



Terms of use for Apps by Arcade Bouldering UG (haftungsbeschränkt)

These terms of use regulate the use of this app (hereinafter: “**App**”), which is available to the user (“**you**”, “**your**”) from Arcade Bouldering UG (haftungsbeschränkt), Viehofer Platz 11 , 45127 Essen, Germany (“**Arcade Bouldering**”, “**we**”, “**our**”, “**us**”).

By downloading the app and accepting these terms of use in accordance with section 2.3 below, these terms of use are agreed to be binding between you and Arcade Bouldering.

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1. Download and use the app

1.1. The app can be downloaded from the Apple App Store for iOS devices or from the Google Play Store for Android devices (together: “**App Stores**”). The download takes place via the download button or a similar functionality in the respective app store.

1.2. Unless otherwise regulated in these Terms of Use, the terms and conditions of the app store from which you downloaded the app apply. However, in the event of a con-

flict between the App Store Terms and these Terms of Use, these Terms of Use shall prevail.

- 1.3. These terms of use also apply to the use of the app if it has not been downloaded from one of the app stores.
- 1.4. Downloading and using this app is basically free and not limited to a certain number of personal devices. However, individual functions can be made dependent on the purchase of a premium status for a fee or otherwise on the payment of a separate fee; We will in any case conclude a separate contract with you on this.
- 1.5. However, some functions of the app cannot be used without an active internet connection. In connection with the use of these individual functions of the app via the Internet, costs may arise that depend on your contract with your communications provider.
- 1.6. The commercial use of the App requires an additional contract with us for the specific type of commercial use. An exception are gym profiles, in which commercial climbing gyms can upload their climbing walls for their regular gym operations. However, this exception does not apply beyond this use case.

2. Registration and acceptance of the terms of use

- 2.1. Before using the app, you must accept these terms of use and confirm that you had the opportunity to read the data protection information.
- 2.2. In order to be able to use the app to its full extent, you must create a user account ("Account"). Registration can be done via the app. Identification can also take place via third-party providers (such as Apple, Google or Facebook). When registering, you must (again) confirm your consent to these terms of use and the opportunity to read the data protection information.
- 2.3. The contract between you and Arcade Bouldering regarding these terms of use is concluded when you accept the terms of use in the app. The conclusion of the contract is confirmed again when Arcade Bouldering has confirmed your registration. We may send you an e-mail asking you to confirm your e-mail address and the creation of your account by clicking on the confirmation link in an e-mail sent to you by Arcade Bouldering; in this case, registration will only take place after you have clicked on this link and Arcade Bouldering confirms that the registration process has been completed.

- 2.4. We will send you a copy of these Terms of Use upon registration. Please keep this email for your records. You can then also access a copy of these Terms of Use on our website at <https://www.arcadebouldering.com.de/en/l/tac>; however, we cannot make a binding commitment that this will be possible in the long term.
- 2.5. By creating your account, you ensure that you are providing the information required for registration that is correct, current and complete. You will immediately change your details in the app in the event of changes.
- 2.6. You are responsible for keeping the access data to your account, especially the password, secret. If you register via a third-party provider, this applies accordingly to the access data for your account with this provider. If you have reason to believe that your account is no longer secure (e.g. if a third party knows your password), you will inform Arcade Bouldering immediately.

3. Changes to the app and the terms of use

- 3.1. Arcade Bouldering reserves the right to expand the functions of the app or the services or to discontinue parts thereof. Since the download and use of this app are free, Arcade Bouldering does not assume any obligation to provide the app and the services permanently in unchanged form.
- 3.2. Arcade Bouldering reserves the right to change these Terms of Use at any time if it appears necessary, e.g. due to the further development of the app, the introduction of new functions, technical or operational issues or due to changes in the law. You will be informed of such changes by a notification in the app and requested to accept the new version of these Terms of Use.
- 3.3. Automatic updates and upgrades are provided by Arcade Bouldering via the app stores and, depending on the device settings, can be installed without your separate consent.

