

PRIVACY POLICY

Your privacy is important to us. Through this document, we would like to give transparency to you on how we handle private data and how we collect, use and disclose your information.

Users can access the Mobiliya Edvelop (the “Service”) through our mobile applications for various mobile operating systems. A “Device” is any device used to access the Service, including without limitation a desktop computer, laptop, mobile phone, tablet, or other consumer electronic device. A “User” is an individual user of the Service, or an enterprise administrator that deploys the Service for multiple employees or other users. An “Enterprise” is a company that controls access to enterprise back-end services and data which may be accessed through our Service, using appropriate access credentials.

This Privacy Policy governs your access of the Service, regardless of how you access it. By using our Service you consent to the collection, transfer, processing, storage, disclosure and other uses of information, as it is described in this Privacy Policy. All of the different forms of data, content, and information described below are collectively referred to as “information.”

1. Information We Collect and Store

We may collect and store the following information when running the Service:

Personal Information You Provide. When you use the Service, we collect some information including, without limitation, your email address, username, password and/or enterprise service configuration settings. When you register an account with **Mobiliya Edvelop**, we collect some personal information, including, without limitation, your name, phone number, credit card or other billing information, email address and postal address. When you invite others to try the Service by using our referral page, using email or social networks, we send them a one-time email for that referral or post a one-time message on social networks. When you contact customer support or give us feedback about the product, we may keep records of these communications.

Your credentials and configuration for third-party Enterprise Services. Our service allows you to access third-party enterprise services such as Microsoft Office 365, Microsoft SharePoint, Microsoft Lync, Microsoft Active Directory and Microsoft Exchange, Dropbox and others (referred to below as “third-party enterprise services”) from your mobile device. When you enter your username and password or other credentials and settings for these third-party enterprise services into our mobile applications, we store this information securely inside the mobile application on your mobile device. We will use this information to connect you and authenticate you with these third-party enterprise services. We do not send your password(s) for these third-party enterprise services to our own back-end/cloud servers or to any other third-party. We do however send your enterprise username and/or email address to our back-end/cloud servers for the purpose of licensing and enterprise management functions performed by your enterprise administrators. We may also send configuration information about your third-party enterprise services from or to our backend/cloud servers, for the purposes of allowing easier configuration of additional devices, or enterprise management of these configurations by your enterprise administrators, or for cloud-based backup and restore functions.

Files and Documents. When you download files from third-party enterprise services to your mobile device using our service, we only transfer them from the third-party enterprise service to your mobile device, we do not store or route them through our back-end/cloud servers. Likewise, when you upload

files from your mobile device to a third-party enterprise service, we upload them directly without going through one of our servers. When we download files to a local folder of your mobile device and store them there for offline usage, we apply encryption to protect them from unauthorized access, or use the available mechanisms of the device operating system to protect the files. When you use functions such as editing or viewing these documents using third-party applications such as a PDF file viewer or Microsoft Office compatible applications, we may unencrypt the locally stored files so that these applications can use them. When you use certain functions to view documents, such as the function to view a document with change tracking, we may send the document temporarily to our back-end/cloud servers to be processed for viewing, and delete the temporary copies after that.

System Configuration and Device Data Logs. When you use the Service, we automatically record information from your Device, including, without limitation, its software, and your activity using the Services. This may include, among other things, the Device's ID ("IMEI/Serial Number" or "Mac address"), Internet Protocol ("IP") address, browser type, locale preferences, your mobile carrier, system configuration information and other interactions with the Service. We use this information for license management, service administration and for security purposes.

Cookies. We also use "cookies" or equivalent measures to collect information and improve our Services. A cookie is a small data file that we transfer to your Device. We may use "persistent cookies" to save your registration ID and login password for future logins to the Service. We may use "session ID cookies" to enable certain features of the Service. We may use cookies for analytics purposes to better understand how you interact with the Service and to monitor aggregate usage and web traffic routing on the Service.

