

End User Licence Agreement (EULA)

1. Introduction

- 1.1 This End User Licence Agreement (**Agreement**) is between you (the end user) and FITBEAT OPERATIONS PTY LTD (ACN 629 709 637) trading as Fitillion (**we, us, or our**) and relates to your use of the Platform (**Platform** means any software or application provided by us to deliver the services, including: the Fitillion application downloadable on Android or iOS devices; software accessible through Fitillion desktop or mobile websites; software accessible via mobile phones, personal computers, laptops, televisions, monitors, tablets, smart watches or other smart devices; and any software integrated into products we sell. This term collectively encompasses all software and applications that enable access to and use of the services across various devices and access points). By accessing the Platform, you agree to this Agreement.
- 1.2 You are accessing the Platform as an authorised user under a licencing arrangement established through our business customers. Your access to the Platform may be provided through one or more intermediary entities who have obtained licencing rights from us or our direct customers.
- 1.3 Your access to the Platform is contingent upon:
 - (a) the continuation of the underlying service agreements in the licencing chain;
 - (b) the continued authorisation from the entity that directly granted you access; and
 - (c) compliance with any additional terms imposed by entities in the licencing chain.
- 1.4 We reserve the right to suspend or terminate your access to the Platform if:
 - (a) any service agreement in the licencing chain is suspended or terminated;
 - (b) the entity that granted you direct access requests revocation of your access;
 - (c) our direct customer requests termination of access for users in your category or location;
 - (d) you breach this Agreement; or
 - (e) there is a material breach by any entity in the licencing chain that affects service delivery.
- 1.5 You acknowledge that there may be multiple entities involved in providing your access to the Platform, and you may be required to comply with additional terms and conditions imposed by:
 - (a) the entity that directly granted you access (such as your employer);
 - (b) any intermediary entities in the licencing chain; and
 - (c) our direct customers.

2. Access to Platform

- 2.1 Subject to the terms of this Agreement and the underlying licencing arrangements, we grant you a non-exclusive, non-transferable, revocable licence to use the Platform for personal fitness and health purposes.
- 2.2 This licence is provided through our business licencing structure, which may involve one or more intermediary entities. Your right to use the Platform is conditional upon the continuation of all relevant licencing agreements in the chain and your compliance with this Agreement.
- 2.3 You must be at least 18 years old or have parental permission to use the Platform and you must keep your account information confidential.

3. User Responsibilities

- 3.1 You agree to use the Platform in compliance with all applicable laws and this Agreement.
- 3.2 You must not:

- (a) share your account or allow others to access the Platform using your credentials; or
- (b) use the Platform illegally or attempt unauthorised access.

4. Health and Safety

- 4.1 The Platform provides general fitness, exercise, and nutritional information. It is not a substitute for professional medical advice, diagnosis, or treatment.
- 4.2 You should consult with a healthcare professional before starting any new diet or exercise program, especially if you have any medical conditions or injuries.
- 4.3 We recommend that before using the Platform, you answer no to all of the following questions or you have obtained a medical clearance letter from your doctor:
 - (a) has your doctor ever told you that you have a heart condition or have you ever suffered a stroke?
 - (b) have you ever experienced unexplained pains in your chest at rest or during physical activity/exercise?
 - (c) do you ever feel faint or have spells of dizziness during physical activity/exercise that causes you to lose balance?
 - (d) have you had an asthma attack requiring immediate medical attention at any time over the last 12 months?
 - (e) if you have diabetes (type I or type II) have you had trouble controlling your blood glucose in the last 3 months?
 - (f) do you have any diagnosed muscle, bone or joint problems that you have been told could be made worse by participating in physical activity/exercise?
 - (g) do you have any other medical condition(s) that may make it dangerous for you to participate in physical activity/exercise?
- 4.4 You are solely responsible for your decision to use the Platform and for any consequences resulting from your use of the exercise routines, meal plans, or other content provided through the Platform.
- 4.5 You agree to exercise in a safe and appropriate space, including:
 - (a) sufficient room to move without colliding with people or objects;
 - (b) a solid, stable floor;
 - (c) a non-slip mat or surface where necessary.
- 4.6 You are responsible for assessing and preparing your training environment before exercising and we are not liable for injuries or damages resulting from an inadequate training space. If unsure about your space's suitability, consult a fitness professional or our support team before starting any exercise program.
- 4.7 You acknowledge that participating in physical activities, including those suggested by the Platform, carries inherent risks.
- 4.8 You must:
 - (a) comply with all our behaviour policies provided to you and any policies and terms of our customer and all applicable laws;
 - (b) not allow third-party access to the Platform or online classes;
 - (c) not participate while under the influence of alcohol or non-prescription drugs;
 - (d) avoid reckless behaviour and wear suitable clothing when using the Platform; and

