



TERMS OF USE

1. Scope of Application of the Terms of Use

By accessing or using the Website or any Applications made available by Footballerista Marketing (Suisse) AG ("**Footballesterista**") as defined below, the User agrees to be bound the Terms of Use. The Website and Applications are owned and controlled by Footballerista.

The Terms of Use affect the User's legal rights and obligations. If the User does not agree to be bound to the Terms of Use, the User shall not access or use the Website or Applications.

2. Definitions

The following terms shall have the following meaning:

"**Applications**" are any kind of software for any kind of device (computer, mobile phone, etc.) made available by Footballerista, which allows to run a certain content, especially including Footballerista application.

"**Content**" is anything the User or other Users post, provide or share using the Website and actions taken by Users and non-Users who interact with the Website or Applications.

"**Data**" or "**User Data**" or "**User's Data**" are any data, including a User's Content or Information that the User or third parties can retrieve from the Website or Applications or provide to the Website or Applications through the Platform.

"**Information**" means facts and other information about the User, including the User's name and other personal information.

"**Platform**" is a set of application programming interfaces and services which enables others, including Application developers and website operators, to retrieve Data from the Website or Applications or provide Data to Footballerista.

"**Terms of Use**" means these provisions and any updates thereof.

"**Use**" is use, run, copy, publicly perform or display, distribute, modify, translate, and create derivative works of Content and Information contained on the Website or Applications.

"**User**" is any person who uses the Website or Applications.

"**Website**" means the features and services made available, including through (a) the websites at www.footballesterista.ch and any other Footballerista websites which are owned and controlled by Footballerista (including sub-domains, international versions, widgets, and mobile versions); (b) the Platform, (c) social plugins such as the Like button, the Share button and other similar offerings; and (d) other media, brands, products, services, software (such as a toolbar), devices, or networks now existing or later



developed. Footballerista reserves the right to determine, in its sole discretion, that certain of its brands, products, or services are governed by separate terms and not these Terms of Use.

3. Shared Content and Data

The User confirms that he owns all of the Content and Information she/he posts on the Website or Applications. In addition, the User agrees to the following terms:

- For Content that is covered by intellectual property rights, like photos (IP content), the User specifically gives Footballerista the following authorization: The User grants Footballerista a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use any such Content that the User posts on the Website or Applications;
- When the User deletes Content, it is deleted in a manner similar to emptying the recycle bin on a computer. However, the User understands that removed content may persist in backup copies for a reasonable period of time (but will not be available to others);
- The User acknowledges that Content which is uploaded to the Website or Applications can also be viewed by Non-Users; and
- The User acknowledges that the rights on the art work contained on the Website or Applications belong to Footballerista.

4. Code of Conduct, Moderation Policy & Usage

Footballerista respects other people's rights, and expects the User to do the same. The following rules of conduct apply with regard to Data which is posted or otherwise made available on the Website or Applications:

- The User shall not post Content or take any action on the Website or Applications that infringes or violates third parties rights or otherwise violates the law;
- The User is explicitly, but not exclusively, obliged to respect the copyrights and other similar rights of third parties (e.g. rights regarding ones own pictures). Footballerista reserves its right to immediately remove Content upon receipt of a complaint;
- The User shall not submit sensitive Information about Footballerista on the Website or Applications;
- The User shall respect the comments of other Users and third parties;
- The User is obliged not to:
 - Use the Website, or Applications for any illegal or unauthorized purpose. The User agrees to comply with all laws, rules and regulations applicable to his/her use of the Website or Applications and his/her Content.



- Post violent, nude, partially nude, discriminatory, unlawful, infringing, hateful, pornographic or sexually suggestive photos or other Content via the Website or Applications.
- Swear, make malicious or offensive comments, bully, intimidate, harass any User or attack a person's personality.
- Incite hatred on the basis of race, religion, gender, nationality or sexuality or other personal characteristics or any other discrimination.
- Post unauthorized commercial communications (such as spam) on the Website or Applications or advertise commercial products and services.
- Impersonate or falsely claim to represent a person or organization.
- Collect User's Content or Information, or otherwise access the Website or Applications, using automated means (such as harvesting bots, robots, spiders, or scrapers) without the prior permission by Footballerista.
- Upload viruses or other malicious code.
- Solicit login Information or access an account belonging to a third party.
- Do anything that could disable, overburden, or impair the proper working or appearance of the Website or Applications, such as a denial of service attack or interference with page rendering or other Website or Application functionality.
- Facilitate or encourage any violations of the Terms of Use.

