



## **IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE INSTALLING ANY APP**

### **eMobile App Terms and Conditions**

#### **1. Who we are**

- 1.1 We are eircom Limited of 1 Heuston South Quarter, St. John's Road, Dublin 8, trading as eMobile ("we/us/our/eMobile").

#### **2. Our Apps and these terms**

- 2.1 These eMobile App Terms & Conditions ("Terms") shall govern your access to, downloading and use of the any software application ("App") which you procure from us (or which has been created by us and you have procured it from a third party) for your mobile (or any other) device. By accessing, downloading and/or using the App, you acknowledge and agree to the disclaimers, terms and conditions set forth below as well as the terms of the eMobile **Privacy Policy** (<http://www.emobile.ie/privacypolicy>) (which sets out how we may use personal information provided by you to us). Collectively, these Terms and the Privacy Policy are referred to as the "Terms".
- 2.2 By performing any action which indicates that you agree to download the App to your device, you confirm that you are 18 years of age or more, or that you are 12 years of age or more and that you have received your parent's or guardian's consent to enter into these Terms or any other terms in relation to the downloading and/or using of an App, that any registration information that you submit to eMobile is true, accurate and complete, that you will update such information in order to keep it current, and that you agree to these Terms and any other terms and conditions to the extent that such may be relevant to your relationship with eMobile. A full suite of the eMobile terms and conditions is accessible at [www.emobile.ie](http://www.emobile.ie).
- 2.3 Other terms and conditions may apply to specific services available via the App. These will be brought to your attention as they arise.
- 2.4 We reserve the right, in our sole discretion, to change, modify, add or remove portions of these Terms at any time.

- 2.5 Any new features, including the release of new releases, versions, services, content, updates, tools or resources, shall be subject to the then current Terms.
- 2.6 You should check these Terms periodically for changes as by using the App after we post any changes to these Terms, you are agreeing to accept those changes, whether or not you have reviewed them.

### **3. Grant of Licence**

- 3.1 eMobile grants you a personal, limited, non-exclusive, revocable licence to make personal non-commercial use of the App (including a right to download said application) and to receive by stream (where relevant) any media content made available through or in connection with the App. You do not have a right to transfer or sub-licence your rights under this Agreement. You may install, download and use the App on one device. You may also receive and use for free supplementary software code or updates for your App as may be made available by eMobile from time to time.

### **4. Purchase of eMobile Apps**

- 4.1 Certain Apps may be licensed to you only in return for a fee payable by you to eMobile. If you agree to pay the fee in connection with a particular App, such fee will be charged in accordance with the payment method you have chosen for your purchase. If you are paying by credit or debit card, by designating a card to be billed, you confirm that you are authorised to make such purchase and that you are the holder of such card (i.e. that the card is issued in your name). All prices stated in connection with eMobile Apps are inclusive of VAT (where applicable) and other applicable taxes and fees.

### **5. Cooling-off Period**

- 5.1 If you are a consumer and have purchased the App through exclusively distance means (for example by way of download), you have the right to cancel your purchase and receive a full refund within 14 days of purchase. However, please note that if you use the App within the 14 day period you will no longer have a right to cancel or withdraw from your purchase of the App. After the 14-day period has elapsed you no longer have the right to cancel your purchase and receive a refund even if you do not subsequently use the App.

### **6. General Restrictions on Use**

- 6.1 It is impossible to provide an exhaustive list of exactly what constitutes acceptable and unacceptable use of this App. In general, we will not tolerate any use of the App which damages or is likely to damage our reputation, the availability or integrity of the App or which causes us or threatens to cause us

to incur any legal, tax, regulatory or other liability. We therefore request you to treat the App with respect, and not to use the App for any illegal purpose, or in such a way as to infringe or breach third party rights or to cause or threaten to cause us damage.

6.2 You should also be aware that your use of this App is subject to our Fair Usage Policy, which is accessible at [\(<http://www.emobile.ie/fairusagepolicy>\)](http://www.emobile.ie/fairusagepolicy).

6.3 If any material on this App, or your use of this App, is contrary to the laws of the jurisdiction in which you are located, then this App is not intended for your use and you should not use this App. You are responsible for compliance with the laws of the jurisdiction in which you are located.

## **7. Intellectual Property Notice**

7.1 All material made available on the App (for example, including text, images, graphics, videos, audio clips and other copyrighted materials, trade marks, designs and any other intellectual property rights are referred to collectively as the “eMobile Content”) are proprietary to eMobile or its licensors. We grant you a non-exclusive, non-transferable, limited personal right to access and use the App and enjoy the eMobile Content subject to these Terms. However, no other right, title, or interest in the eMobile Content will be granted or transferred to you as a result of any use of the App.

7.2 The App and the eMobile Content are made available to you for your own personal enjoyment, and any commercial use without the express written consent of eMobile is strictly prohibited.