- (e) use boxing bags (if applicable) only where you have the appropriate safety equipment (boxing gloves) and we are not liable for any resulting injuries.
- 4.9 You agree that we do not provide any guarantee as to the availability of personnel at your location to assist in providing the services.
- 4.10 You acknowledge and agree that all information you submit, including to register and update your account must be accurate, up-to-date and reflects your true identity. You will still be bound by these terms and conditions even if your details are not accurate, out-of-date or do not reflect your true identity.
- 4.11 You recognise that your participation in our services may expose you to the risk of physical harm or personal injury. These risks may arise from, but are not limited to:
 - (a) interactions with third-party participants;
 - (b) your personal physical fitness level;
 - (c) equipment supplied or used;
 - (d) your own or another party's acts, omissions, or negligence; and
 - (e) exposure to flashing lights, which may exacerbate certain medical conditions.
- 4.12 You voluntarily accept all risks associated with your participation in our services, including potential injuries or exacerbation of medical conditions.
- 4.13 To the fullest extent permitted by law, you agree to assume all risk of injury, illness, damage, or loss to you or your property that might result from your use of the Platform or participation in any activities suggested by the Platform.
- 4.14 You agree to waive, release, and discharge us and our affiliates, officers, directors, employees, and agents from any and all claims or liabilities arising out of your use of the Platform, to the extent permitted by applicable law.

5. Equipment Use and Exercise Guidance

- 5.1 You acknowledge that the Platform offers a variety of workout types, including calisthenics (equipment-free) exercises and those requiring various types of gym equipment.
- 5.2 We recommend that all users, regardless of their perceived fitness level, begin with basic skill level exercises and gradually progress to higher levels only when they feel confident and ready. This approach helps minimise the risk of injury and ensures a safer, more effective fitness journey.
- 5.3 For exercises requiring equipment, the Platform provides instructional videos demonstrating proper use. You must carefully watch and follow these videos before attempting any exercise with equipment.
- 5.4 The Platform also offers voice or text guidance for each exercise. You agree to attentively follow this guidance to ensure proper form and technique.
- 5.5 The Platform includes a strength assessment feature, which can provide guidance on weight selections for exercises. While this feature is designed to assist you, you acknowledge that:
 - (a) the accuracy of the assessment depends on your honest and accurate input;
 - (b) the suggested weights are recommendations only and may not be suitable for all individuals;
 - (c) you are responsible for assessing your own capabilities and adjusting weights as necessary for your safety and comfort.
- 5.6 You agree to use all equipment, whether your own or provided by a third party, in accordance with the supplier or manufacturer's instructions and the guidance provided through the Platform.
- 5.7 To the maximum extent permitted by law, we disclaim all liability for any injuries or damages

resulting from your use of equipment in conjunction with the Platform, including:

- (a) injuries caused by improper use of equipment;
- (b) injuries resulting from using weights or resistance levels inappropriate for your fitness level;
- (c) damages to property or equipment resulting from misuse.

5.8 You acknowledge that the safe use of equipment is your responsibility, and you agree to exercise caution and good judgment when following the Platform's exercise recommendations.

6. Meals and Meal Plans

6.1 Meals ordered through the Platform are provided by third-party services, not us and you are responsible for any agreements with these third-party providers.

6.2 For meal plans, you must:

- (a) provide accurate information in required questionnaires;
- (b) review plans for compatibility with your allergies and dietary needs;
- (c) consult with a medical health professional before following any meal plan; and
- (d) assume all risks associated with following meal plans.

7. Privacy

7.1 We collect personal information about you in order to enable you to access and use the Platform including to book and undertake tailored classes, to provide you with the possibility to track your nutrition and fitness goals, to provide services which are part of the Platform such as challenge scoring, gamification, smart tracker integrations, rewards and progress tracking, to contact and communicate with you, to respond to your enquiries, to send instructions for workouts, to send instructions for nutrition, to send receipts, to send termination notices and for other purposes set out in our privacy policy. You acknowledge and agree to us using your personal information for the listed purposes.

7.2 We may disclose that information to third party service providers who help us deliver the Platform and our services (including heart rate information systems, information technology service providers, data storage, web-hosting and server providers, professional advisors, payment systems operators and our business partners) or as required by law. If you do not provide this information we may not be able to provide the Platform or our services to you. In certain circumstances, we may disclose your personal information to third parties located, or who store data, outside Australia and where we do so we will do so in accordance with our privacy policy and applicable privacy laws.

7.3 Our privacy policy contains further information about: (i) how we store and use your personal information; (ii) how you can access and seek correction of your personal information; (iii) how you can make a privacy-related complaint; and (iv) our complaint handling process. By providing personal information to us, you consent to us collecting, holding, using and disclosing your personal information in accordance with our privacy policy.

8. Intellectual Property

8.1 The Platform and its content are protected by copyright, trademark, patent and design mark and other intellectual property laws.

8.2 You may not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, copy, disseminate, reverse assemble, reverse engineer, reverse compile, or transmit any content from the Platform without our prior written consent.