The User agrees that Footballerista is not responsible for, and does not endorse, Content posted on the Website or Applications and Footballerista does not have any obligation to prescreen, monitor, edit, or remove any Content.

Footballerista has however the right to remove any Content or Information a User posts on the Website or Applications that in its own discretion violates these rules of conduct, the Terms of Use or any other policy established by Footballerista.

Violation of these Terms of Use by a User may, in Footballerista's sole discretion, result in termination of the User's account. The User understands and agrees that Footballerista cannot be responsible for the Content posted on the Website or Applications. If the User violates these Terms of Use, or otherwise creates risk or possible legal exposure for Footballerista, Footballerista can stop providing all or part of the Website or Applications to the User.

If Users share information from other websites or sources it does not mean that Footballerista endorses those websites or sources.



5. Data Protection and Cookies

The Privacy Policy of Footballerista concerning Data Protection and Cookies can be found here footballerista.com/privacy-policy/.

6. Liability of User and Representations and Warranties

The User is responsible for any activity that occurs through his/her account and she/he also represents that all Information she/he provides or provided to the Website or Applications upon registration and at all other times will be true, accurate, current and complete and the User agrees to update his/her Information as necessary to maintain its truth and accuracy.

The User acknowledges that he/she is solely responsible for his/her conduct and any Data, text, files, Information, usernames, images, graphics, photos, profiles, audio and video clips, sounds, musical works, works of authorship, applications, links and other Content or materials that the User submits, posts or displays on or via the Website or Applications. The User represents and warrants that: (a) she/he owns the Content posted by him/her on the Website or Applications or otherwise has the right to grant the rights and licenses set forth in the Terms of Use; (b) the posting and Use of the User's Content on or through the Website or Applications does not violate, misappropriate or infringe on the rights of any third party, including, without limitation, right of personality, privacy rights, publicity rights, copyrights, trademark and/or other intellectual property rights; (c) she/he agrees to pay for all royalties, fees, and any other monies owed by reason of Content the User posts on or through the Website or Applications; and (d) she/he has the legal right and capacity to enter into these Terms of Use.

By accessing or using the Website or Applications the User represents and warrants that his/her activities are lawful in every jurisdiction where she/he accesses or Uses the Website or Applications.

7. Disclaimer of Warranties and Right to Discontinue

The Website and Applications, including, without limitation, the Content, is provided on an "as is", "as available" and "with all faults" basis. To the fullest extent permissible by law, neither Footballerista, nor any of their employees, managers, officers or agents make any representations or warranties or endorsements of any kind whatsoever, whether express or implied.

8. Limitation of Liability

Under no circumstances shall Footballerista be liable to the User for any loss or damages of any kind (including, without limitation, for any direct, indirect, economic, exemplary, special, punitive, incidental or consequential losses or damages) that are directly or indirectly related to: (a) the Website or Applications; (b) the Content; (c) Data contained on the Website or Applications; (d) the User's Use of, inability to Use, or the performance of the Website or Applications; (e) any action taken in connection with an investigation by Footballerista or law enforcement authorities regarding the User or any other party's Use of the Website or Applications; (f) any action taken in connection with copyright or other intellectual property owners; (g) any errors or omissions in the Website's or Applications' operation; or (h) any damage to any User's computer, mobile device, or



other equipment or technology including, without limitation, damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line or network failure or any other technical or other malfunction, including, without limitation, damages for lost profits, loss of goodwill, loss of Data, work stoppage, accuracy of results, or computer failure or malfunction, even if foreseeable or even if Footballerista has been advised of or should have known of the possibility of such damages, whether in an action of contract, negligence, strict liability or tort (including, without limitation, whether caused in whole or in part by negligence, acts of god, telecommunications failure, or theft or destruction of the Website or Applications). In no event shall Footballerista be liable to the User or anyone else for loss, damage or injury, including, without limitation, death or personal injury.

