

TERMS OF USE

OF THE GAMEBUS BÈTA TEST APPLICATION:

Intended to Test users with mobile access

Latest version: v0.2, published on 6-12-2015

Introduction:

The Information Systems group of the School of Industrial Engineering from Eindhoven University of Technology, a scientific and technological public body is The Service Provider and the owner of the “GameBus” application described herein after.

GameBus (referred to as the Application) is an innovative application that will encourage and challenge families to stay active socially, mentally and physically in a personalized gaming experience. GameBus is currently in public Beta and brought to the market by Synergetics BV (<http://synergetics.nl/>).

By accepting these terms of use, you agree to be a “test user” of the Application. The following provisions (referred to as the “Terms” or the “General Terms of Use”) define the terms and conditions governing use of the Application, published by the Service Provider accessible to Mobile systems. Your access to and use of the Application is conditioned on your acceptance of and compliance with these Terms. By accessing or using the Application you agree to be bound by these Terms.

Before any use of the Application, you must ascertain that you hold the necessary rights and means to use such Application: you shall only use the Application in the frame of the Test authorised above.

1. Acceptance Procedure

The purpose of these Terms of use is to set forth the rules of accessing/visiting and use of the Application.

You must read carefully these Terms of Use, print them and keep one copy of them.

For the purposes of these Terms, a “GameBus User” (also referred to as “you”) means any user who:

- is of legal age and has capacity to contract, or, in case of minors, has the permission of its legal representative;
- is registered with the Application in the frame of the Test described above;
- Accepts these General Terms of Use.

These conditions are cumulative conditions.

Updates: These General Terms of Use may be updated on a regular basis. It is your responsibility to check for the latest version on <http://is.ieis.tue.nl/research/hc/gamebus/Terms.pdf>.

YOU ACKNOWLEDGE THAT YOU HAVE THE LEGAL CAPACITY AND RIGHT/PERMISSION TO ENTER INTO A CONTRACT. PLEASE MAKE SURE YOU READ THE FOLLOWING CLAUSES CAREFULLY.

2. Definition

In these Terms of use, the term, “Application” shall mean the GameBus Application described above, created, edited and hosted by the Service Provider (or its affiliated partner Synergetics.nl). You will receive the Application via Google Play, having accepted these Terms of Use. You are also expected to follow status updates via <https://www.facebook.com/gamebusapp>.

You are informed that this Application requires a mobile device running Android 4.4 (or up).

The term “Site” shall refer to (1) the aforementioned FaceBook page and (2) to the backend of the Application.

3. Legal statement : Administration of the Site and the Application

The Site and the Application are administered by TU/e and its partner Synergetics.nl. TU/e is specifically the Information Systems group of the School of Industrial Engineering at Eindhoven University of Technology (hereafter the “Site Administrator”).

4. Term

These Terms of Use are applicable to you as from your first use of the Application during the whole duration of the Test and anyway until December 31, 2016, unless they are eventually replaced by new conditions of use. You expressly agree that those Terms of use do not grant you in any manner any continuous or perpetual rights to use the Application.

5. Language

The language in those Terms of Use is the English language only due to the international provenance of the users of the Application.

6. Intellectual Property

6.1 - Your intellectual property rights

All digital content generated during the test automatically becomes property of GAMEBUS and it will be used to improve the service and experience provided. This includes, but is not limited to, your activity registrations, challenge participations, uploaded images and chat messages. By making your content accessible to other users, you agree to allow any users of the Application free of charge and for personal use only, to view and transmit your content on or through the Application, on other electronic communication media or technology, for the entire period in which your content is hosted on the Application. Any of the challenges created by users using the GameBus Interface will also become property of GameBus to edit, modify and use it as the service provider seems necessary. In addition, for the entire period in which your content is hosted and strictly by means of the features that enable the Application to be accessed via the Internet or through other electronic communication media or technology, you authorize the Service Provider to reproduce/display your content and, as necessary, adjust its format for that purpose. Please note that due to the intrinsic nature of the Internet, data transmitted – including your content - are not protected against the risks of misappropriation and/or piracy, for which GameBus shall not be liable.

You are also informed that for the purpose of the Test, the Service Provider may disclose some elements of your content (anonymous data having semantic, qualitative, and/or quantitative character collected during the entire duration of the Test) to research partners such as (but not limited to) ZuidZorg. This content will be anonymous, and will only be used for research and publication purposes, in the framework of research projects lead by Eindhoven University of Technology (TU/e).

In consequence, you accept and authorize the Service Provider to transmit Your Content to research partners and, as necessary, adjust its format for the purpose aforementioned only.

