

## APPLICATION EULA

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### NOTICE:

By pressing the "ACCEPT" button, you, as the "User", are entering into a legal agreement with Ghost Track Inc., a Washington corporation ("Company") and User is agreeing to be bound by its terms, EVEN WITHOUT A SIGNATURE. Company is willing to grant User a limited license ONLY if User is willing to accept all of these terms and conditions.

**PLEASE READ THIS AGREEMENT: IF USER DOES NOT AGREE** with any of its terms, press the "REJECT" button immediately.

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**IMPORTANT: CAREFULLY READ THIS APPLICATION END USER LICENSE AGREEMENT (EULA) BEFORE ACCESSING OR USING THE APPLICATION OR FEATURES IN CONNECTION WITH ANY ACTIVITIES PERFORMED UNDER THIS AGREEMENT. THE COMPANY IS ONLY WILLING TO GRANT USER A LICENSE IF USER IS WILLING TO ACCEPT ALL OF THE TERMS OF THIS AGREEMENT. BY ACCESSING OR USING THE APPLICATION AND/OR FEATURES, OR OTHERWISE INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU AUTOMATICALLY ACKNOWLEDGE, ACCEPT AND AGREE TO ALL THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU MAY NOT ACCESS OR OTHERWISE USE THE APPLICATION AND/OR FEATURES.**

This Application EULA (the "Agreement") is a legally binding and enforceable agreement between the Company and the User governing the User's limited license to use and run the Application on User's Equipment. User's use of the Application and agreement herein also binds User to Company's Privacy Policy. In consideration of Company's limited license to User, User agrees as follows:

### 1. DEFINITIONS.

(a) "Application" means Ghost Track Inc.'s gaming application, Wyvern, and associated Application components, including, without limitation, development tools, files, code of any kind, patches, security features, software programs, documentation, in-Application purchases and accompanying Features or updates of the Application.

(b) "Features" mean the features and Application capabilities made available to User under this Agreement for use of the Application, and include development tools, Application programs, documentation, basic support services and support materials.

(c) "Equipment" refers to the internal network, server, cell phone, tablet, operating system, cellular service provider, or cloud service provider which User accesses and uses for use of the Application.

(d) "License" means the Application License granted hereunder.

(e) "Confidential Information" includes any and all proprietary information and intellectual property of the Company provided to User under the terms of this Agreement including, without limitation, source code and object code of the Application, which is obtained from Company in any form including, without limitation, documentary, tangible, intangible, oral, audio or visual form. "Confidential Information" may also include information disclosed to User by third parties.

**2. GRANT OF LICENSE.** Subject to User's compliance with this Agreement, the Company hereby grants to the User a limited, revocable (at any time in Company's sole

**2. GRANT OF LICENSE.** Subject to User's compliance with this Agreement, the Company hereby grants to the User a limited, revocable (at any time in Company's sole discretion), non-exclusive, non-transferrable, non-assignable, non-sublicensable license to install and run the Application, including accompanying Features and updates, on User's own Equipment, solely and exclusively for User's own use (the "Application License"). Company may, in its sole discretion, allow User's immediate family members (meaning only the User's spouse, parents, grandparents, children, grandchildren, brothers and sisters) (collectively, the "Immediate Family Members") to play the Application subject to the terms and conditions of this Agreement. Any use of the Application by any Immediate Family Member of the User shall automatically bind said Immediate Family Member to the terms and conditions of this Agreement, and any use by any Immediate Family Member shall only be in accordance with the terms of the License herein. User represents and warrants that it shall inform any Immediate Family Member of the terms and conditions of this Agreement and the License prior to allowing the Immediate Family Member to access the Application. This License does not grant User (or any of User's Immediate Family Members) any right, title or ownership in or to the Application or any of its Features. Furthermore, User shall be responsible for any and all in-Application purchases made by any Immediate Family Member and all Immediate Family Members are acting as agents for the User when making any in-Application purchase. Company shall have no liability whatsoever for any in-Application purchases by any Immediate Family Member therefore.