Aggregate Data. Aggregate data is information we collect about a group or category of services or users from which individual user identities have been removed. In other words, no personal information is included in aggregate data. Aggregate data helps us understand trends in our users' needs so that we can better consider new features or otherwise tailor our services. This Policy in no way restricts or limits our collection and use of aggregate data, and we may share aggregate data about our users with third parties for various purposes, including, without limitation, to help us better understand our customer needs and improve our services and for advertising and marketing purposes.

2. How We Use Personal Information

Personal Information. In the course of using the Service, we may collect personal information that can be used to contact or identify you ("Personal Information"). Personal Information is or may be used, among other things: (i) to provide and improve our Service, (ii) to administer your use of the Service, (iii) to better understand your needs and interests, (iv) to personalize and improve your experience, and (v) to provide or offer software updates and product announcements.

Analytics. We also collect some information (ourselves or using third party services) using logging and cookies, such as IP address, which can sometimes be correlated with Personal Information. We use this information for the above purposes and to monitor and analyse use of the Service, for the Service's technical administration, to increase our Service's functionality and user-friendliness, and to verify users have the authorization needed for the Service to process their requests.

3. Information Sharing and Disclosure

Information Provided about Enterprise Users towards an Enterprise Administrator. If your device(s) use the service with a license key that was purchased by and/or distributed by an enterprise administrator, then this enterprise administrator will have the ability to configure your application to disable the account, re-assign the license, wipe out local data you downloaded via our service to your mobile devices and to perform other configuration tasks related to the applications and the Service. The same applies if you use the service and/or application with customized service parameters or a customized version for that enterprise. In those cases, your enterprise administrator may be able to:

- Access information in and about your account;
- Disclose, restrict, or access information that you have provided or that is made available to you when using your account; and/or
- Control how your account may be accessed or deleted.

Please refer to your organization's policies if you have questions about your Enterprise Administrator's rights.

Your Use. We do not sell your personal information to third parties. However, we may share or disclose your information with your consent, for example if you use a third party application to access your account (see below).

Service Providers, Business Partners and Others. We may use certain trusted third party companies and individuals to help us provide, analyse, and improve the Service (including but not limited to data storage, maintenance services, database management, web analytics, payment processing, and improvement of the Service's features). These third parties may have access to your information for purposes of performing these tasks on our behalf and under obligations similar to those in this Privacy Policy. As of the date this policy went into effect, we use Rackspace's back-end infrastructure, Microsoft Azure infrastructure, PayPal's payment processing services, In-App Purchase payment and distribution functions offered by the app stores where you can download the application and pay for the services.

Business Transfers. If we are involved in a merger, acquisition, or sale of all or a portion of our assets, your information may be transferred as part of that transaction, but we will endeavour to notify you (for example, via email and/or a prominent notice on our website) of any change in control or use of your Personal Information or Files, or if either become subject to a different Privacy Policy. We will endeavor to notify you of choices you may have regarding the information.

Non-private or Non-Personal Information. We may disclose your non-private, aggregated, or otherwise non-personal information, such as usage statistics of our Service.

4. Changing or Deleting Your Information

If you are a registered user, you may review, update, correct or delete the Personal Information provided in your registration or account profile by contacting us. If your personally identifiable information changes, or if you no longer desire our service, you may update it through the Settings management functions or delete it by contacting us. In some cases we may retain copies of your information if required by law. For questions about your Personal Information on our Service, please contact support@mobiliya.com. We will respond to your inquiry within 30 days.

5. Data Retention

We will retain your information for as long as your account is active or as needed to provide you services. If you wish to cancel your account or request that we no longer use your information to provide you services, you may contact us at support@mobiliya.com. We may retain and use your information as necessary to comply with our legal obligations, resolve disputes, and enforce our agreements. Consistent with these requirements, we will try to delete your information quickly upon request. Please note, however, that there might be latency in deleting information from our servers and backed-up versions might exist after deletion.