6.2 - Other users' intellectual property rights

Other users of the Application can provide other content subject to the Terms set forth on the Application. You may access other users' content solely:

- for your information and personal use;
- as intended through the normal functionality of the Application; and
- for Streaming solely.

"Streaming" means a digital transmission of an audiovisual work via the Internet from GameBus servers to a user's device in such a manner that the data is intended for real-time viewing and not intended to be copied, stored, permanently downloaded, or redistributed by the user.

6.3 – Eindhoven University of Technology (TU/e)'s intellectual property rights

You acknowledge and accept that the Information Systems group of the School of Industrial Engineering at Eindhoven University of Technology holds all exclusive property rights pertaining to the Application. As a general matter, the Service Provider grants you a time-bound, personal, non-exclusive and non-transferable right to access and use the Application. This right is conditioned on your compliance with the Terms and your inscription to the Test. All other rights are expressly excluded without prior written consent by the Service Provider. The Content included on or accessible through the Application, such as text, graphics, logos, names, designations, button icons, features, functionalities, images, information, data, photographs, graphs, graphics, sounds, and other material and software, is the exclusive property of the Service Provider, limited to rights granted by any third party, and is protected by copyrights, trademarks, trade secrets, or other proprietary rights and is subject to applicable laws and regulations. Content may not be downloaded, copied, reproduced, distributed, transmitted, displayed, sold, licensed, or otherwise exploited for any other purpose whatsoever without the prior written consent of the Service Provider. You agree not to use or exploit the Content in any manner inconsistent with any of the rights granted or restrictions set forth herein. You are not allowed to modify, enhance, edit, translate, adapt, reverse engineer, decompile, disassemble, or create derivative works based upon or otherwise alter in part or in full any GameBus Content. All rights not expressly granted in the Terms are reserved to the Service Provider.

As an exception to the above restrictions, screenshots of the App are allowed to be made for the purpose of:

- sharing again the screenshot via the GameBus app (e.g., via Chat), or
- providing direct feedback to the Service Provider (via private mail), or
- marketing the GameBus app positively via the GameBus FaceBook page.

7. Content Rating and Content Policies

It is forbidden to post or share content with nudity or graphic violence to a circle which may include members other than mature adults.

The Site Administrator is not subject to any obligation to check the content placed on the Site or in the Application by its GameBus Users (even if those users commit unlawful activities). Since there is no pro-active blocking of inappropriate content, any inappropriate content should be reported to p.m.e.v.gorp@tue.nl. Inappropriate content will then be removed as soon as possible, but there are no guarantees on timeliness.

The Site Administrator also reserves the right to remove, delete or withdraw from its Site and its Application any content, message, wording or image without notice and for any reason whatever.

8. Links

The Site and the Application may contain hypertext links to third party sites that are not published or controlled by the Site Administrator and for which the latter accepts no liability in the event that the content of such sites infringes any applicable legal or regulatory provisions.

The Site Administrator has no control over and accepts no liability with regard to any interaction between you and any websites to which you may be directed from the Site or the Application. You remain wholly responsible for any such interactions.

Any contracts and/or commercial agreements that may arise between you and any third party site are wholly independent of the Site Administrator and are agreed directly between you and any third party.

We suggest that you obtain the General Terms and Conditions of Use and of Sale for services from the third party site to which you have been directed.

9. Security and Confidentiality / Protection of privacy

9.1 Protection of privacy

All personal data gathered at the time of your registration on this Application is freely given by you and is the subject of automated computer processing in order to identify you as a GameBus User. The recipient of this data is Service Provider.

The Service Provider may collect and process geolocation data when using the Application with your Mobile phone. You are informed that You can disable the geolocalisation system in the settings of your mobile device.

These data will be collected:

- to improve the quality of the Application, which is a research prototype;
- for studies with statistical or historical or scientific research finality, as long as the study in question is referring to these data only anonymously.

The duration of storage, the security and the confidentiality of these data will be in conformity with articles 9.2 and 9.3 herein after. However, you have the possibility at any time to refuse this collect by writing to sampo@synergetics.nl.

In a general way, any person can access and, as appropriate, rectify, modify, correct or remove data held relating to them, in accordance with applicable national and European legal provisions, and in particular:

- The Council of Europe Convention of 28 January 1981;
- European Directive 95/46;

- The Dutch Data Protection Act.

For any requests of access and rectification, please write to: sampo@synergetics.nl.