**3. ELIGIBILITY.** User affirms that User is at least thirteen, and User is fully able and competent to enter into the terms, conditions, obligations, representations and responsibilities set forth in this Agreement, and to abide and comply with this Agreement. Subject to any applicable age ratings or other restrictions, User may only use the Application if: (i) User is 18 years of age and a "natural person" in User's country of residence; or (ii) User's parent or guardian reads and accepts the terms of this Agreement and Company privacy policy, as amended from time to time, located at <https://www.iubenda.com/privacy-policy/7848176> (the "Privacy Policy") on their own behalf and on User's behalf if User is aged 13 or over but under 18 years of age. Third-party corporations, limited liability companies, partnerships and other legal or business entities may not use the Application. By use of the Application, User hereby represents and warrants that User meets these eligibility requirements.

#### **4. OBLIGATIONS OF USER.**

(a) **User Feedback.** During User's use of the Application, User may identify vulnerabilities, glitches or errors, and may provide general feedback to the Company about the Application. User shall not take any action to cure, remedy or fix such vulnerabilities, glitches or errors, but may promptly report to the Company in writing (or via any system in place by Company for User reporting) any and all information and data gathered about any such vulnerabilities, glitches or errors (collectively, "User Feedback") to the Company, which information shall belong exclusively to the Company as a "work made for hire." "User Feedback" shall also include, without limitation, additional feedback, additions to the Application, user-generated content of any kind, user-uploaded content of any kind, any content generated or created by the User in-Application or online using the Application, any concepts and feedback received from any Immediate Family Member, and any ideas and concepts given by User to Company.

(b) **Company Ownership.** User Feedback generated by User in connection with User's use of the Application hereunder shall irrevocably, unconditionally and conclusively be deemed property of the Company which property shall belong exclusively to the Company as a "work made for hire," with no joint authorship, co-authorship or collaborative rights granted, implied or assigned to User of any kind or in any way. In the event that Company is determined not to be the owner of such User Feedback, property or information therewith by a court of competent jurisdiction, then User hereby grants to Company a perpetual, transferable, devisable, irrevocable, exclusive, worldwide, assignable, sub-licensable, royalty-free license to use, exploit, sell, copy, execute, reproduce, display, perform, distribute, and prepare

jurisdiction, then User hereby grants to Company a perpetual, transferable, devisable, irrevocable, exclusive, worldwide, assignable, sub-licensable, royalty-free license to use, exploit, sell, copy, execute, reproduce, display, perform, distribute, and prepare “derivative works” as defined in the Copyright Act, 17 U.S.C. §101, in each case solely in conjunction with any works, property, creations or information in relation to the Application and User Feedback provided hereunder.

(c) **No Rights to User.** User acknowledges and agrees that the License granted herein and User’s use of the Application and User’s Feedback to Company does not confer upon User any right, title or interest, whether monetary or otherwise, in any aspect or Feature of the Application, including, without limitation, any in-game rewards, modifications, achievements, or character levels. User agrees that if Company makes use of any User Feedback, Company is not required to attribute, credit or compensate User for any User Feedback.

**5. TERMS AND CONDITIONS OF LICENSE.** The following terms and conditions apply to the License granted hereunder.

(a) **User Identification.** As conditions precedent to obtaining the License, the User must: (i) provide a valid e-mail address; and (ii) execute this Agreement. Upon satisfaction of the conditions set forth in this Section 5(a), the License shall be granted solely for User’s use in accordance with the terms of this Agreement.

(b) **No Sale.** The User’s access to and use of the Application and Features is limited to the License described in this Agreement. The User acknowledges and agrees that their access to and use of the Application and Features does NOT constitute any form of sale. No conduct, acts or omissions of either User or the Company shall be construed as altering the terms or conditions of this Agreement, any license granted herein, or creating any form of assignment, transfer or sale. The Company expressly reserves and retains all right, title and interest in and to the Application, the Features and all related functionality.

(c) **Features and Updates.** The License may extend to any updates, modifications and additional functionality created or provided by the Company during the Term. The License may also permit User to access certain files within the Application, as provided by the Company in its sole discretion, on a case-by-case basis. No extension of updates, modifications, downloads or additional functionality to User shall grant User any additional rights other than those rights expressly granted by Company to User in this Agreement.

