

This end-user license agreement (**EULA**) is a legal agreement between you (**End-user** or **you**) and Keepsite Software Limited (**Licensor, us** or **we**). We are a company registered in England and Wales under company number 10085050 and with our registered office at 8 Lee Street, London E8 4DY, United Kingdom. Our VAT number is 238716878. This EULA is an agreement for the Keepsite mobile and/or web application software and the data supplied with the software (the **Application**).

We license use of the Application to you on the basis of this EULA and subject to any rules or policies applied by the appstore provider from whose site (**Appstore**) you may have downloaded the Application (**Appstore Rules**).

We do not sell the App to you. We remain the owners of the App at all times.

**Operating system requirements:** The mobile version of this Application requires [iOS version 12.1 or Andoid version 9.0] and above. The web Application requires a PC with 2GB RAM and Windows 7 or above, or a Mac with 2GB RAM and macOS 10.6. We highly recommended using Chrome version 33 and above for the best user experience.

**Important notice:** You cannot use the Application without accepting the terms and conditions of this EULA. Once you open the web Application or download the mobile Application, it is considered that you accepted all of the terms and conditions of the EULA and you will be licensed to use the Application for personal use only, solely in connection with your computer devices as set out below. The terms of the license include, in particular, the privacy policy defined in condition 1.5 below and limitations on liability in condition 8 below.

If you are a consumer you have the right to withdraw from your transaction without charge and without any reason before using the Application. However, you will lose the right to cancel the transaction once you begin to use the Application. This does not affect your consumer rights for an application that is defective.

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

## **Definitions**

The following terms as used in this EULA have the following meanings:

<b>“Customer Data”</b>	means any data, information or material provided or submitted by or on behalf of the licensee to the Application and/or the Service or generated by the Application in the course of using the Application.
<b>“Data Protection Laws”</b>	means the EU Data Protection Directive 95/46/EC, the EU General Data Protection Regulation 2016/679, the EU ePrivacy Directive 2002/58/EC as amended by Directive 2009/136/EC, as amended or superseded from time to time, and any national implementing legislation; and
<b>“personal data”</b>	means any and all data that relates to an identifiable person who can be directly or indirectly identified from that data. In this case, it means personal data that you give to us via the Application or our Site. This definition shall, where applicable, incorporate the definitions provided in the EU Regulation 2016/679 – the General Data Protection Regulation (“GDPR”).

**AGREED TERMS**

## 1. ACKNOWLEDGEMENTS

- 1.1 The terms of this EULA apply to the Application or any of the services accessible through the Application (**Services**), including any updates or supplements to the Application or any Service, unless they come with separate terms, in which case those terms apply. If any open-source software is included in the Application or any Service, 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 email with details of the change or notifying you of a change when you next start the Application. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the Services.
- 1.3 From time to time updates to the Application may be issued through our website at [keepsite.com](https://www.keepsite.com) or via our help centre at [help.keepsite.com](https://www.keepsite.com/help) or the Appstore. Depending on the update, you may not be able to use the Services until you have opened or downloaded the latest version of the Application and accepted any new terms.
- 1.4 You will be assumed to have obtained permission from the owner of the mobile telephone or handheld devices that are controlled, but not owned, by you and described in condition 3.2(a) (**Devices**) and to download a copy of the Application 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 Application or any Service 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 <https://www.keepsite.com/privacy> (**Privacy Policy**) are incorporated into this EULA by reference. Additionally, by using the Application or any Service, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the Application or any Service 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 Application or any of the Services, you consent to us collecting and using technical information about the Devices and related software, hardware and peripherals for Services that are internet-based or wireless to improve our products and to provide any Services to you.
- 1.7 The Application or any Service 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.
- 1.8 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. ORDERS, PRICE, SUBSCRIPTION PERIOD AND CANCELLATION RIGHTS

- 2.1 When you register to use the Application, you will automatically be sent a registration email from us. Once you have verified your account using the link included in the registration email you will have access to the Application and Services. Subscription versions of the Application are available on a rolling monthly basis or for 12 months. For 12-month subscriptions you will

automatically receive an email notification before your subscription expires offering you the opportunity to renew.

- 2.2 Full details of subscription packages are available from <https://keepsite.com> where the price is quoted for each package.
- 2.3 When you place an order, you will automatically receive a confirmation email from us to confirm your order. Your order constitutes an offer made to us to purchase a product or service. Your offer is only accepted by us once we have emailed you to confirm the product or service had been provided. We reserve the right to delay or refuse any order where a transaction contains incomplete information, information cannot be verified or where we suspect fraud. If we are unable to ascertain these details or resolve these issues a full refund will be made against the card used at the time of purchase. No other form of refund or credit will be offered nor will a refund be made to any third-party card or account.
- 2.4 If you are a consumer you have the right to withdraw from your transaction without charge and without any reason before using the Application or applicable Service. However, you will lose the right to cancel the transaction once you begin to use the Application or Service. This does not affect your consumer rights for an app that is defective.
- 2.5 If you are not a consumer then no right of cancellation exists.
- 2.6 You may cancel your subscription at any time by providing notice to us (see condition 10 below). You may cancel with effect from the end of the calendar month in which you give us notice. Refunds will not be offered except in the circumstances described in condition 8 below.
- 2.7 Provisions relating to faults or defects are set out in condition 8 below.

