

TERMS OF USE

Last modified on
18.09.2023.

1. Introduction 2023.

- 1.1. These Terms of Use shall govern the relations between you (hereinafter: “**User**”) and EMERGO SPORT DOO, a business and other management consultancy activities company, with its registered office at Bulevar Vojvode Bojovića 8, Belgrade, Serbia, company no. 21054097, TIN: 108718719, registered with the Serbian Business Registers Agency as of 16 October 2014, and thereby fully complying with the regulations of the Republic of Serbia (hereinafter: “**Emergo**”).
- 1.2. These Terms of Use (hereinafter: “**Terms**”) shall govern the forms and manners of use of an interactive service provided by Emergo and known by the protected name of Fitpass.
- 1.3. Fitpass interactive service is provided via www.fitpass.rs internet page and Fitpass mobile application available on Apple Store, Google Play, and HUAWEI AppGallery, and it is under the exclusive ownership of Emergo (hereinafter “**Interactive Service**”).
- 1.4. The Interactive Service is complex and it includes content management, financial transaction execution, organization of and agency in the sale of services of visiting sports and other facilities under the exclusive ownership of Emergo’s partners (hereinafter: “**Partners**”), as well as providing internet services.
- 1.5. The use of the Interactive Service by the User shall mean that the User is fully aware of and agrees with the Terms and the Privacy Policy.
- 1.6. Any further use of the Interactive Service following the User’s acknowledgement of the Terms and Privacy Policy shall mean that the User agrees with such terms and rules included therein and that the User assents to use the Interactive Service complying therewith.
- 1.7. In consideration of the Terms, the User shall mean any person who directly or indirectly uses or has used this internet page and/or Fitpass services in any way.
- 1.8. If the User uses the Interactive Service, the User shall be deemed to have agreed that all Interactive Service communication and interaction must be in compliance with these Terms.
- 1.9. If the User registers - opens a user account via the Interactive Service, the User shall be deemed to have fully read and accepted these Terms and Privacy Policy.

2. Emergo’s copyright

- 2.1. All materials available through the Interactive Service are protected by law and are under the ownership of Emergo, and may be used in compliance with the approval of the copyright holder and trademark or model rights holder, as well as in accordance with other required approvals.
- 2.2. The Interactive Service may in no way be distributed, reproduced, transferred, linked, published or modified without Emergo’s approval in writing.
- 2.3. Any breach of Article 2.2, i.e., infringement of trademark, model or any other copyright or industrial property right shall result in court or other proceedings, including without limitation, damages and criminal proceedings.

2.4. The User may neither fully nor partially modify, publish, transfer, participate in a transfer or sale of or in any other way make use of any content available through the Interactive Service. Downloaded materials may not be reproduced, redistributed, retransferred, reissued or commercially exploited.

3. Terms and Privacy Policy Amendments

3.1. Emergo reserves the right to repeal or amend any Terms and Privacy Policy specified herein, without any prior notice and at any time.

3.2. In case of any amendments to the Terms or Privacy Policy whereby the User continues to use the Interactive Service, the User shall be deemed to have accepted the Terms and Privacy Policy.

3.3. Any possible amendment to the Terms or Privacy Policy shall apply to third parties who are not Users immediately upon publishing thereof through the Interactive Service.

3.4. Any use of the Interactive Service by the User following the most recent amendment to the Terms or Privacy Policy shall constitute acceptance of such amendment.

4. Interactive Service rules of use and content

4.1. The User shall use the Interactive Service only in compliance with applicable regulations, public order, best practices, and regulations of the Republic of Serbia.

4.2. The intended use of the Interactive Service refers to the use of Fitpass and Fitpass Studio services, service user experience exchange with Emergo, and experience exchange among users in the manner provided by the Interactive Service.

4.3. The User shall not be entitled to publish, transfer or make any abusive or infringing materials available in any way through the Interactive Service, e.g., insulting, libelous, defamatory, calumnious content or content that is violating the privacy of any person, etc., or materials with illegal content and form.

4.4. Emergo reserves the right to independently assess whether the User acted unconscionably or breached their obligations stipulated by the Terms or Privacy Policy.

4.5. During the Interactive Service use, the Interactive Service User shall be bound not to connect more than one Interactive Service device to use the application and scan the QR code for Interactive Service use provided by Emergo's Partners.

