

## **END USER LICENCE AGREEMENT**

### **PLEASE READ CAREFULLY BEFORE USING THE APP.**

This end-user licence agreement (**EULA**) is a legal agreement between you (**End-user or you**) and the **University of Newcastle upon Tyne**, a charitable organisation established under the Universities of Durham and Newcastle upon Tyne Act 1963, a Statute of England, whose address for service is King's Gate, Newcastle upon Tyne, NE1 7RU, United Kingdom (**Licensor, University, us or we**) for:

- Newcastle University mobile application software and the data supplied with the software (**App**); and

We license use of the App to you on the basis of this EULA and subject to any rules or policies applied by any appstore provider or operator from whose site, located at [[<https://itunes.apple.com>] and/or [<https://play.google.com/store>] (**Appstore/Play Store**), the End-user downloaded the App (**Appstore Rules/Play Store Rules**). We do not sell the App to you. We remain the owners of the App at all times.

**OPERATING SYSTEM REQUIREMENTS** THIS APP REQUIRES A DEVICE WITH A MINIMUM OF 10 MEGABYTES OF MEMORY. INTERNET ACCESS AND THE ANDROID 4.0 OR ABOVE; IOS 6 OR ABOVE. YOU NEED TO HOLD AN ACTIVE IT ACCOUNT WITH THE UNIVERSITY TO USE ALL FEATURES WITHIN THE APP.

### **IMPORTANT NOTICE:**

- BY DOWNLOADING THE APP FROM THIS WEBSITE OR CLICKING ON THE "ACCEPT" BUTTON BELOW YOU AGREE TO THE TERMS OF THE LICENCE WHICH WILL BIND YOU. THE TERMS OF THE LICENCE INCLUDE, IN PARTICULAR, THE PRIVACY POLICY DEFINED IN condition 1.5 AND LIMITATIONS ON LIABILITY IN condition 7.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, WE WILL NOT LICENSE THE APP TO YOU AND YOU MUST STOP THE DOWNLOADING PROCESS NOW BY CLICKING ON THE "CANCEL" BUTTON BELOW. IN THIS CASE THE DOWNLOADING PROCESS WILL TERMINATE.

**You should print a copy of this EULA for future reference.**

### **AGREED TERMS**

#### **1. ACKNOWLEDGEMENTS**

- 1.1 The terms of this EULA apply to the App including any updates or supplements to the App, unless they come with separate terms, in which case those terms apply. If any open-source software is included in the App, the terms of an open-source licence may override some of the terms of this EULA.
- 1.2 We may change these terms at any time by sending you an SMS with details of the change or notifying you of a change when you next start the App The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the App.

- 1.3 From time to time updates to the App may be issued through the Appstore. Depending on the update, you may not be able to use the App until you have downloaded or streamed the latest version of the App and accepted any new terms.
- 1.4 You will be assumed to own or to have obtained permission from the owners of all mobile telephone or handheld devices that are controlled by you 2.2a (**Devices**) and to download or stream a copy of the App onto the Devices. You and they may be charged by your and their service providers for internet access on the Devices. You accept responsibility in accordance with the terms of this EULA for the use of the App on or in relation to any Device, whether or not it is owned by you.
- 1.5 The terms of our privacy policy from time to time, available at <http://www.ncl.ac.uk/itservice/mobile/universityapp/privacypolicy> (**Privacy Policy**) are incorporated into this EULA by reference and relate to your use of the App. Additionally, by using the App, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the App may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.
- 1.6 By using the App, you consent to us collecting and using technical information about the Devices and related software, hardware and peripherals that are internet-based or wireless to improve our products and to provide any services to you.
- 1.7 The App may make use of location data sent from the Devices. You can turn off this functionality at any time by turning off the location services settings for the App on the Device. If you use this function, you consent to our transmission, collection, retention, maintenance, processing and use of your location data and queries to provide and improve location-based and road traffic-based products and services. You may withdraw this consent at any time by turning off the location services settings on your device.
- 1.8 The App may contain links to other independent third-party websites (**Third-party Sites**). Third-party Sites are not under our control, and we are not responsible for and do not endorse their content or their privacy policies (if any). You will need to make your own independent judgement regarding your interaction with any Third-party Sites, including the purchase and use of any products or services accessible through them.
- 1.9 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.

## 2. GRANT AND SCOPE OF LICENCE

- 2.1 In consideration of you agreeing to abide by the terms of this EULA, we grant you a non-transferable, non-exclusive licence to use the App on the Devices, subject to these terms, the Privacy Policy and the Appstore Rules, incorporated into this EULA by reference. We reserve all other rights.
- 2.2 You may download a copy of the App onto any Devices (as defined in condition 1.4) and to view, use and display the App on the Devices for your personal purposes only.