4. Availability of the app and the services

- 4.1. Arcade Bouldering endeavors to ensure continuous availability of the app and the services required for it, but cannot guarantee that there will be no interruptions.
- 4.2. In particular, temporary interruptions in availability due to maintenance work, disruptions to the Internet at external network operators, other technical reasons and in the event of force majeure are possible.

5. Scope of services

- 5.1. The app serves as an exchange between users about gyms (climbing halls), climbing walls and boulders (climbing routes). The information displayed was uploaded by other users, in particular the operators of the gyms (climbing halls) and third parties (see also section 6). Arcade Bouldering does not check the information for correctness or topicality.
- 5.2. Arcade Bouldering does not check the gyms (climbing halls) and climbing walls for compliance with the applicable safety regulations. Furthermore, Arcade Bouldering does not check user-defined boulders (climbing routes) for suitability for certain user groups. As the user, it is your responsibility not only to take all necessary safety measures when climbing, but also to assess the suitability of the boulders (climbing routes) available in the app with regard to your training and health status.

6. User content

- 6.1. Some functions of the app allow you to choose a username that is visible to third parties or to publish names of climbing gyms, descriptions, photographs, boulders (climbing routes), ratings, contributions to discussions, comments or other content (collectively "**user content**") in the app or share with third parties.
- 6.2. The rights to user content generally remain with you. However, by uploading such user content to the app, you grant Arcade Bouldering a limited, non-exclusive, transferable and sub licensable right to use and reproduce the user content in the app, on websites or in any other way, without your consent. To disseminate and make publicly available, also for marketing purposes. You affirm that the user content is free of third party rights or that such third parties agree to the granting of rights of use to us.

If it later turns out that you do not have the necessary rights to upload user content, you are obliged to inform us immediately and, if the app provides a corresponding function, to delete the content from the app immediately.

- 6.3. You may not upload any user content to the app, the publication, access or possession of which is prohibited under the law of the Federal Republic of Germany or the law of the country in which you are currently staying, or the publication or access of which is restricted by access to Adults must be made dependent ("**illegal content**"). In particular, you may not upload any content that:
 - 6.3.1. Represent propaganda means within the meaning of Section 86 of the Criminal Code, the content of which is directed against the free democratic basic order or the idea of international understanding,

- 6.3.2. Use symbols of unconstitutional organizations within the meaning of Section 86a of the Criminal Code,
- 6.3.3. Incite hatred against sections of the population or against a national, racial, religious or ethnic group, call for violence and arbitrary measures against them or attack the human dignity of others by insulting, maliciously, contemptuously or slandering parts of the population or a previously named groups will,
- 6.3.4. an act committed under the rule of National Socialism of the kind described in Section 6 (1) and Section 7 (1) of the International Criminal Code in a way that is likely to disturb, deny or downplay the public peace,
- 6.3.5. Describe cruel or otherwise inhuman acts of violence against people in a way that glorifies or belittles such acts of violence or that depicts the cruel or inhuman nature of the process in a manner that violates human dignity; this also applies to virtual representations,
- 6.3.6. Serve as a guide to an unlawful act named in Section 126 (1) of the Criminal Code,
- 6.3.7. Glorify war,
- 6.3.8. Violate human dignity, in particular by depicting people who are dying or who are or have been exposed to severe physical or mental suffering, whereby an actual event is reproduced without a legitimate interest in this form of representation or reporting; a consent is irrelevant,
- 6.3.9. Depicting children or young people in an unnaturally gendered posture; this also applies to virtual representations,
- 6.3.10. are pornographic and involve acts of violence, the sexual abuse of children or young people or sexual acts by people with animals; this also applies to virtual representations,
- 6.3.11. are included in parts A, B, C or D of the list according to Section 18 of the Youth Protection Act or are wholly or essentially identical in content to a work included in this list,
- 6.3.12. are in any other way obviously capable of seriously endangering the development of children and young people or their upbringing to become independent and socially competent people, taking into account the particular mode of action of the distribution medium; or
- 6.3.13. violate the honor of other users or third parties; in particular the subject of insult or defamation.