6. Security

The security of your information is important to us. When you enter sensitive information (such as a credit card number) on our order forms, we encrypt the transmission of that information using secure socket layer technology (SSL).

We follow generally accepted standards to protect the information submitted to us, both during transmission and once we receive it. No method of electronic transmission or storage is 100% secure. Therefore, we cannot guarantee its absolute security. If you have any questions about security on our website or our mobile applications, you can contact us at support@mobiliya.com.

7. Changes to our Privacy Policy

This Privacy Policy may change from time to time. If we make a change to this privacy policy, we will update its change date at <http://www.edvelopLMS.com/privacypolicy> where we encourage you to check for updates. If we make changes that we believe materially reduces your rights, we will provide you with notice (for example, by email or within the application). By continuing to use the Service after those changes become effective, you agree to be bound by the revised Privacy Policy.

TERMS OF SERVICE

READ THE TERMS OF SERVICE AGREEMENT (HEREINAFTER REFERRED TO AS “AGREEMENT”) CAREFULLY BEFORE PROCEEDING. ANY PERSON (NATURAL OR LEGAL), WHO COPIES, INSTALLS, DOWNLOADS OR USES MOBILIYA EDVELOP IN ANY MANNER ACCEPTS THE TERMS OF THIS AGREEMENT AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS THEREOF. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, DO NOT USE OR ACCESS MOBILIYA EDVELOP IN ANY MANNER.

TERMS OF SERVICE AGREEMENT

This Terms of Service Agreement is a legal agreement between Mobiliya Technologies Ltd, an AgreeYa Mobility company having its place of business at 70 Sir John Rogerson's Quay, Dublin 2, Ireland,, hereinafter referred to as “Mobiliya” and You, who uses or downloads Mobiliya Edvelop, hereinafter referred to as “Licensed Software” as defined below, either himself/herself or by way of a person or entity paying the requisite consideration to the Mobiliya or is using the software as a Trial Version. If you do not agree with the terms of this Agreement, do not download, install, copy or use the Software.

1. DEFINITIONS

1.1. “Party” shall mean either Mobiliya or You based on the context and “Parties” shall mean both Mobiliya and You.

1.2. “Licensed Software” shall mean the “Mobiliya Edvelop” software, the associated media, any printed materials, and any “online” or electronic documentation relating thereto.

1.3. “Intellectual Property” shall mean any idea, creation, invention, work of authorship, information or any other material relating to the Licensed Software or User Documentation or Third Party Software, which is protected, in the process of being protected or capable of being protected as a patent, copyright, trade mark, trade secret or any other type of intellectual property.

1.4. “Upgrades” shall mean any and all changes or additions to the Licensed Software, including new releases and versions thereof that add new functions to, or improve performance of, the Licensed Software.

1.5. “Confidential Information” shall mean any information, including but not limited to ideas, source code, object or binary code, algorithms, operations, designs, methods, processes, practices,

marketing plans, strategies, documents, data, programs, patterns, compilations, customer information, financial information, business information, know-how and such other information, which is disclosed by Mobiliya to You under this Agreement.

Exclusions:

Confidential information shall not include:

- i) The information which is in the public domain; or
- ii) The information which is lawfully obtained or available from a third party without any obligation of confidentiality and without breach of this or any other Agreement; or
- iii) The information that was already known to You as evidenced by Your documentation or has been received from a source other than the Licensor without any obligation of confidentiality as conclusively demonstrated by appropriate documentation.

1.6. “User Documentation” shall mean the explanatory printed or electronic materials that relate to the Licensed Software, including, but not limited to, license specifications, activation code, license files, instructions on how to use the Software, and/or technical specifications.

1.7. “Third Party Software” shall mean software other than the Licensed Software forming part of and provided with the Licensed Software to You, whose license agreement(s) is provided as Annexure A to this Agreement.

