

## **Standard Terms and Conditions University Sports (As of 1 October 2017)**

### **1. Scope**

These Standard Terms and Conditions shall apply to all athletic activities offered at Universität Hamburg by University Sports (hereinafter “University Sports”) regardless of whether directly undertaken by University Sports or merely arranged by University Sports for a third party.

Third party sports organizations that offer athletic activities arranged by University Sports will also have their own contractual terms and conditions that will also be applicable. University Sports offers its own athletic activities as well as arranges athletic activities for other sports organizations, *inter alia*, in cooperation with other higher education sports institutions.

Sports activities hosted by outside sports organizations will be referenced in the course description catalog. Athletic activities include, *inter alia*, courses, fitness studio training, competitive sporting events, and sports trips.

University Sports’ athletic activities are primarily intended for individuals associated with the Hamburg higher education institutions (cf. Section 8 Hamburg higher education act [Hamburgisches Hochschulgesetz, HmbHG], version of 18 July 2001) set forth in Section 2 subsection 1 of these Standard Terms and Conditions below. Activities are subject to a charge. In order to fully utilize excess capacity within the meaning of aggregate financing, individuals belonging to the following groups may register for athletic activities upon special conditions.

Upon registering for an athletic activity offered by University Sports, the participant agrees to accept these Standard Terms and Conditions and warrants that he or she is sufficiently fit to engage in the athletic activity.

### **2. Eligibility**

**2.1** Students, faculty, and staff from the following higher educational institutions in Hamburg shall be eligible to participate:

- Akademie für Mode und Design (Academy of Fashion and Design)
- Asklepios Medical School
- Akademie der Polizei Hamburg (Hamburg Police Academy)
- Berufsakademie Hamburg (Vocational Academy Hamburg)
- Bucerius Law School
- EBC Hochschule (EBC University)
- HafenCity University Hamburg
- Hamburger Fernhochschule (University of Applied Sciences)
- Hochschule Fresenius (Fresenius University of Applied Sciences)
- Hochschule für Angewandte Wissenschaften Hamburg (Hamburg University of Applied Sciences)
- Hochschule für bildende Künste Hamburg (Hamburg University of Fine Arts)
- The Hamburg University of Music and Drama
- HSBA Hamburg School of Business Administration
- Kühne Logistics University
- Macromedia Hochschule für Medien und Kommunikation (University of Media and Communication)
- Medical School Hamburg

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- Northern Business School
- Technische Universität Hamburg-Harburg (Hamburg University of Technology)
- Universität Hamburg

Members of the alumni organizations from the aforementioned schools may also be eligible to participate based on possible agreements separately executed by University Sports and the respective higher education institution.

**2.2** Space is limited for individuals unassociated with the aforementioned institutions (“Guests”). Moreover, Guests must be at least 16 years of age in order to participate. Minors must have written consent from a parent or guardian in order to participate. Sports courses designed for children do not have an age limit.

### **3. Registration**

**3.1** Individuals may only register for the SportsCard, no-card courses, the FitnessCard, the SchwimmCard, sport trips, and competitive sporting events via University Sports’ website or in person at the University Sports Office or one of University Sports’ fitness studios.

**3.2** All cards (SportsCard, FitnessCard, SchwimmCard) may only be obtained at the University Sports Office or their fitness studios.

**3.3** Upon registration students must provide their student ID number and faculty and staff must provide their office telephone number to prove eligibility. The University Sports Office will verify the information provided.

**3.4** If a false status is given, any payable differences of the membership or course fees shall be invoiced by University Sports. An additional processing fee of EUR 15 can be charged. The participant is entitled to provide evidence that the damage is substantially less than the flat-rate amount. University Sports reserves the right to exclude these persons from any further participation in University Sports.

**3.5** After registering, participants shall receive a confirmation of registration in writing and upon registering for the first course participants shall also receive a SEPA direct debit order. The original SEPA direct debit order must be signed and delivered or mailed to University Sports within 5 working days after registering for the first course, otherwise the direct debit will be converted into an invoice for which an extra processing fee of EUR 15 shall be charged.

**3.6** For activities associated with the SportsCard, FitnessCard, and SchwimmCard you must personally appear at the University Sports Office or one of the fitness studios with identification, a photo, or an older Card as well as furnish proof of your status group in order to receive your Card.