4.6. The User undertakes to conscientiously use the connected Interactive Service device and not make it available to or not provide access to the device or the Interactive Service to any other party for the purpose of avoiding the Interactive Service subscription, i.e., only the user of the account to which the device is connected may use the Interactive Service.

4.7. If the User wants to change their connected device (e.g., in case of theft, loss or damage to the device), the User may do so not more than twice a month.

4.8. If the User changes more than two connected devices during one month, the new device, as well as all previous devices, shall be denied access to the Interactive Service and Partners' services.

4.9. In case of negligent behavior of the User, including but not limited to actions by which the User: abuses the Interactive Services;

- abuses Interactive services;
- interferes with or prevents other Users from using the Interactive Services;
- provides incorrect information about personal data;
- use other people's personal data;
- engages in illegal, unconscionable and illegal activities using the Interactive Services;
- violates the business rules and interferes with the Partner's work and service provision;
- attempt to disable, modify or in any other way interfere with the operation of the website or application through which the Interactive Service is provided,

Emergo reserves the right to issue a warning, temporarily or permanently stop the provision of Partner services through the Fitpass application - suspend the account, and as compensation for the negligent use of the Fitpass application and Partner Emergo services, cancel the user's subscription, without the right to refund the paid funds or use remaining terms, as a form of compensation for damage caused by the User's negligent actions to Emergo and its partners. In the aforementioned case, Emergo reserves the right to prevent the User from opening a new account.

4.10. Emergo reserves the right to terminate the Partners' services provided through Fitpass application in case of User's unconscionable conduct and terminate the User's subscription excluding the right to a refund of already-paid amounts or the right to use the remaining terms as a form of indemnity for damage caused by the User's unconscionable conduct to Emergo and Emergo's Partners.

4.10.1. Emergo shall provide all services available through the Interactive Service in compliance with these Terms and the Privacy Policy applicable on the date when the User accepts the offer.

4.10.2. The offer shall be considered accepted by the User when the User selects the "I agree with the Terms of Use and Privacy Policy" field through the Interactive Service.

4.10.3. The User shall be held solely responsible for the purchase and maintenance of hardware and software to be used for the Interactive Service, and if the User does not use their equipment and software, the User shall be held solely responsible for the selection of hardware or software the User uses to access the Interactive Service. The User shall also

be held responsible for the equipment required to access and use the Interactive Service and shall also solely bear all costs related to the use and maintenance of such access hardware and software.

- 4.10.4. The prices of Emergo services are given through the Interactive Service and such prices include VAT.
- 4.10.5. Emergo's services are offered through the Interactive Service, as well as service packages customized for different Users, whereby individual package terms and conditions may not be changed; instead, the acceptance of the service shall include acceptance of the full package.
- 4.10.6. Any Interactive Service package provides access to sports facilities published as service providers through the Interactive Service, and the use thereof shall be restricted by the terms of use of every individual facility for which Emergo is not responsible, as well as by the type of membership fee that varies depending on the selected package.
- 4.10.7. Emergo is not the owner of and does not have the products/services it promotionally offers through the Interactive Service under its ownership. For all issues and deficiencies that may arise during the use of sports and recreational facilities, including product/service delivery or defects, Emergo's Partners whose products are offered through the Interactive Service shall be held solely responsible.

4.11. User Account Creation

- 4.11.1. A prerequisite for using any of the Interactive Service packages is opening a user account via the Interactive Service.
- 4.11.2. A user account is opened by filling out an existing user account form where User details shall be entered, i.e., in the case of corporate users, a special form shall be filled out and a contract signed with the company.
- 4.11.3. When creating an account, users are required to provide accurate personal information. Personal information refers to information that precisely identifies an individual user. To utilize the Interactive Service, users must input their personal details into the appropriate online form, as required for the use of a specific option. Personal information such as name, surname, email address, and phone number are essential when using the Interactive Service and other services.
- 4.11.4. If payment for the Interactive Service is made through the Interactive Service, users are required to provide Emergo with information regarding their payment card, including the card number, expiration date, authorization code, and, depending on the card, other information required for its use.
- 4.11.5. In case a user chooses not to or is unable to provide information deemed mandatory for

certain Interactive Services, they will not be able to open a user account and will not be allowed to use that Interactive service.