1.8. “Single Device” shall mean single touch screen device containing iOS or Android operating system including: (a) mobile telephone that (i) has the primary purpose of voice communication through a wireless network; (ii) has a display of five (5) inches or less on its diagonal; (iii) does not include a keyboard designed for use with more than two fingers at a time; (iv) is not capable of use with a wired external keyboard or wired or wireless external display; and (v) is not a General Purpose Computing Device; or (b) “Tablet” means a device that (i) has a touch-enabled display; (ii) has the primary purpose of mobile computing; (iii) has no integrated physical keyboard; (iv) has a display of eleven (11) inches or less on its diagonal; and (vi) is not a server, desktop, laptop, netbook or similar device (or marketed as, or capable of performing the functions of, the foregoing).

1.9. “Trial Version” shall mean a version of the Licensed Software identified to be used for review, evaluate and test the functionality of the Licensed Software for a limited time period of two (2) months (hereinafter called as “Trial Period”). The login details for the access and use of this version of the Licensed Software shall expire at the end of two (2) month time period and that this Trial Version will cease to operate at the end of such period.

1.10. “Commercial Version” shall mean a version of the Licensed Software that is not the Trial Version.

1.11. “Mobiliya Server” shall mean the server hosted and run by the Mobiliya under this Agreement that enables use and administration of the Licensed Software and User accounts and performs other services as specified in the User Documentation.

1.12. “Enterprise Server” shall mean the server hosted and run by You that enables use and administration of the Licensed Software and User accounts and performs other services as specified in the User Documentation.

1.13. “User” shall mean (i) if You is an individual, solely You; (ii) if You is a legal entity or group of individuals in a legal entity, any person who is authorized by such legal entity or group in that legal entity to use the Licensed Software while performing duties within the scope of his/her employment or assignment with You, including its employee, independent contractor, temporary worker, and any third-party person.

2. USE

2.1 Use of Licensed Software

You agree that You shall have the right to use the Licensed Software only in the manner permitted by Mobiliya as provided in this Agreement. You agree to use the Licensed Software by You on Single Device. You agree to purchase a new copy of the Licensed Software for use on every additional device. You agree that You will not copy the Licensed Software except as necessary to use it on a Single Device. You agree that You may not copy the written materials accompanying the Licensed Software. You may not transfer this Licensed Software to any other person or on any other device than one on which the Licensed Software was initially downloaded and installed. You shall not and are not granted with any patent license or right to use, reverse engineer, decompile, or disassemble the source code of the Licensed Software or any Third Party Software forming part and provided with the Licensed Software. Further, You understand that You are granted the license to access and use of Licensed Software. This License does not include the license for any third party back end technologies. Mobiliya only provides this License for the usage of its client usage with the said technologies. You shall be responsible for acquiring such third party technologies.

2.4 User Conduct

You agrees that You shall not use the Licensed Software to: (i) pretend to be Mobiliya or anyone else, or spoof Mobiliya’s or someone else’s identity; (ii) transmit spam, bulk or unsolicited communications; (iii) forge headers or otherwise manipulate identifiers (including URLs, IP addresses, or MAC addresses) in order to disguise the origin of any content transmitted through the Licensed Software;

