austrian law. Actions against members who qualify as consumers pursuant to the Consumer Protection Act shall be brought before the court in whose jurisdiction the member's residence, habitual place of abode or place of employment is situated. Actions against members who are not consumers pursuant to the Consumer Protection Act and actions against EVO shall be brought before the court with local and subject-matter jurisdiction in Vienna.

#### 9. Amendments

EVO reserves the right to change its terms and conditions at any time provided that these changes do not affect primary obligations under the contract. Amendments of the terms and conditions will be effective for a member not until the member has given approval. For this purpose, EVO will notify the member in due time before the entry into effect of the proposed amendments in appropriate form. That



notification may also be given via e-mail. Unless a member has already given his/her explicit consent, amendments shall be deemed to have been approved if a member does not object in writing or via e-mail within four weeks from the day the notification was received. If a member objects to amendments in due time, the contractual relationship will end on the last day of the month after a period of two months from the day on which the objection was received. EVO will draw a member's particular attention to these deadlines and to the significance and consequences of a member's reaction, including but not limited to the fact that failure to object in due time will qualify as consent and that any objection will trigger the consequences of termination referred to above