8.3 You agree not to use, or attempt to use, any artificial intelligence, machine learning, or similar technologies to:

- (a) reverse engineer, decompile, or disassemble the Platform;

- (b) create a product or service that is substantially similar to or competes with the Platform;
 - (c) extract, scrape, or replicate any substantial part of the Platform's functionality, user interface, or content; or
 - (d) train AI models using data or content from the Platform without our express written permission.
- 8.4 Any attempt to replicate, mimic, or create derivative works of the Platform using AI or similar technologies is strictly prohibited and may result in immediate termination of your access to the Platform and legal action.
- 8.5 You retain ownership of any content you submit through the Platform, but you grant us a worldwide, non-exclusive, perpetual, royalty-free licence to use, reproduce, and distribute such content in connection with providing and improving the Platform.
- 8.6 We may collect, analyse, and compile anonymised statistical and performance information based on your use of the Platform. We may use, sell, or share analytics with third parties, provided that the data:
 - (a) does not contain identifying information; and
 - (b) is not compiled from a sample size small enough to make the underlying data identifiable.
- 8.7 We and our licensors own all rights, title, and interest in the analytics and related intellectual property.
- 9. Termination**
- 9.1 You may terminate your use of the Platform at any time by discontinuing use or by contacting our support staff through a support ticket or email. Any termination will be subject to the terms and conditions of the entity who granted you the licence to use the Platform.
- 9.2 We may suspend or terminate your access to the Platform at any time, with or without notice, for any reason including:
 - (a) termination or expiration of our service agreement with the customer who authorised your access;
 - (b) the customer requests termination of your access;
 - (c) your actions, or those of the customer, jeopardise the operation of the Platform or the well-being of other users;
 - (d) you or the customer repeatedly or seriously breach this Agreement;
 - (e) the customer fails to make timely payments (if applicable); and
 - (f) you or the customer fail to remedy a breach within 14 days of notice.
- 9.3 We may suspend or terminate your access to the Platform at any time, with or without notice, for any reason including:
 - (a) termination or expiration of the underlying licencing arrangements that enable your access;
 - (b) request from any entity in the licencing chain with authority over your access;
 - (c) breach of this Agreement by you or material breach by any licencing entity that affects service delivery;
 - (d) actions by you or any licencing entity that jeopardise Platform operations or user safety;
 - (e) failure to make required payments by any responsible party; and
 - (f) failure to remedy breaches within 14 days of notice.

9.4 Upon termination:

- (a) your right to use the Platform will immediately cease;
- (b) you must discontinue all use of the Platform;
- (c) any outstanding payments (if applicable) will become immediately due;
- (d) we may delete or retain any data associated with your use of the Platform in accordance with our data retention policies and applicable laws.

9.5 We reserve the right to refuse service, terminate accounts, or cancel orders in our sole discretion, especially if we believe that user conduct violates applicable law or is harmful to our interests or the interests of other users of our Platform.

10. Limitation of liability

To the maximum extent permitted by applicable law:

- 10.1 The Platform is provided “as is” and “as available” without any warranties of any kind, either express or implied, including warranties of merchantability, fitness for a particular purpose, or non-infringement.
- 10.2 We disclaim all liability and responsibility for any harm, loss, or damage, whether direct, indirect, incidental, special, consequential, or exemplary, including loss of profits, loss of data, loss of use, or intangible losses, resulting from:
 - (a) your use of or inability to use the Platform;
 - (b) any conduct or content of any third party on the Platform;
 - (c) any content obtained from or through the Platform;
 - (d) unauthorised access, use, or alteration of your transmissions or content; and
 - (e) any events outside our reasonable control
- 10.3 In no event shall our total liability to you for all claims arising from or relating to this Agreement or your use of the Platform exceed \$1,000.
- 10.4 Nothing in this Agreement shall limit or exclude our liability that cannot be excluded or limited under consumer laws, for example in Australia, the Australian Consumer Law.

11. Governing law and jurisdiction

This Agreement is governed by the laws of New South Wales, Australia. Any disputes arising from this Agreement will be subject to the exclusive jurisdiction of the courts in New South Wales, Australia. If a dispute arises out of or relates to this Agreement, the parties agree to first attempt to resolve it through good faith negotiations. If negotiations fail, the parties will attempt to settle the dispute by mediation before resorting to litigation. The mediation will be conducted in New South Wales, Australia, by a mediator agreed upon by both parties or appointed by the Australian Disputes Centre if no agreement is reached. Each party will bear its own costs of mediation, and the parties will share equally the costs of the mediator. Nothing in this clause prevents either party from seeking urgent injunctive or interlocutory relief.

12. Changes to this Agreement

We reserve the right to modify this Agreement at any time. We will notify you of any changes by posting the new Agreement on the Platform. Your continued use of the Platform after any such changes constitutes your acceptance of the new Agreement.

13. Contact information

If you have any questions about this Agreement, please contact us at info@fitillion.com.