(iv) collect or store personal data about other users unless specifically authorized by such users; (v) harvest or collect email addresses or other contact information of other users from the Licensed Software by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications; (vi) misrepresent your affiliation with a person or entity; (vii) engage in activities that would violate any fiduciary relationship, any applicable local, state, national or international law, or any regulations having the force of law, including but not limited to attempting to compromise the security of any networked account or site, operating an illegal lottery or gambling operation, stalking or making threats of harm; (viii) disrupt the normal flow of dialogue or otherwise act in a manner that negatively affects anyone else's ability to use the Licensed Software; (ix) register for a user account on behalf of an individual or entity other than yourself, except to the extent that you are authorized by an entity to register on such entity's behalf; (x) upload, post, transmit, share, store or otherwise make publicly available through the Services any private information of any third party, including addresses, phone numbers, email addresses, Social Security numbers and/or credit card numbers; (xi) solicit personal information from anyone under 18 or solicit passwords or personally identifying information for commercial or unlawful purposes; (xii) post, transmit, share, store or otherwise make available any pictures or graphics other than those of persons whose image you are authorized to post, transmit, share, store or otherwise make available or (xiii) to use the Licensed Software in any manner that Licensor considers in its sole discretion to be harmful, inappropriate or illegal. Mobiliya may at any time disclose any information as it deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove, in whole or in part, any information or materials sent or posted through the Licensed Software in Mobiliya's sole discretion. You agree that Mobiliya would be irreparably harmed by the use, by You or others, of the Licensed Software in connection with the transmission of unsolicited e-mail, newsgroup postings, or other similar activities (collectively, "Spam"), and that Mobiliya is entitled to obtain injunctive relief against any such transmission (in addition to all other remedies available at law or in equity). Mobiliya reserves the right to block, filter or delete Spam without any liability.

3. OBLIGATIONS AND LIMITATIONS

3.1 Restricted Actions

You acknowledge, warrant and understand that it shall not be permitted to take any of the following actions:

- a. Use the Licensed Software in a manner not permitted under this Agreement;
- b. Reverse engineer, decompile, or disassemble the Licensed or Third Party Software;
- c. Distribute, provide access, rent, loan, lease, sell, sublicense, or otherwise transfer all or any portion of the Licensed Software or User Documentation, or Third Party Software or any rights granted in this Agreement, to any other person;

- d. Remove or modify any of the notices on the Licensed Software or User Documentation or Third Party Software;
- e. Circumvent any security measures used to protect the Licensed Software or Third Party Software;
- f. Make any modifications to the Licensed Software or Third Party Software;
- g. Publish, promote, broadcast, circulate, use, modify or refer publicly to Mobiliya's or Third Party's name, trade name, trademark, service mark or logo; and
- h. Take multiple Trial Version licenses with respect to the Licensed Software from Mobiliya during the term of this Agreement or thereafter unless a prior written permission or consent has been taken from Mobiliya.

4. INTELLECTUAL PROPERTY

4.1. Ownership

All rights, title and interest in the Intellectual Property relating to the Licensed Software vests with Mobiliya and shall continue to vest with Mobiliya. Mobiliya reserves all rights and licenses in and to the Licensed Software, User Documentation and Intellectual Property.

All rights, title and interest in the Intellectual Property relating to the Third Party Software vests with the third parties owning such software and shall continue to vest with such third parties.

This Agreement shall not amount to transfer of any Intellectual Property or authorization to use with respect to any Intellectual Property in the Licensed Software or Third Party Software by Mobiliya to You except as provided under this Agreement.

4.2. Third Party Software

If Mobiliya mentions on its website, user documentation, under this Agreement or any other place, existence of any third party software, whose intellectual property permission has not been acquired by Mobiliya or provided in Annexure A to this Agreement and must be used in combination with the Licensed Software, You shall be responsible to acquire the permission or license in order to use the said software. Mobiliya shall not be responsible for acquiring licenses with respect to the said software.

5. CONFIDENTIALITY AND PRIVACY

5.1. Confidentiality

You agree to maintain confidentiality of all Confidential Information of Mobiliya and not to disclose any Confidential Information to any third party.

5.2 Permitted Use

You shall be permitted to use the Confidential Information only for exercising rights granted by Mobiliya under this Agreement. You shall not use the Confidential Information for any other purpose without Mobiliya's written permission.

5.3. Security Measures

You shall implement stringent physical security and information security measures for maintaining secrecy of Mobiliya's Confidential Information. Such measures shall be at least as stringent as the measures taken by You to safeguard its own Confidential Information of the like nature.