9.2 – Duration of storage and data processing purpose:

The Service Provider commits to use only the personal data of the user within purposes complying with these Terms and for a duration not exceeding the one necessary to realize the finalities for which it is collected or processed.

9.3 Security and confidentiality

When you visit the Site or the Application, your personal data (relating to your login or automatically collected via your connection by the Application and referred to as “Usage data”) will not be disclosed to any third parties. Such data are confidential. The Site Administrator agrees not to disclose such data to any third party.

However, for the purpose of the Test, you are informed that the Service Provider shall disclose the following type of data to ZuidZorg Netherlands, Eindhoven University of Technology, Synergetics Benelux, National Research Council of Italy (CNR), Telecom Italia S.p.A., and Associazione Trento RISE community manager, and only in the frame of the Test. Specifically:

(i) Quantitative data regarding the number of accesses, posts, and app-specific actions of each specific user. Such data shall not include any content posted by users or any other qualitative information regarding users, which may arise to personal data;

(ii) Anonymous data having semantic and qualitative content collected during the entire duration of the Test, to be used for research and publication purposes only.

(iii) Data automatically collected by the Application when you connect your device (usually called “Usage data”), allows the Service Provider to compile statistics on web page visits. This Usage data is collected and maintained in a server hosted by the Service Provider.

This Usage data (e.g. your IP Address for example) collected through these automatic tracking processes are anonymous and are used in order to improve the Application’s quality only (as for examples the improvement of your search results and of the advertising selection provided to you). In addition, they could be used for research and publication purposes from the project partners.

Please note that the Application will not implement or allow third-party companies to implement automatic tracking processes (cookie or web beacon) for other purposes than those explained in this article 9, without your prior consent. However, as part of the GameBus ecosystem, all GameBus generated data is shared with:

- The TimeTogether application as developed by CNR, with the sole purpose to enrich the GameBus experience and improve the overall service. The TimeTogether application will also monitor detailed social interactions via Wifi signal analyses.
- The CogGames application as developed by Telecom Italia S.p.A.
- The Griddlers application (<http://www.griddlers.net/opengriddlers/>).

In a general way, the Service Provider commits to carry out technical and organisational means to protect all personal data against illegal or fortuitous destruction, fortuitous loss, alteration, diffusion or unauthorized access. Nevertheless, the Service Provider shall be required to divulgate any information regarding the user to comply with any applicable law or rules, or to respond to any administrative or judiciary order.

10. User Commitments

The GameBus User will receive the main Application through Google Play. Users have to use a valid e-mail address when creating an account, such that messages from the Service Provider to the user can also be delivered outside of the app.

WHEN REGISTERING, YOU AGREE NOT TO USE A FALSE IDENTITY AND CONFIRM THAT YOUR PERSONAL DETAILS ARE ACCURATE.

In becoming a GameBus User, you are required to accept these General Terms of Use for the Site and the Application. All the applications affiliated to GameBus will provide the same General Terms of Use.

For this purpose, the Site Administrator can exclude without notice any GameBus User who does not comply with these General Terms of Use, without prejudice to any legal action that may also be taken.

When you register, you agree:

- not to use the services and functionalities of the Application for any unlawful or illegal purposes;
- never to make attempts for stealing intellectual property rights;
- to accept sole and entire liability for your use of the Site and the Application;
- not to undertake any marketing or other commercial activities;
- if you offer services subject to a regulated profession, you must hold all necessary certifications, or professional registration card entitling you to offer the service in the context of the Site and the Application;
- to comply with all applicable legislation and in particular that relating to copyright, privacy and public morality, and the right of personal portrayal.

More specifically you agree not to place online on the Site or in the Application, regardless of the location, any information or comments that could:

- be intended to deceive or mislead third parties;
- interfere in the interests or the private lives of third parties;
- constitute a breach of applicable law or regulations;
- encourage the commission of illegal or unlawful actions or the unlawful or unauthorised exploitation of third party works protected by copyright;
- intimidate or harass other internet users;
- promote behaviour of an obscene or pornographic nature, that is degrading to human dignity, or, in general, any behaviour that is counter to public morality;
- incite racial hatred, fanaticism, segregation in any form as well as any physical or psychological aggression towards a group or an individual;
- be insulting, abusive or defamatory towards an individual, a group, a society or towards the community of GameBus Users or internet users;
- give information enabling Internet users to act contrary to the interests of third parties and/or of the Site and/or the Application;
- enable access to information that is protected by confidential codes;

- result in any unauthorised commercial exploitation of the content of the Site and/or the Applications.

This list is not exhaustive.

