

# General terms and conditions

## for the use of the services and benefits offered on FitBat.de and in the FitBat App.

Michael Knochen (hereinafter "FitBat") provides an online service ("FitBat") via its websites FitBat.de and FitnessBattle.de, respectively, and as a mobile application (FitBat App) in the relevant app stores, with the help of which users can optimize their training program in the gym or at home and compare themselves with friends. The following terms and conditions predominantly regulate the use by the users.

### Scope

1.1 Michael Knochen (hereinafter "FitBat") provides an online service ("FitBat") via its websites FitBat.de and FitnessBattle.de, respectively, and as a mobile application (FitBat App) in the relevant app stores, with the help of which users can optimize their training program in the gym or at home and compare themselves with friends.

1.2 Michael Knochen shall not recognize any general terms and conditions of business or contract of the users that conflict with or deviate from these GTC unless Michael Knochen expressly consents to their application in writing. The GTC shall also apply if Michael Knochen performs the service vis-à-vis the user or user without reservation in the knowledge of terms and conditions of the user or user that conflict with or deviate from these GTC.

### Declaration of consent

2.1 The user agrees to the following terms and conditions, the general terms and conditions of FitBat.de/FitnessBattle.de, available at <https://agb.fitbat.de> as well as the privacy policy, available at <https://privacy.fitbat.de>, when registering and setting up the FitBat account by confirming the statement: "I have read the general terms and conditions and the privacy policy of FitBat" by clicking the checkbox during registration.

2.2 By using the FitBat platform and the FitBat app, the User agrees to the validity of the GTC.

2.3 FitBat may amend or supplement the GTC at any time within the scope of the statutory provisions. In the event of changes to the GTC, the User will receive a notice requesting his consent. In the event of an objection, the contractual relationship may be terminated immediately by either party.

### Registration

3.1 A prerequisite for the use of the FitBat platform by the Users is an initial registration on the platform free of charge for the User at <https://www.fitbat.de>.

3.2 No costs for the User are associated with the registration and setup of the FitBat account. Only the download of the FitBat App from the Apple Store may incur a fee, which will be shown accordingly.

3.3 Each registered user receives his own FitBat account for an unlimited period of time. The use of the FitBat App is governed by the license terms set forth in Section 5.

3.4 By registering and setting up the FitBat account, the User can use all the functions of the FitBat app.

## Restrictions on use

4.1 Except for the rights expressly granted herein under the TOS, the User may not, without FitBat's written consent, offer for sale, transfer to third parties, sublicense, edit and modify the access to the FitBat App provided by FitBat, Use the FitBat App under or on behalf of a third party, not store the data obtained through FitBat for more than 1 year.

4.2 You may not use the FitBat App and/or the FitBat Content in connection with the use of any products, services or materials that support, are used for, or are designed to support the following:

for spyware, adware and/or other malicious programs or codes; counterfeit goods; unsolicited bulk e-mail ("spam");

Actions aimed at misleading search engines into listing certain pages higher than they would normally be listed ("web spam");

for illegal multi-level sales offers, illegal direct sales and/or telephone sales;

Hate Content; offensive, defamatory, abusive or otherwise suggestive content;

Prostitution; stolen products and/ or items used in connection with crimes; hacking, surveillance, wiretapping or decryption devices; illegal gambling;

4.3 The FitBat Content may not be used in any way or for any purpose that violates applicable law.

4.4 The FitBat App and/or the FitBat Content may only be used in such a way that it does not impair or interfere with the internet pages "fitbat.de" and the FitBat Data.

## Warranty

5.1 The User is aware that, according to the state of the art, errors in software programs and in the associated documentation cannot be excluded and that it is not possible to develop data processing programs in such a way that they are error-free for all application conditions and all requirements of the User or that they work together error-free with all programs and hardware of third parties.

5.2 No availability of the FitBat Website or the FitBat Services is guaranteed.

5.3 EventMobi is supported on the most common mobile devices. We will provide you with the exact list of these devices at any time. FitBat may, at any time and without notice, discontinue or extend support for various devices or operating systems.

5.4 FitBat does not give any further assurances of certain properties or of the suitability for use for the individual application planned by the user.

## Exemption

6.1 The use of the FitBat App and the FitBat Content is at the User's own risk. The User indemnifies FitBat against all claims by third parties (including any legal costs incurred) resulting from the use of the FitBat App and the FitBat Content, whether through the User's own use, or whether third parties use the password or the Account with or without the User's knowledge. The indemnification applies in particular to losses incurred by FitBat or third parties due to the non-contractual use of the FitBat app, account or password by a third party.

6.2 The User is not permitted to use a third party's account without the third party's permission. The User undertakes to inform FitBat immediately of any unauthorized access to other accounts,

computer systems or networks connected to a FitBat server, or to other services, achieved by hacking, password mining or other means.

## **Liability**

7.1 Claims for damages against FitBat, by or in connection with the use of the FitBat App, the FitBat Content (collectively "Services"), the provision of or failure to provide Services or information accessible via Services, in particular compensation for indirect damages, consequential damages or other damages resulting from loss of use, loss of data or loss of profit, may only be asserted by the User in the event of:

- (i) gross negligence on the part of FitBat, its legal representatives or vicarious agents;
- (ii) the culpable breach of essential contractual obligations, insofar as the achievement of the purpose of the contract is jeopardized thereby, with regard to the foreseeable damage typical of the contract, limited, however, to the amount of the
- (iii) damages resulting from injury to life, body or health caused by a negligent breach of duty by FitBat or an intentional or negligent breach of duty by a legal representative or vicarious agent of FitBat or
- (iv) FitBat's liability under the Product Liability Act for personal injury or property damage to privately used items.

7.2 The above limitations of liability and indemnities also apply to claims against FitBat's employees, representatives and vicarious agents.

## **Termination**

8.1 The User may terminate its FitBat account at any time by sending a message to info@FitBat.de.

8.2 The FitBat account of the user is terminable by FitBat at any time for important reason (among other things offence against the AGB) or unimportant reason.

8.3 The User is expressly advised that upon termination of this Agreement, all licenses granted by reason (including breach of the GTC) under these Terms and Conditions shall expire.

8.4 Upon termination, the User shall immediately remove all data obtained in connection with the use of the FitBat App from all websites, scripts, widgets, applications and other software processed with such data and delete them.

## **Final provisions**

9.1 Should any provision be or become void, the remaining provisions shall remain valid. The invalid provision shall be replaced by a valid provision which is as similar as possible in economic terms.

9.2 Special agreements and ancillary agreements must be in writing to be effective. This written form clause can only be deviated from by written agreement. Amendments and supplements to these terms and conditions shall only be effective if they are confirmed by us in writing.

9.3 All legal relations between EventMobi and the User shall be governed exclusively by German law, excluding the UN Convention on Contracts for the International Sale of Goods, even if the User is domiciled abroad.

9.4 To the extent permissible, the place of jurisdiction shall be Halle (Saale).