## 3. LICENCE RESTRICTIONS

Except as expressly set out in this EULA or as permitted by any local law, you agree:

- (a) not to copy the App except where such copying is incidental to normal use of the App, 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 App ;
- (c) not to make alterations to, or modifications of, the whole or any part of the App, or permit the App or any part of it to be combined with, or become incorporated in, any other programs;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the App or attempt to do any such thing 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 App with another software program, and provided that the information obtained by you during such activities:
  - (i) is used only for the purpose of achieving inter-operability of the App with another software program;
  - (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
  - (iii) is not used to create any software that is substantially similar to the App;
- (e) to keep all copies of the App secure and to maintain accurate and up-to-date records of the number and locations of all copies of the App;
- (f) to include our copyright notice on all entire and partial copies you make of the App on any medium;
- (g) not to provide or otherwise make available the App in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
- (h) to comply with all technology control or export laws and regulations that apply to the technology used or supported by the App(**Technology**),

together **Licence Restrictions**.

#### 4. **ACCEPTABLE USE RESTRICTIONS**

You must:

- (a) not use the App in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the App or any operating system;
- (b) not infringe our intellectual property rights or those of any third party in relation to your use of the App , including the submission of any material (to the extent that such use is not licensed by this EULA);
- (c) not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App;
- (d) not use the App in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- (e) not collect or harvest any information or data from our App or our systems.

together **Acceptable Use Restrictions**.

**5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 You acknowledge that all intellectual property rights in the App and the Technology anywhere in the world belong to us or our licensors, that rights in the App are licensed (not sold) to you, and that you have no rights in, or to, the App or the Technology other than the right to use each of them in accordance with the terms of this EULA.
- 5.2 You acknowledge that you have no right to have access to the App in source-code form.

**6. WARRANTY EXCLUSION**

- 6.1 To the maximum extent permissible under applicable law, we hereby expressly exclude, and you agree to waive, all representations and warranties, express and implied arising by operation of law or otherwise, including, without limitation, implied warranties of satisfactory quality or fitness for a particular purpose. Due to the nature of the App, it is provided on an “as is” and “as available” basis. You acknowledge that the App may not be free of bugs or errors and you agree that the existence of any errors shall not constitute a breach of these terms.

**7. LIMITATION OF LIABILITY**

- 7.1 You acknowledge that the App has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the App meet your requirements.
- 7.2 We only supply the App for domestic and private use. You agree not to use the App for any commercial, business or resale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 7.3 Our maximum aggregate liability under or in connection with this EULA (including your use of any Services) whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to the price paid for the App. This does not apply to the types of loss set out in condition 7.44.
- 7.4 Nothing in this EULA shall limit or exclude our liability for:
- (a) death or personal injury resulting from our negligence;
  - (b) fraud or fraudulent misrepresentation; and
  - (c) any other liability that cannot be excluded or limited by English law.

**8. TERMINATION**

- 8.1 We may terminate this EULA immediately by written notice to you:
- (a) if you commit a material or persistent breach of this EULA which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so;
  - (b) if you breach any of the Licence Restrictions or the Acceptable Use Restrictions.
- 8.2 We reserve the right to terminate this EULA at any time and from time to time to modify or discontinue, temporarily or permanently, without or without notice, all or any part of the App. You agree that we will not be liable to you for any modification, suspension or discontinuance of the App.
- 8.3 On termination for any reason:

- (a) all rights granted to you under this EULA shall cease;
- (b) you must immediately cease all activities authorised by this EULA, including your use of any Services; and
- (c) you must immediately delete or remove the App from all Devices then in your possession, custody or control.

**9. NOTICES**

- 9.1 If any condition in this EULA requires you to give us notice in writing, you can send this to us by e-mail or by post to Newcastle University at IP & Legal Team, Research Enterprise Services, Research Beehive, Old Library Building, Newcastle upon Tyne, NE1 7 RU and [legal.services@ncl.ac.uk](mailto:legal.services@ncl.ac.uk). We will confirm receipt of this by contacting you in writing, normally by e-mail.

**10. EVENTS OUTSIDE OUR CONTROL**

- 10.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this EULA that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications networks (**Event Outside Our Control**).

**11. OTHER IMPORTANT TERMS**

- 11.1 We may transfer our rights and obligations under this EULA to another organisation, but this will not affect your rights or our obligations under this EULA.
- 11.2 You may only transfer your rights or obligations under this EULA to another person if we agree in writing.
- 11.3 If we fail to insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 11.4 Each of the conditions of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 11.5 Please note that this EULA, its subject matter and its formation, are governed by English law. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction.