

Intelligent Mobile Support, Inc. Terms of Service (TOS) Agreement  
English

IMPORTANT NOTICE. INTELLIGENT MOBILE SUPPORT, INC. SOFTWARE LICENSE AGREEMENT. PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE USING THE INTELLIGENT MOBILE SUPPORT SOFTWARE. BY USING THE INTELLIGENT MOBILE SUPPORT SOFTWARE YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF SERVICE OF THIS LICENSE, DO NOT USE THE SOFTWARE.

NOTICE: THIS SOFTWARE MAY BE USED TO DISTRIBUTE AND REPRODUCE MATERIALS. IT IS LICENSED TO YOU ONLY FOR DISTRIBUTION AND REPRODUCTION OF NON-COPYRIGHTED MATERIALS, MATERIALS IN WHICH YOU OWN THE COPYRIGHT, OR MATERIALS YOU ARE AUTHORIZED OR LEGALLY PERMITTED TO USE. THIS SOFTWARE MAY ALSO BE USED FOR REMOTE ACCESS TO MUSIC, SOUND AND VIDEO FILES. REMOTE ACCESS TO MUSIC, SOUND AND VIDEO FILES IS ONLY PROVIDED FOR LAWFUL PERSONAL USE OR AS OTHERWISE LEGALLY PERMITTED. IF YOU ARE UNCERTAIN ABOUT YOUR RIGHT TO COPY OR PERMIT ACCESS TO ANY MATERIAL YOU SHOULD CONTACT YOUR LEGAL ADVISOR.

1. General. The software, documentation and any fonts or GRAPHICAL USER INTERFACE COMPONENTS accompanying this License whether on disk, in read only memory, on any other media or in any other form (collectively the "Intelligent Mobile Support Software") are licensed, not sold, to you by Intelligent Mobile Support, Inc. ("IMS") for use only under the terms of this License, and IMS reserves all rights not expressly granted to you. The rights granted herein are limited to IMS's and its licensors' intellectual property rights in the Intelligent Mobile Support Software and do not include any other patents or intellectual property rights. The terms of this License will govern any software upgrades provided by IMS that replace and/or supplement the original IMS Software product, unless such upgrade is accompanied by a separate license in which case the terms of that license will govern.

2. Permitted License Uses and Restrictions. A. This License allows you to use the IMS Software. The IMS Software may be used to reproduce, or distribute materials so long as such use is limited to reproduction of non-copyrighted materials, materials in which you own the copyright, or materials you are authorized or legally permitted to reproduce or distribute. Except as and only to the extent expressly permitted in this License or by applicable law, you may not copy, decompile, reverse engineer, disassemble, modify, or create derivative works of the IMS Software or any part thereof. THE IMS SOFTWARE IS NOT INTENDED FOR USE IN THE OPERATION OF ANY EQUIPMENT IN WHICH THE FAILURE OF THE IMS SOFTWARE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

3. Transfer. You may not rent, lease, lend, redistribute or sublicense the IMS Software.

4. Ownership of Analytics. You agree that IMS shall own, and you hereby transfer to IMS, all right, title and interest in and to all technical and related