- 4.11.6. By opening a user account specified in Article 4.11.1, the User confirms that they fully agree with the Terms and that they have read, understood, and accepted such Terms as well as the Privacy Policy.
- 4.11.7. In the event that a user wishes to have their data necessary for usage deleted, Emergo will no longer be able to provide the Interactive Service to the user, and the user's account will be terminated.
- 4.11.8. Emergo is not obligated to individually verify the accuracy of personal data. If, during the provision of the Interactive Service, Emergo becomes aware that provided data is inaccurate, it is authorized to terminate the subscription for the Interactive Service, delete the user account with incorrect information, and notify all Partners accordingly.

4.12. Cancellation of Subscription and Account Termination

- 4.12.1. In case of subscription cancellation, the user is not entitled to a refund while retaining the right to the remaining terms within the expiration period.
- 4.12.2. In the event of account termination due to the user's request to delete data necessary for using the interactive service or any other violation of user obligations, the user will no longer be able to use the Interactive Service, nor will they have access to any remaining terms they subscribed to.
- 4.12.3. The user agrees that the right to claim unused terms is only available in accordance with the "Refunds and Claims" section, and they waive the right to a refund of funds paid for unused terms due to the inability to use the Interactive Services, in the event of account termination due to the user's request to delete data or any other violation of user obligations.

4.13. Amendments to Interactive Service

- 4.13.1. Emergo reserves the right to change or cancel any part of Fitpass service provision at any time, regardless of the fact that such change refers to the service content or the very Interactive Service.
- 4.13.2. The changes specified in Article 4.13.1 shall include without limitation, the availability period, content, as well as equipment required for access to or use of the Interactive Service.
- 4.13.3. Emergo reserves the right to change the price, quantity, and type of the services it offers within the Interactive Service packages, as well as the types of the very service packages

subject to the offers provided by the Partners, who practically provide the services.

- 4.13.4. Emergo shall not be held liable in case of a change in the availability of the services or facilities provided by Emergo's Partners, and Emergo shall timely inform the User thereof after Emergo has been informed by its Partners.

4.14. Withdrawal from the contract

- 4.14.1. The Client has the legal right to cancel the use of Interactive Services within 14 days without explanation and additional costs if he has not used the Partner's services within the specified period. The client exercises the right to withdraw from the contract if, within 14 days, he submits an unambiguous statement of withdrawal from the use of Interactive services to the email address kontakt@fitpass.rs.
- 4.14.2. In case of withdrawal from the use of the services, the refund to the consumer will be made by refunding the funds to the consumer's card no later than 14 days after receiving the notice of withdrawal from the contract.

4.15. Complaints and refunds

- 4.15.1. Emergo keeps a record of received complaints, which it keeps for at least two years from the date of submission of the User's complaint. When processing consumer personal data, Emergo acts in accordance with the regulations governing the protection of personal data.
- 4.15.2. Emergo shall electronically issue a certificate of received complaint to the User.
- 4.15.3. Complaint records shall be kept electronically and shall contain the full name of the User, date of the complaint receipt, package information, short description of the non-conformity and the complaint claim, date of the complaint receipt certificate, decision on the response to the User, date of such decision delivery, a reasonable period for resolving the complaint agreed with the consumer, method and date of complaint resolution, as well as information on the extension of the period for complaint resolution.
- 4.15.4. Emergo shall electronically respond to the User's complaint within eight days as of the date of the complaint receipt. Emergo's response to the User's complaint must include a decision on complaint acceptance, an explanation if Emergo does not accept the complaint, a statement on the consumer's request as regards the method of handling the complaint and a specific proposal for the period and method of complaint resolution provided Emergo has accepted it. The complaint resolution period shall amount to 15 days as of the date of the User's reply.
- 4.15.5. Emergo shall comply with the decision and proposal for complaint resolution provided it has obtained prior approval from the User. The period for complaint resolution shall be discontinued once the User has received Emergo's response under Point 4.15.4 of this Article, and shall start anew when Emergo receives the User's statement. The User shall

provide their opinion on Emergo's response within three days as of the date of Emergo's response receipt. If the User fails to provide such a statement within the stipulated period, the User shall be considered to have disapproved the seller's proposal under Paragraph 4.15.4.

4.15.6. If Emergo is not able to comply with the User's request within the stipulated period due to objective reasons, Emergo shall inform the User of the complaint resolution period extension, specify the deadline for complaint resolution, obtain the User's consent therewith, and enter such extension into the received complaints records. The complaint resolution period may be extended only once.