- 6.4. Furthermore, you may not upload any other user content that is intended, without presenting objective criticism, to harass , humiliate, keep away or distribute other users or groups of users or to reduce the reputation of Arcade Bouldering (" **inappropriate content** ").
- 6.5. Without prejudice to legal obligations, Arcade Bouldering is not obliged to actively examine the user content for a violation of third party rights, illegal content or inappropriate content. Arcade Bouldering will, however, investigate complaints from users or third parties at its own discretion and is entitled to block user content that you have uploaded contrary to Sections 5.2, 5.3 and 5.4 and, if necessary, to block your account in accordance with Sections 9.2.2, 9.2 .3 or 9.2.4 to terminate.

7. Arcade Bouldering intellectual property

- 7.1. The app, as well as images and other content made available via the app (collectively "**app content**"), are protected by copyright and related rights in Germany and other countries. Arcade Bouldering grants you a limited, non-exclusive, non-transferable and non-sublicensable right to use the app and the app content.
- 7.2. In addition, the statutory provisions of copyright law for software and other works as well as protection through related property rights apply. Unless Arcade Bouldering has expressly consented to this or mandatory legal regulations allow you to do so, you are in particular prohibited from:
 - 7.2.1. reproduce the app or the app content, unless this is done to the extent necessary to download, install and use the app on your devices, to create a reasonable number of backups, or to the extent to what this is otherwise permitted by these Terms of Use;
 - 7.2.2. sell, rent or otherwise distribute the App or The App Content to third parties;
 - 7.2.3. Edit or otherwise change the app or the app content;
 - 7.2.4. Decrypt, disassemble, decompile, or otherwise reverse engineer the app; and
 - 7.2.5. to attempt one of the actions according to Sections 6.2.1 to 6.2.4.

8. Other improper use

- 8.1. Without prejudice to the regulations for user content according to Section 5, you may not use the app or the data processing systems of Arcade Bouldering in any other way for other criminal acts, commit criminal acts at the expense of Arcade Bouldering or

commit other acts for the purpose of Arcade Bouldering to cause unlawful damage. In particular, you are prohibited from:

- 8.1.1. to hack, sabotage, or otherwise impair or render useless the data processing systems of Arcade Bouldering, which are used to provide the app or the content, or other data processing systems of Arcade Bouldering;
- 8.1.2. use the app excessively or otherwise excessively access the data processing systems, i.e. to an extent that far exceeds normal use in order to overload the arcade bouldering systems (so-called denial-of-service attack);
- 8.1.3. Circumvent technical restrictions on the app to gain access to content or features not licensed to you; or
- 8.1.4. to attempt one of the actions according to Clauses 8.2.1 to 8.2.3.

9. Data protection

- 9.1. If you are a natural person, Arcade Bouldering processes your personal data when you use the app or when you register for an account. Arcade Bouldering will process this confidentially and in accordance with Regulation (EU) 2016/679 (General Data Protection Regulation) and other applicable data protection laws.
- 9.2. If your consent is required under Regulation (EU) 2016/679 (General Data Protection Regulation) and other applicable data protection laws, or if Arcade Bouldering deems it appropriate in other cases, we will ask for your prior consent to processing for individual purposes. Such consent can be obtained in particular when activating the corresponding functions in the app.
- 9.3. For details, please refer to our privacy policy at <https://www.arcadebouldering.-com.de/en/l/privacy>.

10. Termination

- 10.1. Arcade Bouldering reserves the right to terminate the app and to terminate these terms of use, your customer account and your right to use the app at any time. If you have registered, Arcade Bouldering will inform you of this by sending a message to the e-mail address you provided with a reasonable period of time, but usually at least four weeks in advance.