6. TERMINATION

6.1. Default

Mobiliya may immediately terminate this Agreement in the event that You fail to abide by the terms and/or conditions of this Agreement. Mobiliya may also terminate the Agreement if there is any suit filed against Mobiliya with respect to the Licensed Software by giving You seven (7) days' notice.

6.2. Consideration on termination

On termination of the Agreement, You shall be liable to pay the consideration due to Mobiliya on the termination date. Mobiliya shall not be liable to refund any consideration to You on termination of the Agreement for any reason before the expiry of the term of the Agreement.

6.3. Post-termination Obligations

On the expiration and/or termination of the Agreement, then all of Your rights and licenses with respect to the Licensed Software shall immediately terminate and You shall immediately do the following:

- a. Ensure that the use of the Licensed Software is ceased;
- b. Delete and destroy all copies of the Licensed Software in its possession; and
- c. Provide a certificate to Mobiliya that all copies of the Licensed Software have been destroyed.

6.4. Survival

The provisions relating to Intellectual Property, Confidentiality, Liability and Indemnity shall survive the termination of this Agreement.

7. WARRANTY AND LIABILITY

7.1 Mobiliya's Warranty

Mobiliya warrants that the Licensed Software shall provide the features and functions provided in the User Documentation.

7.2 Limitation of Warranty/Disclaimers

YOUR USE OF THE LICENSED SOFTWARE IS AT YOUR SOLE RISK UNLESS EXPLICITLY STATED OTHERWISE IN AN AGREEMENT BINDING UPON US. THE LICENSED SOFTWARE IS PROVIDED ON AN "AS IS" "AS AVAILABLE" AND/OR "WITH ALL FAULTS" BASIS. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED BY MOBILIYA IN CLAUSE 7.1, YOU SHALL RECEIVE NO OTHER WARRANTIES. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE SOFTWARE AND ITS FUNCTIONALITY IN THE USER DOCUMENTATION, OR ANY COMMUNICATION WITH MOBILIYA CONSTITUTE TECHNICAL INFORMATION AND NOT AN EXPRESS WARRANTY OR GUARANTEE. MOBILIYA SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, MOBILIYA DOES NOT WARRANT THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

(ii) MOBILIYA MAKES NO WARRANTY OR REPRESENTATION THAT: (a) THE LICENSED SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR FREE OF ANY VIRUSES, TROJAN HORSES OR WORMS; (b) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE LICENSED SOFTWARE WILL BE ACCURATE OR RELIABLE; (c) THE QUALITY OF THE LICENSED SOFTWARE WILL MEET YOUR EXPECTATIONS OR REQUIREMENTS; OR (d) ANY ERRORS IN THE LICENSED SOFTWARE WILL BE CORRECTED.

(iii) EXCEPT AS EXPRESSLY PROVIDED OTHERWISE, YOU ASSUME ALL RISKS CONCERNING THE SUITABILITY AND ACCURACY OF THE INFORMATION WITHIN THE LICENSED SOFTWARE. THE LICENSED SOFTWARE MAY CONTAIN TECHNICAL INACCURACIES, TYPOGRAPHICAL ERRORS OR OMISSIONS. MOBILIYA ASSUMES NO RESPONSIBILITY FOR AND DISCLAIM ALL LIABILITY FOR ANY SUCH INACCURACIES, ERRORS OR OMISSIONS.

(iv) WE DO NOT ENDORSE AND ARE NOT RESPONSIBLE FOR (a) THE ACCURACY OR RELIABILITY OF ANY OPINION, ADVICE OR STATEMENT MADE THROUGH THE SERVICES BY ANY PARTY; (b) ANY CONTENT PROVIDED ON LINKED RESOURCES; OR (c) THE CAPABILITIES OR RELIABILITY OF ANY PRODUCT OR SERVICE OBTAINED FROM A LINKED RESOURCE.

