

End User Licence Agreement

IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE USING THE SOFTWARE

This licence agreement (“**Licence**”) is a legal agreement between Crave Interactive Limited (Company No. 7035427) whose Registered Office is at Derwent House, Cranfield Technology Park, Cranfield MK43 0AZ (“**the Licensor**”) and the person named in the order form (the “**Customer**”) for the Licensor’s mobile application software product specified in the proposal attached to this Licence (“**Application**”), which includes online or electronic documentation (“**Documentation**”), services accessible through the Application (“**Platform Services**”) and any online software applications provided by the Licensor as part of the Platform Services (“**Platform Software**”).

BY SUBMITTING ITS ORDER FOR THE APPLICATION THE CUSTOMER AGREES TO THE TERMS OF THIS LICENCE WHICH WILL BIND IT AND ITS EMPLOYEES. IF THE CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS LICENCE, THE LICENSOR IS UNWILLING TO LICENSE THE SOFTWARE TO THE CUSTOMER WHO MUST NOT SUBMIT ITS ORDER OR USE THE APPLICATION AND MUST DELETE THE APPLICATION AND ALL ACCOMPANYING DOCUMENTATION FROM ALL MOBILE DEVICES OR OTHER MEDIA ON WHICH THE APPLICATION AND ALL ACCOMPANYING DOCUMENTATION IS STORED. IF THE CUSTOMER BOUGHT THE APPLICATION FROM AN AUTHORISED THIRD-PARTY RESELLER, PLEASE NOTE THAT THE RESELLER HAS THE RIGHT TO ENTER INTO THIS LICENCE ON THE LICENSOR’S BEHALF.

1. ACKNOWLEDGEMENT

1.1. The terms of this Licence apply to the Application including any updates or supplements to the Application unless they come with separate terms, in which case those terms apply.

1.2. The Customer accepts it may be charged by its service providers for internet access on the mobile telephone or handheld devices owned or controlled by the Customer on which the Application is installed or to which the Application is downloaded (**Hardware**). The Customer accepts responsibility for the use of the Application or any Service on or in relation to any Hardware.

1.3. Any words following the terms **including, include, in particular or for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

1.4. Clause headings shall not affect the interpretation of this Licence.

2. GRANT AND SCOPE OF LICENCE

2.1. In consideration of the Customer agreeing to abide by the terms of the Licence the Licensor hereby grants to the Customer a non-exclusive, non-transferable, revocable, licence to use the Application on the Hardware on the terms of this Licence for the duration of the Licence specified in the Customer’s order unless or until terminated in the circumstances set out in condition 7 (the “**Term**”).

2.2. The Customer may:

(a) View, use and display the Application on the Hardware for the purposes of the Customer’s business only;

(b) Permit individuals who attend the Customer’s premises (**Guests**) to view and use the Application on the Hardware while on the Customer’s premises

(c) receive and use any free supplementary software code or update of the Application incorporating “patches” and corrections of errors as may be provided by the Licensor from time to time;

(d) use any Documentation in support of the use permitted under condition 2.2 and make up to one copy of the Documentation as is reasonably necessary for its lawful use.

3. THE CUSTOMER’S UNDERTAKINGS

3.1. Except as expressly set out in this Licence or as permitted by any local law, the Customer undertakes:

(a) not to copy the Application, Platform Software or Documentation except where such copying is incidental to normal use of the Application or where it is necessary for the purpose of back-up or operational security;

(b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Application, Platform Software or Documentation;

(c) not to make alterations to, or modifications of, the whole or any part of the Application or Platform Software or permit the Application or Platform Software or any part of them to be combined with, or become incorporated in, any other programs;

(d) not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Application or Platform Software or attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Application and/or Platform Software with another software program, and provided that the information obtained by the Customer during such activities: (i) is used only to achieve inter-operability of the Application and/or Platform Software with another software program; (ii) is not disclosed or communicated without the Licensor’s prior written consent to any third party; and (iii) is not used to create any software which is substantially similar to the Application and/or Platform Software;

(e) to keep all copies of the Application secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Application;

(f) to include the Licensor’s copyright notice on all entire and partial copies the Customer makes of the Application on any medium;

(g) to supervise and control use of the Application and ensure that the Application is used by the Customer’s Guests, employees and representatives in accordance with the terms of this Licence;

(h) to replace the current version of the Application with any updated or upgraded version or new release provided by the Licensor under the terms of this Licence;

(i) not to provide, or otherwise make available, the Application in any form, in whole or in part (including, but not limited to, program listings, object and source program listings, object code and source code) to any person other than the Customer’s employees without prior written consent from the Licensor Provided That the Customer may make the Application available to Guests in object code form only and pre-installed on the Hardware

(j) not use the Application, Platform Software or Platform Services accessible through the Application in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this Licence, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the Application, Platform Software, Platform Services or any operating system;

(k) not infringe the Licensor’s IPR or those of any third party in relation to the Customer’s use of the Application, Platform Software or Platform Services including the submission of any material (to the extent that such use is not licensed by this Licence);

(l) not transmit any material that is defamatory, offensive or otherwise objectionable in relation to the Customer’s use of the Application and Platform Services; and

(m) not use the Application or Platform Services in a way that could damage, disable, overburden, impair or compromise the Licensor’s systems or security or interfere with other users.

3.2. The Customer must permit the Licensor and their representatives, at all reasonable times and on reasonable advance notice, to inspect and have access (including remote and physical access) to any premises, and to the computer equipment located there, at which the Application or the Documentation is being kept or used, and any records kept pursuant to this Licence, for the purpose of ensuring that the Customer is complying with the terms of this Licence.