(d) **Use for Non-Commercial Purposes; Company Updates; User’s Use.** The License granted herein permits User to utilize the Application and Features for the limited purpose of User’s personal use of the Application, and does not allow for any other use, commercial or otherwise. Company may provide patches, updates or upgrades to the Application that must be installed by User to continue use of the Application. Company may update the Application remotely, without notifying User, and User hereby consents to Company applying patches, updates and upgrades. User acknowledges and agrees that Company may modify, suspend, discontinue, limit, restrict or terminate User’s use of the Application and any Features for any reason or no reason in the Company’s sole and exclusive discretion. Company has the right, but not the obligation, to monitor User’s use of the Application and any Features.

(e) **Equipment Use.** User shall install the Application only on its own Equipment. No other individual shall have authorized use of the Application or the Equipment. By way of example, the foregoing does not permit the User to install or access (either directly or through commands, data or instructions) the Application: (i) from or to a computer not part of the User’s own Equipment under its control; (ii) from servers available to the public; or (iii) to transfer to any other individual or entity to use, download, copy or otherwise benefit from the functionality of the Application unless licensed to do so in writing by the Company.

(f) **Rules of Company; Privacy.** User acknowledges and agrees that it is subject to any and all rules, regulations and guidelines of the Company, whether for use of the Application, submission of User Feedback, removal of the Application and otherwise.

(f) **Rules of Company; Privacy.** User acknowledges and agrees that it is subject to any and all rules, regulations and guidelines of the Company, whether for use of the Application, submission of User Feedback, removal of the Application and otherwise, whether distributed orally or in writing, whether placed on the Company's website at <http://www.ghosttrack.com>, and whether currently in place or hereinafter promulgated by Company. User acknowledges that by using the Application or any Features, User consents to Company's data collection and usage terms whether currently in place and as they may be updated from time to time. User agrees that Company may collect and send to Company anonymous hardware and usage data from the Equipment on which User uses the Application or any Features.

(g) **Maintenance and Support.** The Company is solely responsible for providing any maintenance and support services, if any, with respect to the Application, and is solely responsible for the Application and the content thereof. The parties acknowledge that Apple, Inc., a California corporation ("Apple") has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.

(h) **Removal of Application.** Upon completion of the User's use of the Application or termination of this Agreement by Company or User in accordance with Section 8, User shall take any and all actions necessary to remove and uninstall the Application and Features from User's Equipment, and ensure that User and any third party has no further access or use of the Application or Features. User shall be solely and exclusively liable for any damage to User's Equipment or internal network related to the installation, running and removal of the Application and Features from User's Equipment.

**6. RESTRICTIONS ON USE.** The following terms and conditions apply to the User:

(a) **Non-Disclosure.** User agrees not to disclose any Confidential Information, whether deemed Confidential Information or not, received from Company for any purpose except in accordance with the terms and conditions of this Agreement. User shall not make any copies of Confidential Information unless the same are previously approved in writing by Company. User shall notify Company immediately in writing upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by User or any third party, and shall cooperate with Company in every reasonable way to help Company regain possession of the Confidential Information and prevent its further unauthorized use. User agrees that the Company's Confidential Information includes information from which the Company derives independent financial benefit and has taken reasonable measures to keep secret and, as a result, constitutes a trade secret pursuant to the Uniform Trade Secrets Act, as adopted in Washington, RCW 19.108 *et seq.* ("UTSA"), and that any use of the Confidential Information by User in violation of any portion of this Agreement would constitute a misappropriation under the UTSA, for which Company would be entitled to immediate injunctive relief.

**Notwithstanding the foregoing, User shall have the right to discuss the Application and its Features with third parties; provided, however, that User acknowledges and agrees that User shall not discuss with or disclose to any third party any other parts or portions of the Application or any of its Features in violation of this Agreement.**

(b) **Copyright and Trademark Notices; Security.** All copies of the Application, Features, documentation, and other items made available by the Company to User or in the User's possession or control must contain the same copyright, trademark, patent and other proprietary notices that appear therein, as applicable. User shall not remove, disable, circumvent or modify any proprietary notice or security technology included therewith.

(c) **No Modifications; Derivatives.** User shall not modify, adapt or translate the Application, or other such components or Features, or make any derivative works thereof in violation of the terms and conditions of this Agreement.

(d) **No Reverse Engineering.** User hereby agrees NOT to reverse engineer,

thereof in violation of the terms and conditions of this Agreement.

(d) **No Reverse Engineering.** User hereby agrees NOT to reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or object code of the Application or any Features or their respective component parts provided by the Company to User.