(v) WE MAY MAKE CHANGES TO THE LICENSED SOFTWARE, SERVICES, PRICES, TECHNICAL

SPECIFICATIONS, PRODUCT OFFERINGS, AND ANY OTHER INFORMATION AND MATERIALS IN OR RELATED TO THE LICENSED SOFTWARE AT ANY TIME AND WITHOUT NOTICE.

8.3 Limitation of Liability

You shall have the right to use it in any lawful manner within the scope of license granted under this Agreement. Mobiliya shall not be liable to You and/or any third parties for any consequences of the use of the Licensed Software.

8.4 No Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL MOBILIYA, ITS AFFILIATES, OUR SUPPLIERS, AND ANY OF OUR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS HAVE ANY LIABILITY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, REVENUE, DATA, OR COST OF COVER, INCLUDING WITHOUT LIMITATION DAMAGES DUE TO: (a) THE USE OF OR THE INABILITY TO USE THE LICENSED SOFTWARE; (b) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED, OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO, THROUGH OR FROM THE LICENSED SOFTWARE

; (c) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON OR THROUGH THE LICENSED SOFTWARE, INCLUDING WITHOUT LIMITATION UNAUTHORIZED ACCESS TO OR ALTERATION OF TRANSMISSIONS OR DATA, MALICIOUS OR CRIMINAL BEHAVIOR, OR FALSE OR FRAUDULENT TRANSACTIONS; OR (d) CONTENT OR INFORMATION YOU DOWNLOAD, USE, MODIFY OR DISTRIBUTE. IN ADDITION, IN NO EVENT SHALL THE LIABILITY OF MOBILIYA FOR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE LICENSED SOFTWARE, THIRD PARTY SOFTWARE, USER DOCUMENTATION OR THIS AGREEMENT EXCEEDS THE AMOUNT PAID OR PAYABLE BY YOU FOR THE LICENSED SOFTWARE. THE LIMITATIONS OF LIABILITY IN THIS SECTION SHALL APPLY TO ANY DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER DERIVED FROM CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE, EVEN IF MOBILIYA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE. MOBILIYA'S TOTAL LIABILITY TO YOU AND/OR ANY THIRD PARTY, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, WILL BE LIMITED TO AND WILL NOT EXCEED THE AMOUNTS PAID TO MOBILIYA UNDER THIS AGREEMENT.

8.5 Third party Intellectual Property Infringement

If the Licensed Software becomes, or in the opinion of Mobiliya may become, the subject of a claim of infringement of any third party's Intellectual Property rights, Mobiliya may, at its option and in its discretion:

- (i) Procure for You the right to use the Software free of any liability;

- (ii) Replace or modify the Software to make it non-infringing; or
- (iii) Terminate its obligations and Your rights hereunder with respect to the Licensed Software

The foregoing states the sole liability of Mobiliya and Your exclusive remedy for any infringement of Intellectual Property rights by the Licensed Software or any other items provided by Mobiliya under this Agreement. In no event shall Mobiliya be held liable for any Intellectual Property infringement made by the third parties or You as a result of Your own actions.

9. INDEMNITY

9.1. You Indemnity

You shall defend, indemnify and hold harmless Mobiliya, including its suppliers, successors, agents, authorized distributors and assigns and each of their directors, officers, employees and independent contractors (each an “Indemnified Party”) from any claims, damages, losses, costs or expenses (including, without limitation, reasonable lawyers’ fees, fees on fees, and costs) incurred by an Indemnified Party arising from: (i) Your breach of any term and/or covenant of this Agreement; (ii) any legal action against Mobiliya by a third party as a result of the default of You to abide by the terms and conditions of this Agreement; (iii) any legal actions relating to use of the Licensed Software or Third Party Software by You; (iv) infringement of patents or other intellectual property or proprietary rights arising from You use of the Licensed Software in violation of this Agreement; and/or (v) any injury, death, or property damage arising from Your negligence or misconduct in connection with its use of the Licensed Software.