### **3. GRANT AND SCOPE OF LICENCE**

- 3.1 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 Application on the Devices, subject to these terms, Privacy Policy and the Appstore Rules, incorporated into this EULA by reference. We reserve all other rights.
- 3.2 You may:
  - (a) download a copy of the Application onto 5 mobile Devices and to view, use and display the Application on the Devices for your personal purposes only; and
  - (b) use the Documents for your personal purposes only.

### **4. LICENCE RESTRICTIONS**

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

- (a) not to copy the Application or Documents 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 or Documents;
- (c) not to make alterations to, or modifications of, the whole or any part of the Application, or permit the Application 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 Application 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 Application 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 Application 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 Application;
- (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 our copyright notice on all entire and partial copies you make of the Application on any medium;
- (g) not to provide or otherwise make available the Application 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 Application or any Service (**Technology**),

together **Licence Restrictions**.

## 5. YOUR RESPONSIBILITIES

5.1 You are solely responsible for all activity occurring under your user accounts and shall abide by all applicable Law in connection with your use of the Services, and the use of your account by other users, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify us immediately of any unauthorised use of any password or account or any other known or suspected breach of security; (ii) report to us immediately and use reasonable efforts to stop immediately any copying or distribution of content that is known or suspected by the you or others users of your account; and (iii) not impersonate another Keepsite account holder or provide false identity information to gain access to or use the Service.

5.2 You shall not use the Application or the Service for any illegal, fraudulent, improper, or abusive purpose or in any way that interferes with our ability to provide a high-quality Service to other clients, prevents or restricts other clients from using the Service, or damages any of our or other clients' property. If we find that you are using the Application for anything other than as permitted by this Agreement or for any of the prohibited uses in this Agreement, we may at our sole discretion terminate your use of the Services with immediate effect. Prohibited uses include, but are not limited to:

- (a) using the Application or any Service 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 Application, any Service or any operating system;
- (b) the infringement of our intellectual property rights or those of any third party in relation to your use of the Application or any Service, including the submission of any material (to the extent that such use is not licensed by this EULA);
- (c) using Application or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users;

- (d) behaviour that is illegal, obscene, threatening, harassing, defamatory, libellous, deceptive, fraudulent, malicious, infringing, tortious, or invasive of another's privacy;
- (e) harvesting or otherwise collecting information about others, including email addresses, without their consent or in breach of applicable data protection or privacy laws;
- (f) negligently, recklessly, knowingly, or intentionally transmitting any material that contains viruses, time bombs, Trojan horses, worms, malware, spyware, or any other programs that may be harmful or dangerous;
- (g) transmitting any material that may infringe, misappropriate, or otherwise violate any third party's Intellectual Property Rights;
- (h) using the Service in any way that interferes with other clients' and third parties' use and enjoyment of the Service or use the Service in any manner which disrupts, prevents or restricts any other client from using the Service; and
- (i) Using or employing methods and/or devices that are designed or likely to take advantage of, bypass, exploit, or otherwise avoid the restrictions and limitations contained in this Agreement.

together, the "**Acceptable Use Restrictions**".

5.3 You further understand and agree that:

- (a) You shall be solely liable for any transmissions sent through the Application and the Service under your account, including the content of any transmission sent through the Service under your account.
- (b) You will abide by all of our applicable policies, procedures, and agreements related to the Application and the Service.

5.4 If we, in our sole discretion, consider you to be in breach of this Agreement, or likely to be in breach of this Agreement, we may take any action we think is necessary to protect Keepsite, the Service and its users. We may: (a) withdraw your right to use the Application and the Service; (b) remove Customer Data from the Application; (c) take legal proceedings against you; (e) disclose any information to law enforcement authorities we think is necessary or as required by Law. These actions are not limited and we may take any other action we reasonably deem appropriate.

5.5 As you will be submitting and providing Customer Data which may contain the personal data (and potentially sensitive personal data (as such terms are defined under the Data Protection Laws)) of other users and other third parties, you acknowledge and accept that you are solely responsible for obtaining all required consents, authorisations and permissions from such users and third parties to enable you to provide such information to us and to grant to us the rights set forth in this EULA and our privacy policy. It is your responsibility to ensure that all such users and third parties are aware of and accept the terms of this EULA and the privacy policy and that you have obtained the explicit consent of all users for the processing of any of their sensitive personal data by us in accordance with this EULA, the privacy policy and the Data Protection Laws. You may not provide us with any Customer Data or other information containing personal data of Users or third parties unless and until you have obtained all necessary consents, authorisations and permissions to do so

## 6. ACCOUNT INFORMATION AND DATA

6.1 We do not own any of the Customer Data. You, not us, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property

ownership or right to use of all Customer Data, and we shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data.