(e) **No Unbundling.** The Application provided by the Company may include various applications, utilities and component parts, may support multiple platforms and languages, and may be provided to the User on multiple media or in multiple copies. Notwithstanding the foregoing, any Application or Features provided to User constitutes a single, unified product to be used as a single, unified product on User's Equipment as permitted by this Agreement. User is not required to use all component parts of the Application or Features. User is not permitted to unbundle the component parts of the Application or Features for use on different Equipment for more than one use without express written permission of Company. User shall NOT unbundle or repackage for resale any Application or Features or their respective component parts, including any additional functionality provided with future updates, support services, or otherwise made available.

(f) **No Transfers Permitted.** User shall not rent, lease, sell, sublicense, assign, distribute, encumber or otherwise transfer any Application or any accompanying Features, or any User Feedback in any form, or authorize or make copies available to another individual or entity. User shall not directly or indirectly place the Application into a production or mission-critical environment. User shall not use the Application or any of its parts commercially or for a promotional purpose, or use it in connection with any other games, projects, products or services. User shall not use, transfer, assign or otherwise exploit any User Feedback, or disclose any User Feedback gathered to any third party without the express written consent of Company.

(g) **No Backup Copies.** User shall not make any copy of the Application or Features for any purpose whatsoever.

(h) **No Infringement.** User shall not use the Application to infringe upon or violate the rights of any third party, including but not limited to any intellectual property, publicity or privacy rights of any third party. The parties acknowledge that, in the event of any third party claim that the Application or the User's possession and use of the Application infringes that third party's intellectual property rights, the parties hereto, and not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim subject to the terms and conditions of this Agreement.

(i) **Loss of Data.** User acknowledges and agrees that any character data, game progress, game customization or other data related to User's use of the Application or any of its Features may cease to be available to User at any time and for any reason without notice of any kind from the Company, and Company shall have no obligations therewith. Company has no support obligations (or any liability thereto) with respect to the Application or any Features, or any loss of data associated therewith, as further stated in Section 11, below.

(j) **Additional Features; Payment.** Company, in its sole discretion, may make certain additional Features available to User, or may facilitate the exchange of certain additional Features for a non-refundable fee ("Premium Content") via in-Application purchase or via Online Services (as defined below). User may only use such Premium Content if User pays any associated fee. User acknowledges that by paying any associated fee, User is licensing such Premium Content in accordance with the terms and conditions of the License as if such Premium Content was included in or made a part of the Application. Regardless of any references Company may make outside this Agreement to regarding the purchasing or selling of the Premium Content, Premium Content is licensed, not sold to User in any way. When User provides payment information to Company or its authorized third-party processor, User represents and warrants that User is the authorized owner of the payment card, PIN, key, account or other payment method required by Company to complete such purchases, and User

information to Company or its authorized third-party processor, User represents and warrants that User is the authorized owner of the payment card, PIN, key, account or other payment method required by Company to complete such purchases, and User authorizes Company to charge such payment method for the full amount of any purchases made by User. Any in-Application purchases or purchasing, whether through an Online Service, the Application, or otherwise, (and whether such purchases involve Premium Content or not) shall be deemed a separate, unrelated commercial transaction in which the User is solely and exclusive responsible for payment and for which Company shall not be liable in any way. Company shall owe user no refund for any in-Application purchases. All in-Application purchases, whether for Premium Content or otherwise, are final. Any Premium Content prices, as well as prices for the Application, may change at any time from time to time in Company's sole and exclusive discretion. Company is not liable in any way for any loss, decline, destruction, misuse, damage, failure to load, unreasonable delay in delivery of, or technical problems related to, any Premium Content in any way.

(k) **No Embargo.** User represents and warrants that: (i) User is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) User is not listed on any U.S. Government list of prohibited or restricted parties.

7. **TERM.** The term of this Agreement (the "Term") shall take effect immediately on the date User receives access to the Application and accepts the terms and conditions of this Agreement (such date, the "Effective Date") and will continue perpetually unless otherwise terminated by the Company in accordance with Section 8 below.

## 8. **TERMINATION.**

(a) **By the Company.** The Company may terminate this Agreement at any time, for any reason or no reason, in its sole and exclusive discretion. Company may, in its sole discretion, provide written notice of termination to User.

(b) **By the User.** The User may terminate this Agreement at any time by deleting the Application and all of its associated Features or updates from all of User's Equipment.

(c) **Effect of Termination.** Upon Termination, the following procedures shall apply: (i) all Licenses granted or relationships under this Agreement shall be automatically revoked and terminated; and (ii) certain covenants set forth in this Agreement will survive, but shall not imply or create any continued license or right to use the Application or their respective accompanying Features or services after the date of termination.

9. **COMPANY INTELLECTUAL PROPERTY OWNERSHIP.** The Application and its respective updates and Features provided under any Licenses in this Agreement are proprietary, and the Company exclusively, unconditionally and unequivocally owns all right, title and interest in the Application and any and all updates and Features, including without limitation, any copyrights, patent rights, trademark rights, trade secrets, privacy rights, personal rights and other intellectual property rights. Furthermore, the structure, organization and code of the Application and its updates and Features constitute designated valuable trade secrets and confidential proprietary information of the Company. The Application and its respective updates and Features provided under the License are protected by United States Copyright and related proprietary laws, including but not limited to the intellectual property laws of the United States and other countries, and international treaty provisions. Except as expressly stated herein, this Agreement does not grant User any intellectual property rights, interest, or title to or in the Application or its respective updates and Features. The Company hereby exclusively reserves all rights not expressly granted herein.

10. **DISCLAIMER OF WARRANTY.** USER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE APPLICATION IS AT USER'S SOLE AND EXCLUSIVE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH USER. TO THE MAXIMUM

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COMPANY MAKES NO WARRANTY AGAINST INTERFERENCE WITH USER'S ENJOYMENT OF THE APPLICATION, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY THE APPLICATION WILL MEET USER'S REQUIREMENTS, THAT THE OPERATION OF THE APPLICATION OR SERVICES RELATED THERETO WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE APPLICATION OR SERVICES RELATED THERETO WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY COMPANY OR ANY OF ITS AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY. SHOULD THE APPLICATION OR SERVICES RELATED THERETO PROVE DEFECTIVE, USER ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

COMPANY HAS NO RESPONSIBILITY FOR DATA CHARGES USER MAY INCUR IN CONNECTION WITH ANY USE OF THE APPLICATION, INCLUDING, WITHOUT LIMITATION, DOWNLOADING OR STREAMING FILES, THE APPLICATION, OR SUBMITTING PERSONAL INFORMATION OVER ANY DATA CONNECTION, WI-FI CONNECTION, OR SIMILAR CELLULAR NETWORK CONNECTION, WHETHER PUBLIC OR PRIVATE, AND WHETHER DIRECTLY OR INDIRECTLY.

**11. LIMITATION OF LIABILITY.** IF THE APPLICATION OR ITS RESPECTIVE UPDATES AND FEATURES DO NOT PERFORM OR FUNCTION PROPERLY, OR IN THE EVENT THE COMPANY BREACHES THIS AGREEMENT, THE ENTIRE LIABILITY OF THE COMPANY, AND USER'S EXCLUSIVE REMEDY, WILL BE LIMITED TO THE REPLACEMENT OF THE DEFECTIVE APPLICATION OR THEIR RESPECTIVE UPDATES AND FEATURES. IN NO EVENT WILL THE COMPANY OR ITS LICENSORS BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING LOSS OF USE, DATA OR PROFITS) WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE COMPANY OR ITS LICENSORS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE COMPANY'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT OF LICENSE FEES PAID, IF ANY, IN THE THEN APPLICABLE TERM.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO USER, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO USER, AND USER MIGHT HAVE ADDITIONAL RIGHTS. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

COMPANY DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT USER'S USE OF THE APPLICATION WILL BE UNINTERRUPTED OR ERROR-FREE, AND USER AGREES THAT FROM TIME TO TIME COMPANY MAY REMOVE THE APPLICATION FOR INDEFINITE PERIODS OF TIME, CANCEL THE APPLICATION AT ANY TIME, OR OTHERWISE LIMIT OR DISABLE USER'S ACCESS TO THE APPLICATION WITHOUT NOTICE TO USER AND WITHOUT ANY LIABILITY THEREWITH.

AT ANY TIME, OR OTHERWISE LIMIT OR DISABLE USER'S ACCESS TO THE APPLICATION WITHOUT NOTICE TO USER AND WITHOUT ANY LIABILITY THEREWITH.