10. GOVERNING LAW AND JURISDICTION

10.1. Governing Law

This Agreement and any action related thereto shall be governed, controlled, interpreted and defined by and under the laws of the State of California and the United States, without regard to the conflicts of laws provisions thereof. The exclusive jurisdiction and venue of any action with respect to the subject matter of this Agreement shall be the State Courts of the State of New York. Each party hereby waives any objection to the exclusive jurisdiction and venue of such courts for the purpose of any such action. The parties specifically disclaim the UN Convention on Contracts for the International Sale of Goods.

11. EXPORT CONTROL LAW

The Licensed Software, or portions thereof, may be subject to the U.S. export laws and the export or import laws of other countries. You agrees to be responsible for complying with all export control laws of the country where the Licensed Software is acquired or used including to comply with all such laws

and, in particular, You shall: (i) obtain any export, re-export, or import authorizations required by any applicable laws; (ii) not provide the Licensed Software to prohibited countries and entities identified in all applicable export regulations, including those of the United States. You shall not use the Licensed Software in any manner if it cannot comply with the export control laws. It shall be Your sole responsibility to acquire any regulatory approvals necessary to use the Licensed Software.

12. ASSIGNMENT AND MODIFICATION

12.1. Assignment

This Agreement and all its rights and privileges hereunder shall not be assigned by You without the prior written consent of Mobiliya.

12.2. MODIFICATION

The terms and conditions of this Agreement may be modified by Licensor at any time upon Licensor's posting of an updated EULA on its website. Upon such posting, this EULA will be superseded and the terms shall apply to the User.

13. SEVERABILITY

13.1 Should any part of this Agreement be declared illegal or unenforceable, the Parties agree to co-operate in all the ways open to them to obtain substantially the same result or as much thereof as may be possible, including taking appropriate steps to amend, modify or alter this Agreement.

13.2 If any term or provision of this Agreement shall be hereafter declared by a final adjudication of any tribunal or court of competent jurisdiction to be illegal or invalid, such adjudication shall not alter the validity or enforceability of any other term or provision unless the terms and provisions declared (by any of the Parties) shall be one expressly defined as a condition precedent or as of the essence of this Agreement, or comprising an integral part of, or inseparable from the remainder of this Agreement.

14. WAIVER

14.1 Waiver

The failure, with or without intent, of any Party hereto to insist upon the performance of the terms of this Agreement by the other Party, shall not be treated as, or be deemed to constitute, a modification of any terms or stipulations of this Agreement nor shall such failure or election be deemed to constitute a waiver of the right of such Party, at any time whatsoever thereafter, to insist upon performance by the other, strictly in accordance with any terms or provisions hereof. All terms, conditions and obligations under this Agreement shall remain in full force and effect at all times during the subsistence of this Agreement except where otherwise amended or modified by the Parties by mutual written Agreement.

15. NOTICE

15.1. All notices hereunder shall be in writing and shall be duly given if delivered personally or sent by registered mail, return receipt requested to the respective addresses of the Parties provided in this Agreement or in the User Documentation or Purchase form, if any or if sent by e-mail or fax to the address or number specified the receiving Party.

15.2. You shall notify any change of address for communication of notices to Mobiliya within fourteen (14) days of such a change.

16. ENTIRE Agreement

This Agreement constitutes the entire Agreement between the Parties pertaining to the Licensed Software and supersedes all prior Agreements, understandings, negotiations and discussions with respect to the subject matter hereof whether oral or written.

17. FORCE MAJEURE

The performance of any part of this Agreement by Mobiliya or You shall be excused to the extent that such performance is hindered, delayed, or made impractical by flood, fire, war, or riot. Upon the occurrence of any such event the party whose performance is affected shall notify the other party of such an occurrence.

18. HEADINGS

Heading herein are for convenience of reference only and will in no way affect interpretation of the Agreement.

This Agreement shall come into force as soon as You accept the Agreement or copy, install or download the Licensed Software or start using the Licensed Software.