Footballerista shall not be responsible for the actions, Content, Information, or Data of third parties, and the User releases Footballerista and Footballerista's directors, officers, employees, and agents from any claims and damages, known and unknown, arising out of or in any way connected with any claim the User may have against any such third parties.

In any way the liability of Footballerista shall be limited to the extent permitted by law for any claim.

9. Indemnification

The User, and any third party for whom she/he operates, agrees to defend (at Footballerista's request), indemnify and hold Footballerista harmless from and against any claims, liabilities, damages, losses, and expenses, including without limitation, reasonable attorney's fees and costs, arising out of or in any way connected with any of the following (including as a result of the User's direct activities on the Website or Applications or those conducted on the User's behalf): (a) the User's Content or the User's access to or Use of the Website or Applications; (b) the User's breach or alleged breach of these Terms of Use; (c) the User's violation of any third-party right, including without limitation, any intellectual property right, publicity, confidentiality, property or privacy right; (d) the User's violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities; or (e) any misrepresentation made by the User. The User has to cooperate as required by Footballerista in the defense of any claim. Footballerista reserves the right to assume the exclusive defense and control of any matter subject to indemnification by the User, and the User shall not in any event settle any claim without the prior written consent of Footballerista.

10. General Terms

- 10.1 Footballerista reserves the right to modify or terminate the Website, Applications or the Users access to the Website, or Applications for any reason, without notice, at any time, and without liability to the User.
- 10.2 Footballerista reserves the right, in its sole discretion, to change the Terms of Use from time to time. The User agrees that Footballerista may notify by posting the updated terms on the Website or Applications, and that the Users Use of the Website



Applications after the effective date of the updated terms (or engaging in such other conduct as Footballerista may reasonably specify) constitutes the User's agreement to the updated terms. Therefore, the User should review these Terms of Use and any updated terms before using the Website or Applications. The updated terms shall be effective as of the time of posting, or such later date as may be specified in the updated terms, and shall apply to the User's Use of the Website or Applications from that point forward.

- 10.3 Except as otherwise described herein, as between the User and Footballerista, any Content shall be non-confidential and non-proprietary and Footballerista shall not be liable for any Use or disclosure of Content. None of the User's Content shall be subject to any obligation of confidence on the part of Footballerista, and Footballerista shall not be liable for any Use or disclosure of any Content the User provides.
- 10.4 If any provision of these Terms of Use are held to be unlawful, void, or for any reason unenforceable by a court of competent jurisdiction, this provision shall be deemed severable from the Terms of Use and shall not affect the validity and enforceability of any remaining provisions.
- 10.5 Failure of Footballerista to enforce any of the provisions of the Terms of Use or any rights with respect there to shall in no way be deemed a waiver of such provisions or rights or in any way affect the validity of the Terms of Use. The waiver of any breach of the Terms of Use by Footballerista shall not be construed as a waiver of any other prior or subsequent breach of the Terms of Use.
- 10.6 Any waiver of the Terms of Use must be made in writing and be signed by Footballerista.
- 10.7 The User is not allowed transfer any of his/her rights or obligations under the Terms of Use to any third party without Footballerista's consent. All of Footballerista's rights and obligations under the Terms of Use are freely assignable by Footballerista in connection with a merger, acquisition, or sale of assets, or by operation of law or otherwise.
- 10.8 Nothing in these Terms of Use shall prevent Footballerista from complying with the law.

11. Applicable Law and Jurisdiction

- 11.1 The Website or Applications as well as the Terms of Use are governed by the **substantial laws of Switzerland** (to the exclusion of any conflict of law rules and international treaties).
- 11.2 Any disputes arising pursuant to or in connection with the Website or Applications (or their Use) and/or the Terms of Use **shall be solely submitted to a competent court of law in the Canton of Lucerne (Switzerland)**.

This document was last modified in November 2020.