4.15.7. If Emergo rejects the complaint, it shall inform the User about the possibility of out-of-court dispute resolution and on the competent authorities for out-of-court settlement of consumer disputes. Right to a refund shall be granted to a User to whom a Partner denied or was not able to provide the Interactive Service in the manner described through the Interactive Service.

4.15.8. The User may submit a complaint via the following e-mail address: kontakt@fitpass.rs.

4.15.9. In case of refund to the customer who has paid for the goods using a payment card, fully or partially, irrespective of the return reasons, the refund shall be made only by using VISA, EC/MC, Maestro and Dina payment methods, which means that upon the seller's request, the bank will refund the amount to the card user's account.

4.16. Pausing the use of the Interactive Service

4.16.1. Individual users who pay for Interactive Services on their own with a multi-month Interactive Services membership have the right to pause the use of Interactive Services once per activated package without any special explanation.

4.16.2. At the end of the selected break period, the time of use of the Interactive Service will automatically continue, and the individual user will have the right to use the remaining days and unused credits.

4.16.3. The right to pause the use of the Interactive Service is exercised by sending a request to customer support.

4.17. Payment

4.17.1. The payment card or current account used during the registration of the User shall be debited with the subscription amount or with the same amount for terms selected by the User in the calculation period.

4.17.2. The User undertakes to state whether they want to continue using the Interactive Service before the expiry of the specified period.

4.17.3. The User undertakes to settle the subscription amount by means of online payment.

4.17.4. All payments shall be made using the legal means of payment of the Republic of Serbia – dinar (RSD). The middle exchange rate of the National Bank of Serbia shall be used for an informative presentation of prices. The amount debited from the User's payment card shall be presented in the User's legal means of payment upon conversion thereof by applying the exchange rate used by card organizations that we cannot be aware of at the moment of the transaction. Consequentially, such an amount may be slightly different from the original price specified on our website.

4.18. Payment Security

4.18.1. When making a payment with a credit card, the user enters the details from Article 4.11.3 as mandatory, and these details are considered confidential and particularly protected.

4.18.2. Confidential information from the credit card is transmitted over the public network in a protected (encrypted) form using the SSL (Secure Socket Layer) protocol and PKI system. The security of the user's credit card data during the purchase is guaranteed by the payment card processor, "WSPAY," so the entire payment process takes place in a secure environment. At no point are the credit card details accessible to our system

5. Privacy Policy

5.1. Questions regarding the protection of personal data of users are addressed in the Privacy Policy, which is available at the following link: [Privacy Policy](#).

6. Communication

6.1. The User agrees that all interactive options, especially communication via private messages, chats, blogs, forums, or any other similar method of sending messages or communicating with each other, are of a public nature and do not have the status of confidential information. Therefore, Emergo may monitor the content of User communication without their knowledge or specific approval.

6.2. After creating an account through the Interactive service and registration, the User will receive email messages from Emergo, including Administrative email messages and Promotional email messages.

6.3. Administrative email messages concern the User's activity within the Interactive services and include messages related to the User account, requests, inquiries, and messages regarding the purchase or payment of the Interactive service or subscription. If the User does not wish to receive this type of message, they will not be able to use the Interactive service.

6.4. Promotional email messages are used for advertising Interactive services offered by Emergo. Such messages are sent to Users who have chosen to receive Promotional email messages. If the User does not wish to receive these messages, they can unsubscribe from them at any time after registration by clicking the unsubscribe button located in each individual email message.

7. Underage users

7.1. Persons under the age of 15 shall not be allowed to use the Interactive Service on their own and such persons may use the page only under the supervision of their parents or guardians.

7.2. Persons under the age of 15 may use the Interactive Service in a restrictive manner, where the use of certain services may be ceded by parents or guardians to their children, provided that the parent or guardian must be present during the Interactive Service use and the Interactive Service may be used only by one person during that day.

8. Emergo's disclaimer

8.1. The User understands and agrees that the use of the Interactive Service and its content is the sole responsibility of the User.

8.2. Emergo's technical deficiencies disclaimer

8.2.1. The User is aware of and agrees with the fact that sometimes during the use of the internet network, Interactive Service technical issues and interruption may occur. These and similar events are beyond Emergo's control; therefore, Emergo may not be held liable for any data loss or any other event that may happen during the Interactive Service provision.

8.2.2. The User agrees that access to the Interactive Service may sometimes be discontinued, temporarily unavailable or suspended due to Interactive Service scheduled maintenance or other reasons that are not under Emergo's responsibility, whereby Emergo shall not be held liable.