In general, you expressly agree to only use the services and functionalities of the Site and the Application for the purpose of appropriate communications, in the interest of the community of GameBus Users.

As a GameBus User, you accept sole liability for Your Content (words and images, comments and personal pages) that you may place online on the Site and/or the Application.

You can access the GameBus Application using your Android-based mobile phone or Android-tablet. You will however be responsible for the payment of any charges made by your operator or any third-party subject to the use of the Application.

If You decide to sell or donate your mobile phone to a third party, you commit to previously deactivate the GameBus Application and notify the Service Provider about you quitting the test. If You decide to change your Android email-address you agree to update your GameBus account information within 48 hours.

YOU EXPRESSLY GRANT THE SITE ADMINISTRATOR THE IRREVOCABLE RIGHT TO MAKE YOUR INFORMATION AND CONTENT ACCESSIBLE AND USEABLE ON THE SITE AND IN THE APPLICATIONS, FOR THE PURPOSE OF MAKING IT AVAILABLE TO THE THE SERVICE PROVIDER AND USERS, WITHOUT LIMITATIONS ON LOCATION OR DURATION.

11. Responsibility / Warranties

11.1 Non-guarantee:

Generally, as the Application has been built for research purpose only, the Service Provider makes no representation and warranty regarding the use of the Application.

The Site, its content and the Application are supplied on an “as are” and “as available” basis, so the Site Administrator cannot guarantee and confirm:

- that the Site or the Application are free of bugs, errors, viruses, data deletion programs, Trojans or other destructive elements;
- That the information contained on the Site and in the Application is accurate, complete or up-to-date.

The Site and the Application may contain technical inaccuracies or other defects and the Site Administrator cannot guarantee to correct these defects. There will not be any further maintenance of the Application after the end of the Test.

The Site Administrator expressly excludes any guarantee of any type, explicit or implicit, and in particular, without this list being exhaustive, any implicit guarantees of conformity or suitability of the Site and the Application, or of the content of such, for standard use or specific use, nor any implicit guarantee relating to their quality nor any implicit guarantee that they do not constitute any infringements or breaches of any provisions of whatever nature.

Consequently, the Service Provider shall in no case be considered responsible of the reliability of data transmission, of access time, possible restrictions on the Application or of its connected networks.

11.2 Limitation of liability:

GAMEBUS USERS SHOULD NOTE THAT THE SITE ADMINISTRATOR IS SUBJECT ONLY TO A "BEST EFFORTS OBLIGATION". HE IS NOT UNDER ANY OBLIGATION TO GUARANTEE PERFORMANCE RELATED TO THE APPLICATION.

The Service Provider is under no legal obligation to monitor content transmitted via or stored on the Application. His only obligations as host concern (i) the fight against certain content in accordance with the law, (ii) the retention of your connection data, which is subject to an obligation of confidentiality and treated in compliance with the laws and regulations relating to Personal Data (article 9 above), and (iii) the removal of all clearly illegal content which has been effectively brought to his attention (article 7 above).

In no case, the Service Provider shall be responsible, with regard to you or any third party, of indirect, collateral, special or incidental damages including but not limited to any commercial, moral or financial prejudice, comprising any loss of profit, having its origin or cause in the use of the Application, or from your inability to use such, even if the Site Administrator has been notified of the possibility of such damage.

The Service Provider makes no warranties whatsoever regarding the use of the Application. In this regard, it is specified that the Service Provider makes no express or implied warranty regarding the use of the Application by the user including but not limited to availability, usefulness, reliability, appropriate or present nature of the Application. In addition, the Service Provider makes no representation and warranties to the user that any of his experimentations and/or results obtained with the use of the Application shall respond to any of his attempts and/or needs.

12. Applicable Law – Jurisdiction

12.1 Applicable law - Disputes

These General Terms of Use are governed and construed in accordance with the laws of The Netherlands without allowing for the principles of conflicts law. In the event of a dispute, the Courts of The Netherlands shall have exclusive jurisdiction and you hereby accept this exclusive jurisdiction.

The Site Administrator reserves the right to request and obtain any injunctions or court orders to protect its rights under these Terms.

12.2 Specific conditions related to the GameBus infrastructure location

You agree that your data will be transferred to and processed in Eindhoven, The Netherlands as well as:

- Synergetics server infrastructure in Germany; and
- Server infrastructure from <http://www.griddlers.net/opengriddlers/>.

13. Account cancellation

You can cancel your GameBus account at any time and without any requirement to provide reasons for such by emailing your cancellation request to the following address: P.M.E.v.Gorp@tue.nl.