6.2 In the event this Agreement is terminated (other than by reason of your breach), we shall advise you how you may retrieve the Customer Data but it will be your sole responsibility to retrieve a copy of your Customer Data within 30 days of termination after which time, to the extent permitted by applicable Law, we may delete all such data.

6.3 We reserve the right to withhold, remove and/or discard Customer Data without notice for any breach by the Customer without limitation. Upon termination by us for any breach, your right to access or use Customer Data immediately ceases, and we shall have no obligation to maintain or store or forward any Customer Data.

## **7. INTELLECTUAL PROPERTY RIGHTS**

7.1 You acknowledge that all intellectual property rights in the Application, the Documents and the Technology anywhere in the world belong to us or our licensors, that rights in the Application are licensed (not sold) to you, and that you have no rights in, or to, the Application, the Documents or the Technology other than the right to use each of them in accordance with the terms of this EULA.

7.2 You acknowledge that you have no right to have access to the Application in source-code form.

7.3 In submitting or transmitting any material using the Services you grant us a transferable, sub-licensable, non-exclusive, royalty-free, worldwide, irrevocable license to use such material in connection with the Application and any Service.

## **8. LIMITED WARRANTY AND SUPPORT**

8.1 We warrant that:

- (a) the Application will, when properly used and on an operating system for which it was designed, perform substantially in accordance with the functions described in the Documents; and
- (b) that the Documents correctly describe the operation of the Application in all material respects,

for a period of 90 days from the date on which the Application is downloaded to the Devices (**Warranty Period**).

8.2 If within the Warranty Period you notify us in writing of any defect or fault in the Application as a result of which it fails to perform substantially in accordance with the Documents, you will be entitled to download another copy of the Application or a pro rata refund of the unexpired portion of your subscription (calculated by reference to the amount you paid to use that version of the Application less a reasonable administrative fee). You will not be entitled to a refund if we are unable to replicate the defect or fault or if (in our reasonable opinion) the issue is caused by user error or user equipment. In the case of defective Services we reserve the right to offer an additional free period of Service instead of any refund. Where a refund is paid you will not be permitted to re-register for the Application (including the free version of the Application).

8.3 The warranty does not apply:

- (a) if the defect or fault in the Application or any Service results from you having altered or modified the Application;

- (b) if the defect or fault in the Application results from you having used the Application in breach of the terms of this EULA; and
- (c) if you breach any of the Licence Restrictions or the Acceptable Use Restrictions.

8.4 This warranty is in addition to your legal rights in relation to software that is faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

8.5 If you require any technical support in relation to your use of the Application or any Service provided by us, please email us at [support@keepsite.com](mailto:support@keepsite.com)

## **9. LIMITATION OF LIABILITY**

9.1 You acknowledge that the Application 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 Application as described in the Documents meet your requirements.

9.2 We only supply the Application and Documents for private use. You agree not to use the Application and Documents 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.

9.3 We are only responsible for loss or damage you suffer that is a foreseeable result of our breach of this EULA or our negligence up to the limit specified in condition 8.4, but we are not responsible for any unforeseeable loss or damage. Loss or damage is foreseeable if it is an obvious consequence of our breach or if they were contemplated by you and us at the time we granted you the EULA.

9.4 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 total amount you have paid by you for the Application or relevant Service (including any updates). This does not apply to the types of loss set out in condition 9.5.

9.5 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.

## **10. TERMINATION**

10.1 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; and
- (c) if you breach any part of the Privacy Policy or Website Terms and Conditions which can be found at <https://www.keepsite.com/legal>

10.2 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;
- (c) you must immediately delete or remove the Application from all Devices, and immediately destroy all copies of the Application and Documents then in your possession, custody or control and certify to us that you have done so; and
- (d) we may remotely access the Devices and remove the Application from all of them and cease providing you with access to the Services.

## **11. COMMUNICATION BETWEEN US**

- 11.1 If you wish to contact us in writing, or 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 prepaid post to Keepsite Software Limited at 8 Lee Street, London E8 4DY, United Kingdom and support@keepsite.com We will confirm receipt of this by contacting you in writing, normally by e-mail.
- 11.2 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your request for the Application.

## **12. EVENTS OUTSIDE OUR CONTROL**

- 12.1 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**).
- 12.2 If an Event Outside Our Control takes place that affects the performance of our obligations under this EULA:
  - (a) our obligations under this EULA will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
  - (b) we will use our reasonable endeavours to find a solution by which our obligations under this EULA may be performed despite the Event Outside Our Control.

## **13. OTHER IMPORTANT TERMS**

- 13.1 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.
- 13.2 You may only transfer your rights or obligations under this EULA to another person if we agree in writing.
- 13.3 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.
- 13.4 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.

13.5 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. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are resident of Scotland, you may also bring proceedings in Scotland.

This agreement has been entered into on the date stated at the beginning of it.