You must carry your Cards with you in order to attend courses and access facilities. You may be refused admittance to a course or a facility if you are unable to present your Card.

The registration confirmation shall provide the authorization to participate in no-card courses and must be shown to the course instructor upon request.

Students not from the higher education institutions set forth in 2.1 must submit proof of their status within 7 days after registration for sport trips.

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**3.7** Guests may register for all University Sports programs 2 weeks after the official start of registration; this serves to utilize excess course capacity.

#### **4. Conditions of payment**

**4.1** Program fees are contingent on whether the participant is a student, faculty or staff member, alumni, or Guest. Fees are based on the status of the participant at the time of registration.

**4.2** Registration for a program offered by University Sports offers creates a binding contract requiring the payment of the fee. You do not have a right to cancel your registration (German Civil Code (BGB) Section 312g subsection 2 no. 9).

Fees shall be collected exclusively by SEPA debit order. When registering, participants shall assent to debit collection via SEPA debit order, whereby no revocation shall be permissible. Generally, debit collection will be made within 3 weeks after registration. Fees for no-card courses, the SportsCard, and the SchwimmCard shall be debited in a single amount. Fees for the FitnessCard shall be debited in equal monthly installments.

**4.3** For University Sports programs that last several days and entail overnight accommodation (sports trips), an advance payment of EUR 50 shall be due and payable three weeks after registration. The remainder shall be due and payable 30 days prior to the departure date. The entire travel price shall be immediately due and payable for trips booked upon short notice.

**4.4** Costs accrued on account of insufficient funds, inaccurate bank account information, revocation of the direct debit order, or a failure to provide notice of bank account changes shall be charged to the participant and shall be invoiced via an automatic dunning process. University Sports reserves the right to exclude such persons from participating in any programs it offers.

#### **5. Scope of services**

**5.1** The scope of service is described in the program description on the University Sports website.

**5.2** SportsCards shall be valid for a maximum of 6 months and shall become invalid either on 31 March or 30 September of the year. The SportsCard program shall include at least 100 course hours per week. No right to a particular course or course times shall accrue to any participant.

**5.3** The FitnessCard is valid for 1, 3, 6, or 12 months. FitnessCard holders may use all 3 University Sports fitness studios during the respective regular hours of operation. The hours of operation for each fitness studio are posted on the Internet and at each location. University Sports reserves the right to change the hours of operation as required and close individual fitness studios for a number of days, e.g., for service and maintenance (however only for a maximum of 14 days per semester not including legal holidays). For extended closures, the validity of the FitnessCard shall be extended accordingly.

All extra services such as, e.g., the use of the sauna, shall be considered voluntary additional services rendered by University Sports.

**5.4** SchwimmCards shall be valid for a maximum of 6 months and shall become invalid either on 31 March or 30 September of the year. The SchwimmCard program shall include at least

20 swimming lessons per week at the swimming pools Bartholomäusbad and Am Inselpark (Wilhelmsburg) as well as swimming pool admission while a course is being held. No right to a particular course or course times shall accrue to any participant.

## **6. Course cancellations by University Sports**

**6.1** University Sports reserves the right to modify the courses on offer under the SportsCard or SchwimmCard taking into consideration the minimum number of participants as well as the right to cancel individual courses offered. Changes to the courses on offer do not entitle anyone to cancel their SportsCard or SchwimmCard.

**6.2** If a fitness studio is blocked for use for a specified period, this does not entitle anyone to cancel their FitnessCard.

**6.3** University Sports may combine no-card courses or cancel them completely, if a sufficient number of participants do not register for the course as provided for in the program description, or if the respective sports facility is permanently closed. If participants have already paid their fees when courses are either canceled or changed, they may register for other available University Sports courses and offset fees with payments that have already been made or request that the fees that have been paid be refunded. No processing fee shall be charged.

**6.4** University Sports may cancel sports trips, i.e., rescind the travel agreement executed with participants if the minimum-number-of-participants condition specified in the program description has not been satisfied. If a trip may be canceled due to insufficient registrations, the program description for the trip shall specify the date prior to the date of departure by which participants must receive written notification of cancellation. If a date is not expressly stated in the description, University Sports may cancel the trip by providing notice to participants 31 days prior to the scheduled date of departure for the trip. If at an earlier point in time it becomes apparent that there will not be a sufficient number of participants, University Sports shall be entitled to promptly rescind agreements. If a trip is canceled on account of an insufficient number of participants, any advance payments of the travel price that have been made shall be returned to participants without undue delay.

## **7. Rescission—termination by participants**

**7.1** SportsCards, SchwimmCards, and FitnessCards all have fixed terms of validity and automatically become invalid after the specified period has expired. A separate notice of termination is not required.

**7.2.** Participants may terminate the SportsCard, the FitnessCard, the SchwimmCard and no-card courses without notice for cause. Cause includes, but is not limited to:

- chronic illness which has continued uninterrupted for more than 3 weeks;
- pregnancy.

**7.2.1** Participants may terminate SportsCards, FitnessCards, SchwimmCards, and no-card courses if they move away from Hamburg or relocate to a location in Hamburg that unreasonably restricts their access to sports facilities. University Sports reserves the right to request proof of cause for termination (proof of academic withdrawal, lease agreement). If FitnessCards are terminated because participants move away from Hamburg or relocate

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before the term of the contract has expired, the monthly fee is raised to the fee of the category “1 Monat” (“1 Month”). This rule applies retroactively from the beginning of the contract term.

**7.2.2** The participants are entitled to terminate NoCard courses up to 30 days before the course begins for reasons other than those stated under 7.2. and 7.2.1. Reimbursement of previously paid course fees can be made upon submission of an application. In any case, a processing fee of EUR 15 will be incurred. The participant is entitled to provide evidence that the damage is substantially less than the flat-rate amount. In the event of withdrawing from NoCard courses at short notice, University Sports is entitled to retain the entire course fee provided that participants cannot assign their rights and duties under the original booking contract to another person.

**7.2.3** FitnessCards may be temporarily suspended in substantiated cases of professional or academic leave of absence lasting no longer than a month. The automatic debit of the monthly fee shall continue unchanged. The suspended time accumulated on account of absence shall be added on at the end of the scheduled contractual term.

**7.2.4** A participant must terminate membership within a reasonable period of time after becoming aware of the reason permitting a termination for cause and furnish evidence thereof. A participant must submit a medical certificate to the University Sports Office if termination is based on illness.

**7.2.5** Participants who have terminated their membership or course enrollment shall be refunded their membership or course fees pro rata calculated from the date the termination notice is received by University Sports, or from the date of such occurrence giving rise to the cause for termination (relocation, hospital stay, etc.), provided that this occurs at a different date in the future. There is no right to a refund of fees paid after the commencement of an attested incapacity to engage in athletic activities. Aggregate fees paid for the SportsCard, the SchwimmCard, the FitnessCard, or no-card courses shall be converted into a ratio of weekly rates / course dates and refunded as a multiple of unutilized time (weeks/course dates) rounded up to the nearest Euro. In order to receive a refund you must also provide valid bank information.

**7.3** Notice of termination must be sent as a letter or via email.

**7.4** In the event of termination, the SportsCard, the FitnessCard, the SchwimmCard as well as any other proof of authorization to participate that has been issued by University Sports must be returned without undue delay.

### **7.5 Cancellation of sports trips prior to departure**

All courses including overnight stays—regardless of duration—shall be considered sports trips.

**7.5.1** Participants may cancel at any time prior to the departure date of the trip. University Sports must be given notice of the cancellation, which may be done over the telephone, in writing, or via email. It is recommended that any cancellation be made in writing as proof.

**7.5.2** If a participant rescinds the agreement prior to the departure date or does not commence travel, University Sports shall have no right to the travel price. Instead University Sports may

demand adequate compensation for the travel arrangements made prior to the cancellation and for expenditures as a function of the respective travel price.

**7.5.3** University Sports has liquidated its compensatory claims for such an event. This is staggered according to time, i.e., the relation of time between the date of cancellation and the contractually stipulated departure date as a percentage of the travel price. This takes into account usual expenses saved and other possible alternative uses of the travel services. Liquidated damages are contingent on the date cancellation is received and calculated as follows:

- up to 55 days prior to the departure date EUR 25
- 54 to 30 days prior to the departure date 20% of the fee, but at least EUR 25
- 29 days to 22 days prior to the departure date: 30% of the fee, and at least EUR 25
- 21 days to 15 days prior to the departure date: 50% of the fee
- 14 days to 8 days prior to the departure date: 80% of the fee
- as of 7 days prior to the departure date: 90% of the fee.

**7.5.4** The participant is at liberty to prove that University Sports has not incurred or rather incurred a significantly lesser damage than is asserted as liquidated damages.

**7.5.5** This notwithstanding, University Sports reserves the right to assert a claim for compensation in excess of the aforementioned liquidated damages provision upon the calculation of specific damages. In such a case, University Sports must mitigate any compensation claimed with any foregone expenses and any alternative use of the travel services, which must be adduced with specificity.

**7.5.6** Up until the departure date, participants may assign and delegate their rights and obligations under the agreement to another person. University Sports may object to an assignee if this person does not satisfy the particular travel requirements or this person's participation would contravene legal provisions or administrative decrees. An effective assignment to the assignee shall not discharge the assignor, but rather both shall be held jointly and severally liable for the travel price and any added costs incurred by such assignment.

**7.5.7** If a participant does not accept travel services, which are duly tendered, for reasons attributable to him or her (e.g., on account of an early return trip or other imperative reasons), he or she may terminate the agreement. University Sports shall be entitled to retain the travel price, subject to a credit of any expenses foregone as a consequence of terminating the agreement.

## **8. Transfers**

**8.1** Consideration paid for the services provided under SportsCard and SchwimmCard programs may be used in exchange for another program offered by University Sports during the respectively current semester (summer or winter) upon payment of a EUR 5 processing fee and provided that the transfer is executed within 4 weeks of the initial registration. Course fees paid shall be credited against any new fees due, however there shall be no refund of any resulting excess fees paid.

**8.2** No transfer may be made for services provided under FitnessCard programs.

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**8.3** Participants may change no-card courses only upon payment of a EUR 5 processing fee in person at the University Sports Office (Turmweg 2) up to 5 working days prior to the commencement of the course. If course fees have already been remitted, then these shall be netted against any new fees.

#### **8.4 Changing sports trips prior to the departure date**

**8.4.1** Amending the travel agreement with respect to the travel date, travel destination, location, departure date, accommodation, mode of transportation, or any other individual travel feature (“change request”) shall be possible up until the thirtieth day prior to the agreed departure date and in consideration of a change fee in the amount of EUR 25 per person and reservation.

**8.4.2** Participants are at liberty to prove that University Sports has not incurred any costs on account of the change request or that the costs incurred are significantly less than the change fee of EUR 25 being charged.

**8.4.3** Change requests made 29 days prior to the stipulated departure date may only be carried out, if at all possible, upon rescission of the travel agreement in accordance with the conditions set out in subsections 9.2 to 9.5 and a concurrent re-registration. This shall not apply to change requests for which only minor costs are incurred.

#### **9. Complaints reported about sports trips by participants**

Participants must report any deficiencies in the rendition of services with respect to travel to University Sports or the respective travel management without undue delay. A failure to properly report any deficiencies shall result in foregoing any rights to abate the travel price.

#### **10. Liability**

**10.1** University Sports shall not be held liable for participants’ damage or loss occurring within the scope of a sports program offered by University Sports.

This exclusion of liability shall not apply to

- death, personal injury, or harm to health caused by an intentional or negligent breach of a material obligation by University Sports, its legal representatives, or agents and employees;
- other damage or loss caused by an intentional or grossly negligent breach of a material obligation by University Sports, its legal representatives, or agents and employees; or
- the breach of material contractual obligations. A contractual obligation is material if its discharge is required in order to properly undertake contractual performance in the first place and its observance may be regularly relied upon by participants.

**10.2** Participants shall be held fully liable for the new acquisition value of athletic equipment that has been checked-out.

**10.3** All participants are advised to take out a policy of liability insurance in order to cover any possible third party liability claims for personal injury or property damage that could arise within the scope of athletic activities.

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**10.4** Participants are requested not to bring any valuables into the sports facilities. University Sports shall only be held liable for the intentional or grossly negligent loss of or damage to items brought by participants to courses, events, or any of its premises.

**10.5** Within the scope of sports trips the liability of University Sports shall be limited to the following:

- University Sports' contractual liability for loss or damage, which does not pertain to bodily injury, shall be limited to three times the amount of the travel price, provided that the participant's damage or loss was not caused by intentional or grossly negligent misfeasance, or insofar as the travel operator is vicariously liable for loss or damage caused by a service provider, which was suffered by the participant.
- University Sports shall not be held liable for any impairment of contractual performance, personal injury, or property damage associated with services that have simply been arranged with third-party service providers (e.g., excursions, sporting events, tourist offers, exhibitions, transport services to and from destination and departure points), if these services are expressly identified as third-party services in the travel advertisement and in the registration confirmation specifying the name of the service provider so that it is clearly recognizable for travelers that these services have nothing to do with the travel services provided by University Sports.

**10.6** However, University Sports shall be held liable for services which include the transportation of participants from the advertised place of departure to the advertised destination, intermediate transportation during the trip and accommodations if and to the extent any loss or damage suffered by participants is caused by University Sports' breach of its notification, information, or organization obligations.

## **11. Exclusion and limitation period of claims arising from sports trips**

**11.1** Participants must assert a breach of contract claim against University Sports arising from a sports trip within one month after the end of the trip as stipulated in the agreement. Once the limitation period has expired, participants may only assert a claim if they were prevented from asserting a claim within the required period through no fault of their own.

**11.2** Participant claims for redress, abatement, and damages pursuant to Section 651c to Section 651f of the German Civil Code (BGB) shall become time-barred after one year. The statute of limitations shall begin to run on the day the trip should end pursuant to the agreement. If negotiations are pending between a participant and University Sports regarding a claim or the circumstances upon which the claim is based, this shall toll the statute of limitations, until the participant or University Sports refuses to continue negotiating. Claims shall be time-barred no earlier than three months after the statute of limitations begins to run again.

## **12. Insurance**

**12.1** Students from the higher education institutions set forth in 2.1 shall be covered by a policy of statutory accident insurance in accordance with the policy's terms and conditions from Unfallkasse Nord within the scope of courses and programs offered by University Sports. This does not include informal sports teams without any specified trainer and courses arranged by University Sports with outside third-party service providers. Coverage shall also include direct travel to and from a participant's place of abode and the sports facility.



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Accidents falling within the scope of statutory accident insurance coverage must be promptly reported to University Sports on an accident report form.

**12.2** Employees from higher educational institutions set forth in 2.1 are only covered by a policy of statutory accident insurance for health-related fitness courses and programs offered by University Sports. If an accident occurs while participating in other types of sports courses or programs offered by University Sports, this shall be covered by the employee's standard health insurance coverage and must be processed accordingly.

**12.3** Guests, children of university members, alumni from the higher education institutions set forth in 2.1 and other employees from FHH, Studierendenwerk Hamburg (student services), and the Max-Planck-Institute are not covered by statutory accident insurance when taking part in University Sports' activities.

**12.4** University Sports recommends that participants execute a policy of accident and health insurance, if not covered by statutory accident insurance.

**12.5** If you take part in a sports trip, University Sports recommends that you execute a policy of luggage insurance, travel cancellation insurance, and insurance to cover repatriation expenses in case of an accident or illness.

### **13. Additional information and data privacy**

**13.1** Participants must abide by each sports facility's house rules and regulations. We would like to particularly draw your attention to our fitness studios' Terms of Use (posted in the studios) and Sportpark Rothenbaum's Terms of Use.

**13.2** University Sports uses participants' personal data and information only to the extent necessary for each contract and in compliance with data protection and privacy regulations. Third parties who gain access to stored data and information during the course of technical service and maintenance are subject to contractual non-disclosure provisions.

**13.3** An email address is required during the registration process because pre-notification for the SEPA debit order will only be sent by email. This notwithstanding, University Sports will only use this email address to send out current information on courses and programs that have been registered for, and to periodically inform members about news concerning University Sports. The address will not be disclosed to third parties.

### **14. Validity of these Standard Terms and Conditions**

**14.1** University Sports reserves the right to amend and modify its Standard Terms and Conditions. University Sports shall notify participants about any amendments or modifications thereof.

**14.2** Participants may object to the respective amendment or modification within a period of 3 weeks. If no objection is forthcoming, such amendment or modification shall be considered as accepted. University Sports shall conspicuously point out to participants at the beginning of the period the significance of not objecting or not objecting in a timely fashion.

### **15. Governing law**

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This agreement shall be governed, construed, and interpreted in accordance with the laws of the Federal Republic of Germany.