8.2.3. Emergo shall in no case be liable for any damages resulting from the use or inability to fully or partially use the Interactive Service. The User explicitly states that the User shall not hold Emergo, its branches, responsible persons in the company, employees, and agents liable for possible damages and costs, also including legal representation costs, that may arise out of the Interactive Service use by the User.

8.2.4. Emergo and any affiliated third party shall in no way guarantee that the Interactive Service will not be discontinued or free from any malfunctions. Emergo shall not and may not be liable for consequences resulting from the use of this Interactive Service, accuracy, reliability or content of any information, service or goods provided by the Interactive Service.

- 8.2.5. Emergo excludes any liability for any equipment, hardware, and software damage that may possibly occur as a result of the Interactive Service use.
- 8.2.6. This disclaimer shall refer to all possible damage or injuries caused by any error, erasure, interruption, computer virus, fault, operational or transmission delay, communication line interruption, theft, contract termination, destruction or unauthorized access, changes or abuse of records, misconduct, negligence or any other action.
- 8.2.7. Due to the nature of the internet network, Emergo cannot guarantee full protection of any information transmitted via the Interactive Service, thus, Emergo shall not and may not be liable for any possible harmful actions of third parties that receive and use or alienate such information without authorization.
- 8.2.8. Information published on the public parts of the Interactive Service by the User may also be available to other Users and third parties and as such it may appear on other internet pages or web browsers without the User's knowledge, and in this case too Emergo shall not and may not be liable for any possible damages to the User resulting therefrom.

8.3. Emergo's disclaimer regarding User or third-party posts

- 8.3.1. The User agrees that Emergo shall not be responsible for improper or unlawful behavior of other Users or third parties and that any possible damages shall be solely at the User's risk.
- 8.3.2. Emergo shall not guarantee that any content available through the Interactive service and posted by the User, third parties or unauthorized users is accurate, full or useful.
- 8.3.3. Emergo shall not and may not be held liable for any possible loss or damages incurred to the User due to the fact that the User relied on information obtained via the Interactive Service.
- 8.3.4. Emergo explicitly disclaims any responsibility for the content of materials on third-party internet pages that may be accessed through the Interactive Service. If the User accesses third-party internet pages, the User shall do so exclusively and only under the User's sole responsibility excluding thereby any Emergo's liability.
- 8.3.5. Emergo disclaims any responsibility if the User's personal information is used by other parties for any other purposes besides the purpose it has been delivered to such other parties to whom such information must be delivered; therefore, Emergo shall not and may not be liable for any possible damages incurred to the User on such grounds.

8.4. Emergo's Interactive Service Disclaimer

- 8.4.1. Emergo is not the owner of and does not have the products/services it offers through its

Interactive Service under its ownership; therefore, Emergo may not be liable for possible legal and substantial deficiencies of the products/services or any other problems and defects that may arise during the use of offered services. All possible deficiencies related to the delivery or malfunction of products/services provided by any Emergo's Partner shall be the sole responsibility of that Partner.

9. Ineffectiveness of the Terms, Sale Terms and Conditions, and Privacy Statement

9.1. If any of the provisions of the Terms or Privacy Policy is ineffective, such ineffectiveness shall not affect the validity of any other provision of the Terms or the Privacy Policy, thus the remaining parts of the Terms and the Privacy Policy shall continue to be effective, while the ineffective provision shall be replaced by a valid provision that best reflects the ineffective provision in terms of its meaning and legal will.

9.2. If any party fails to exercise their rights under these Terms or Privacy Policy, such party shall not be deemed to have waived or lost such rights or any other rights specified herein.

10. Dispute resolution

10.1. All disputes that may arise out of or in connection with these Terms or Privacy Policy due to the Interactive Service use between Emergo and the User shall be consensually resolved.

10.2. If Emergo and the User fail to resolve the dispute consensually, the dispute shall be brought before the First Local Court in Belgrade if the User is a natural person or the Commercial Court in Belgrade if the User is a legal person.

11. Effective date

11.1. These Terms of Use shall be effective as of the date of rendering thereof and the date when the notice to the User was delivered via the Interactive Service or by e-mail, whereas the Terms of Use dated 10.07.2023. shall cease to be effective on such a date or on any other date specified in the e-mail or via the Interactive Service.