information and data, including but not limited to technical information about your computer, system and application software, and peripherals, or your use of the IMS Software, and any and all other analytics or similar such data or information (collectively, "Analytics"), that IMS or its subsidiaries gather periodically to facilitate the provision of software updates, product support and other services related to, or to otherwise improve, the IMS Software, and to verify compliance with the terms of this License. IMS, or any third-parties whose products appear on the Software, may use the Analytics, as long as it is in a form that does not personally identify you, as it deems appropriate, including, without limitation, to improve our products or to provide services or technologies to you or others. Certain uses of Intelligent Mobile Support Services may include materials from third parties or links to certain third party web sites. You acknowledge IMS, or any third-parties whose products appear on the Software, are not responsible for examining or evaluating the content or accuracy of any such third-party material or web sites. IMS, or any third parties whose products appear on the Software, do not warrant or endorse and do not assume and will not have any liability or responsibility for any third-party materials or web sites, or for any other materials, products, or services of third-parties. Links to other web sites are provided solely as a convenience to you. You acknowledge and agree that all names and marks contained in the Software that belong to third-parties are the exclusive property of the third-party, its corporate parent or its Affiliates. No right, interest, ownership or privilege of use of such names and marks, or any other intellectual property of such third-party are accorded to you or any person claiming by, through, or under reason of the relationship herein established. You acknowledge that all trademarks, trade names, copyrights and other intellectual property that may be supplied by a third-party are and shall remain the sole property of the third-party, its corporate parent or Affiliates, and that You shall acquire no rights in such trademarks or intellectual property. You agree that you will not use any third-party materials in a manner that would infringe or violate the rights of any other party, and that IMS is not in any way responsible for any such use by you.

5. Termination. This License is effective until terminated. Your rights under this License will terminate automatically without notice from IMS if you fail to comply with any term(s) of this License.

6. Disclaimer of Warranties. You expressly acknowledge and agree that use of the IMS software (as defined above) and services (as defined below) is at your sole risk and that the entire risk as to satisfactory quality, performance, accuracy and effort is with you. To the maximum extent permitted by applicable law, the IMS software and services are provided "as is", with all faults and without warranty of any kind, and IMS and Intelligent Mobile Support's licensors (collectively referred to as "IMS" for the purposes of sections 7 and 8) hereby disclaim all warranties and conditions with respect to the IMS software and services, either express, implied or statutory, including, but not limited to, the implied warranties and/or conditions of merchantability, of satisfactory quality, of fitness for a particular purpose, of accuracy, of quiet enjoyment, and non-infringement of third party rights. IMS does not warrant against interference with your enjoyment of the IMS software or services, that the functions contained in the IMS software or services will meet your

requirements, that the operation of the IMS software or services will be uninterrupted or error-free, or that defects in the IMS software or services will be corrected. No oral or written information or advice given by IMS or an IMS authorized representative shall create a warranty. Should the IMS software or services prove defective, you assume the entire cost of all necessary servicing, repair or correction. Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so the above exclusion and limitations may not apply to you.

7. **Limitation of Liability.** To the extent not prohibited by law, in no event shall IMS, or any third-parties whose products appear on the Software, be liable for personal injury, or any incidental, special, indirect or consequential damages whatsoever, including, without limitation, damages for loss of profits, loss of data, business interruption or any other commercial damages or losses, arising out of or related to your use or inability to use the IMS software or services, however caused, regardless of the theory of liability (contract, tort or otherwise) and even if IMS has been advised of the possibility of such damages. Some jurisdictions do not allow the limitation of liability for personal injury, or of incidental or consequential damages, so this limitation may not apply to you. In no event shall IMS total liability to you for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the amount of \$15 dollars (\$15.00). The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

8. **Export Control.** You may not use the IMS Software except as authorized by United States law and the laws of the jurisdiction in which the IMS Software was obtained. In particular, but without limitation, the IMS Software may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the IMS Software, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, or nuclear, chemical or biological weapons.

9. **Government End Users.** The IMS Software and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

10. **Controlling Law and Severability.** This License will be governed by and construed in accordance with the laws of the State of Ohio, as applied to agreements entered into and to be performed entirely within Ohio between Ohio residents. The United Nations Convention on Contracts for the International Sale of

Goods, the application of which is expressly excluded, shall not govern this License. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of this License shall continue in full force and effect.

11. Complete Agreement; Governing Language. This License constitutes the entire agreement between the parties with respect to the use of the IMS Software licensed hereunder and supersedes all prior or contemporaneous understandings regarding such subject matter.

No amendment to or modification of this License will be binding unless in writing and signed by IMS. Any translation of this License is done for local requirements and in the event of a dispute between the English and any non-English versions, the English version of this License shall govern.

IMS Revision 12-2-2016