7.3 You agree not to reproduce, duplicate, copy, sell, resell, exploit for any commercial purposes, any portion of the eMobile Content or App. You also agree not to use the eMobile trade mark or any other trade marks appearing on the App in any way which may appear to create an association between you and eMobile without our prior written consent.

## **8. Third Party Websites & Third Party Apps**

8.1 The App may include, or third parties may provide, links to other websites or resources. We have no control over such sites and resources, and therefore you acknowledge and agree that we are not responsible for the availability of such external sites or resources, and do not endorse and are not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

8.2 For the avoidance of doubt, these Terms shall govern the relationship between you and eMobile in respect only of Apps made available to you by eMobile. If you are a customer of eMobile but you download an App or Apps from a third party, please note that eMobile are not responsible for the availability of such third party Apps or resources, and do not endorse and are not responsible or liable for any content, advertising, products, or other materials on or available from or through such Apps. You further acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any third party Apps.

## 9. **Termination**

9.1 If you fail, or eMobile has strong grounds to believe that you have failed, to comply with any of the provisions of these Terms, eMobile may at its sole discretion and without notice to you may terminate the agreement with you, cause the licence to the App to be terminated, and/or preclude you from purchasing or downloading other Apps from eMobile.

## 10. **Limitation of Liability**

10.1 You expressly understand and agree that (to the fullest extent permitted by law) we shall not be liable for any indirect, incidental, special, consequential, exemplary or punitive damages, or any other damages whatsoever, including but not limited to, damages for loss of profits or contracts, income or revenue, goodwill, anticipated savings, data or other intangible losses (even if we have been advised of the possibility of such damages), arising out of, or resulting from: (a) the use or the inability to use the App; (b) the use of any eMobile Content or other material on the App or any website or websites linked to the App; (c) unauthorised access to or alteration of your transmissions or data; (d) statements or conduct of any third party on the App; or (e) any other matter relating to the App. This does not affect our liability for death or personal injury arising from our negligence or any other liability which cannot be excluded or limited under applicable law.

10.2 Commentary and other materials appearing on the App are not intended to amount to advice on which reliance should be placed. The accuracy of the information on the App is not guaranteed and is subject to change, including by third parties, and therefore we cannot accept responsibility for any loss damage or expense incurred upon using the information provided. We therefore disclaim all liability and responsibility arising from any reliance placed on such materials by you or by any third party.

10.3 Our liability to you in contract, tort (including negligence) or otherwise in relation to any particular App is limited to the price paid by you for that App. However, we accept liability for death or personal injury caused by our

negligence or any other liability that cannot be excluded or limited by law and the provisions of this section do not apply to such liability.

- 10.4 The disclaimers and limitations of liability contained in these Terms apply to the fullest extent permitted by law, and all other representations, warranties, terms and conditions whether express or implied, are hereby excluded to the fullest extent permitted by law. Each provision of these Terms excluding or limiting liability applies independently and if any particular provision is held by a court to be unenforceable, the remaining provisions shall not be affected and shall continue to apply.

## 11. **Technology Limitations and Modifications**

- 11.1 eMobile will make reasonable efforts to keep the App operational and up-to-date. However, certain technical difficulties or maintenance may, from time to time, result in temporary interruptions. eMobile reserves the right at any time and from time to time to modify, update or discontinue, temporarily or permanently, functions and features of the App without notice.

## 12. **Entire Agreement**

- 12.1 These Terms together with all other eMobile terms and conditions (to the extent applicable, all of which are accessible at [www.emobile.ie](http://www.emobile.ie)) constitute all the terms and conditions agreed upon between you and eMobile and supersede any prior agreements, whether written or oral relating to the App. Any additional or different terms or conditions in any written or oral communication from you to eMobile are void.

## 13. **Severability**

- 13.1 Should for any reason or to any extent any provision of these Terms be held invalid or unenforceable, such invalidity or enforceability shall not in any manner affect or render invalid or unenforceable the remaining provisions of these Terms and the application of that provision shall be enforced to the extent permitted by law.

## 14. **General Terms**

- 14.1 These Terms and the relationship between you and us shall be governed by the laws of Ireland. You agree to submit to the exclusive jurisdiction of the Irish courts. Notwithstanding this, you agree that we may at our sole discretion apply for injunctive remedies (or other equivalent types of urgent legal remedy) in any jurisdiction where we reasonably deem such action to be appropriate.
- 14.2 Any failure or delay by us to exercise or enforce any right or provision of the Terms shall not constitute a waiver of such right or provision. If any

provision of the Terms is found by a court of competent jurisdiction to be invalid, then that provision will be removed from these Terms without affecting the rest of the Terms. The remaining provisions of these Terms will continue to be valid and enforceable.