4. INTELLECTUAL PROPERTY RIGHTS

4.1. In this Licence "IPR" means all copyright, trademarks, designs, patents, know-how or other rights in the nature of intellectual property rights (whether registered or unregistered) throughout the world. The Customer acknowledges that all IPR in the Application and the Documentation belongs to the Licensor, that rights in the Application are licensed (not sold) to the Customer, and that the Customer has no rights in, or to, the Application or the Documentation other than the right to use them in accordance with the terms of this Licence.

4.2. The Customer acknowledges that it has no right to have access to the Application in source code form or in unlocked coding or with comments.

4.3. The integrity of this Application may be protected by technical protection measures which the Customer must not attempt in any way to remove or circumvent.

5. WARRANTY

5.1. The Customer acknowledges that the Application has not been developed to meet its individual requirements and that it is therefore its responsibility to ensure that the facilities and functions of the Application as described in the Documentation meet its requirements.

5.2. The Customer acknowledges that the Application may not be free of bugs or errors and it agrees that the existence of any minor errors shall not constitute a breach of this Licence.

5.3. Any warranty relating to any Hardware and/or services supplied by the Licensor or its authorised reseller will be set out in the appropriate terms and conditions of sale of such Hardware and/or services as supplied by the Licensor or an authorised third party reseller.

6. LICENSOR'S LIABILITY

6.1. In this condition 6 the following shall mean an "Event of Default": (a) any breach by the Licensor of its contractual obligations arising under this Licence (other than a breach arising from wilful default or recklessness); (b) any misrepresentation by the Licensor in connection with (whether or not contained in the agreement) this Licence (other than a fraudulent misrepresentation); (c) any tortious, act or omission, including negligence, arising in connection with the Licensor's performance under this Licence (other than any act or omission which is fraudulent or dishonest); and/or (d) any other act giving rise to a liability in respect of this Licence.

6.2. Subject to condition 6.3 all warranties, conditions and other terms implied by statute or common law are excluded from this Licence.

6.3. Nothing in this Licence limits or excludes the Licensor's liability to the Customer: (a) for death or personal injury resulting from its own or its employees', agents' or sub-contractors' negligence; (b) in relation to any fraudulent misrepresentation or fraudulent acts of its employees; or (c) for any breach of its obligations implied by section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or (d) any other liability which cannot be excluded or limited by law.

6.4. Subject to condition 6.3: (a) the Licensor's aggregate liability to the Customer in respect of all Events of Default shall be limited to the aggregate fee paid or payable by the Customer for the licence granted under this Licence to use the Application or (where the Licence operates for more than 12 months) the fee shall be deemed to be the average sum paid or payable to the Licensor in a 12 month period of the Licence; (b) the Licensor shall not be liable to the Customer in respect of any Event of Default for (i) loss of profits; or (ii) loss of business; or (iii) depletion of goodwill or similar losses; or (iv) loss of anticipated savings; or (v) loss of goods; or (vi) loss of contract; or (vii) loss of use; or (viii) loss or corruption of data or information; or (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses even if such loss was reasonably foreseeable or the Licensor had been advised of incurring the same.

6.5. Subject to condition 6.3, the Licensor's liability for infringement of third party IPR shall be limited to breaches of rights subsisting in the UK.

7. TERMINATION

7.1. The Licensor may terminate this Licence immediately by written notice to the Customer if:

(a) the Customer commits a breach of any term of the Licence which (if capable of remedy) is not remedied within seven (7) days of the Licensor notifying the Customer of the breach; or

(b) the Customer ceases trading or is unable to pay its debts as they fall due or a petition is presented or meeting convened for the purpose of winding the Customer up or it enters into liquidation, whether compulsorily or voluntarily, or compounds with its creditors generally or has an administrator appointed over it or has a receiver appointed over all or any part of its assets or is the subject of a bankruptcy petition or order; or any event occurs, or proceeding is taken, with respect to it in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this condition.

7.2. Upon termination for any reason:

(a) all rights granted to the Customer under this Licence shall cease;

(b) the Customer must cease all activities authorised by this Licence;

(c) the Customer must immediately delete or remove the Application from all Hardware and other computer equipment in its possession and immediately destroy all copies of the Application then in the Customer's possession, custody or control and certify to the Licensor that the Customer has done so; and

(d) The Licensor may remotely access the Hardware and remove the Application from all of the Hardware.

8. GENERAL

8.1. The Licensor shall have no liability to the Customer under this Licence if it is prevented from or delayed in performing its obligations under this Licence, if such delay or prevention result from events, circumstances or causes beyond its reasonable control, provided that the Customer is notified of such an event and its expected duration.

8.2. Nothing in this Licence is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute the Customer an agent of the Licensor for any purpose. The Customer has no authority to act as agent for, or to bind, the Licensor in any way.

8.3. Any notice given under this Licence shall be properly served only if it is in writing, sent by fax, first class pre-paid post to the receiving party, at the addresses/fax numbers stated at the beginning of this Licence.

8.4. The Licence constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to the right to use the Application. Each party acknowledges that, in entering into the Licence, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Licence.

8.5. The Customer must not assign, transfer, charge or deal in any other manner with the Licence or any of its rights under it, or purport to do any of the same, nor sub-contract any of its obligations under the Licence.

8.6. This Licence and any dispute or claim arising out of or in connection with this agreement shall be governed by the law of England and Wales.

8.7. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Licence.

8.8. A person who is not a party to the Licence shall not have any rights under or in connection with it.