10.2. Arcade Bouldering is also entitled to terminate the contract for good reason, in particular if you:

10.2.1. When registering, contrary to Section 2.5, you provided incorrect or incomplete information or you did not update your information and you did not correct or supplement your information within a period of at least thirty days set by us in writing, or we were unable to contact you because the email address you provided was invalid;

10.2.2. contrary to Section 5.2, uploading user content without having the necessary rights if Arcade Bouldering has been used by third parties for this reason or if this happens repeatedly after Arcade Bouldering has threatened to terminate your account;

10.2.3. contrary to section 5.3 upload illegal content; however, if it is an insult to other users, this only applies if this occurs repeatedly after Arcade Bouldering has already threatened you with the termination of the account;

10.2.4. contrary to section 5.4, upload inappropriate content if this happens repeatedly after Arcade Bouldering has already threatened you to terminate your account;

10.2.5. violate the rights of Arcade Bouldering or of third parties contrary to Section 6.2;

10.2.6. contrary to section 7, misuse the app or damage arcade bouldering; or

10.2.7. otherwise seriously violate these terms of use.

10.3. You can terminate your account and thus these terms of use at any time by requesting the deletion of the account in the app. User content is not affected by the deletion, but your username will be removed. We would like to point out that, in addition, your data will only be completely deleted after the expiry of statutory retention requirements and retention for other lawful purposes; You can find details on this in our data protection declaration (see section 5.1).

11. Arcade Bouldering Liability

11.1. Arcade Bouldering is liable to the extent of the statutory provisions for:

11.1.1. Damage that arises from the fact that Arcade Bouldering (or a legal representative or vicarious agent of Arcade Bouldering) fraudulently concealed a material defect or legal defect;

- 11.1.2. Damage resulting from injury to life, limb or health based on a breach of duty for which Arcade Bouldering is responsible;
- 11.1.3. other damage based on a grossly negligent or willful breach of duty by Arcade Bouldering (or a legal representative or vicarious agent of Arcade Bouldering); and
- 11.1.4. other damage that is based on a breach of an obligation for which Arcade Bouldering is responsible, the fulfillment of which enables the proper execution of the contract in the first place and compliance with which the contractual partner may regularly rely (so-called cardinal obligation); If these damages do not also fall under the above paragraphs 9.1.1 to 9.1.3, liability for damage according to this paragraph 9.1.4 is limited to the foreseeable damage typical for the contract.
- 11.2. The need to represent Arcade Bouldering within the scope of Clauses 9.1.2 and 9.1.4 is based on the statutory provisions. In the area of application of §§ 521 and / or 599 of the German Civil Code, Arcade Bouldering is only responsible for gross negligence and intent in this respect.
- 11.3. Arcade Bouldering is also liable to the extent of the statutory provisions, provided that Arcade Bouldering has assumed a quality guarantee or other no-fault liability; insofar, however, the restrictions in the respective guarantee declaration or other declaration of acceptance apply.
- 11.4. Arcade Bouldering is also liable in accordance with the provisions of the Product Liability Act or other applicable national laws for the implementation of Directive 85/374 / EEC as well as such statutory provisions to which the respective law expressly states that the corresponding provisions are not deviated or not deviated in advance can be.
- 11.5. In cases other than those provided in Sections 9.1 to 9.4, Arcade Bouldering's liability, for whatever legal reason, is excluded.

12. Choice of law; Place of jurisdiction

- 12.1. These terms of use are subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.
- 12.2. If you are a businessman, a legal entity under public law or a special fund under public law, the place of jurisdiction is Bad Oeyenhausen. However, we remain entitled to take legal action at your general place of jurisdiction.

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This document has been translated to our best knowledge from the German original:

<https://www.arcadebouldering.com.de/l/tac>

in the event of misunderstandings, the German version applies.