COMPANY HEREBY DISCLAIMS ANY AND ALL LIABILITY FOR, AND HAS NO RESPONSIBILITY REGARDING, THE MONITORING, REPORTING OR ENFORCEMENT OF ANY INTERACTIONS BETWEEN USERS ARISING OUT OF OR RELATED TO THE USE OF THE FORUM, COMPANY'S APPLICATION, OR ANY FEATURE THEREOF.

**12. INDEMNIFICATION.** USER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE COMPANY, TOGETHER WITH ITS OWNERS, MEMBERS, MANAGERS, OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES, CONTRACTORS, INSURERS, SUCCESSORS, ASSIGNS AND LICENSORS FROM ANY CLAIMS, CAUSES OF ACTION, DISPUTES, CONTROVERSIES, LOSSES, COSTS, DAMAGES, EXPENSES, OR LIABILITIES, INCLUDING ATTORNEYS' FEES, COURT COSTS, AND LITIGATION EXPENSES RELATED THERETO, ARISING OUT OF OR IN CONNECTION WITH THE USER'S USE, INSTALLATION, OR REMOVAL OF THE APPLICATION AND FEATURES, ANY BREACH OF USERS REPRESENTATIONS AND WARRANTIES IN THIS AGREEMENT, AND FOR USER ACTIONS OR OMISSIONS RESULTING IN INFRINGEMENT, NEGLIGENCE, TORTIOUS ACTION, VIOLATIONS OF LAW, VIOLATIONS OF THIS AGREEMENT, IMPROPER PURPOSES, OR HARM TO THIRD PARTIES.

**13. THIRD-PARTY ONLINE SERVICES.** The Application, potential Premium Content, and its respective updates and Features may rely upon or facilitate User's access to websites maintained by the Company, services facilitated by cellular phone marketplaces (e.g., Apple's App Store) or its affiliates or other third parties offering goods, content, information, Application and services (collectively, "Online Service(s)"). User's access or use of Online Services is governed by the applicable terms of use, end user license agreements, disclaimers, notices and privacy policies found on such sites or otherwise associated with such services, as they may be amended and updated from time to time. The Company does not control or endorse Online Services offered by third parties, and shall have no responsibility or liability therefor. Any dealings between the User and any third party in connection with a website or Online Services, including delivery of and payment for goods and services or Premium Content, and any other terms, conditions, warranties or representations associated with such dealings, are solely between User and such third party.

Notwithstanding the foregoing, and to the extent User purchased the Application on Apple's App Store, in the event of any failure of the Application to conform to any applicable warranty, unless disclaimed herein, the User may notify Apple, and Apple will refund the purchase price for the Application to the User, and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Application, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty.

The parties hereto acknowledge that the Company, and not Apple, is responsible for addressing any claims of the User or any third party relating to the Application or the User's possession and/or use of the Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation, subject to the terms and conditions of this Agreement.

**14. EXPORT RESTRICTIONS.** Use of the Application and its respective updates and Features is subject to United States export laws and regulations. User must comply with all domestic and international export laws and regulations that apply. All rights of User are forfeited, and all Licenses granted herein are automatically revoked and terminated if User violates the terms of this Agreement.

**15. NO GUARANTEE TO NEW VERSION.** User acknowledges and agrees that the Company is under no obligation to provide any maintenance releases, updates or new versions of the Application to User. The Company does not guarantee that the



16. **NO OBLIGATION TO NEW VERSION.** User acknowledges and agrees that the Company is under no obligation to provide any maintenance releases, updates or new versions of the Application to User. The Company does not guarantee that the Application will become a generally available final product. If another product is announced replacing the Application, the Company does not guarantee that product will be similar in functionality to the comparable Application version licensed under this Agreement. This Agreement creates no obligation on behalf of Company to license, create or sell any additional products related to the Application or any related Features.

**16. COMMERCIAL ITEM.** The Application 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 are hereby reserved under the copyright laws of the United States.

**17. MISCELLANEOUS.**

(a) **Entire Agreement.** This Agreement contains the final, full, comprehensive and fully integrated agreement relating to its subject matter between the parties hereto, and supersedes and replaces all prior or contemporaneous agreements relating to the subject matter herein. These terms and conditions are subject to change by the Company from time to time in its sole discretion, and shall be deemed accepted upon use of the Application and its respective updates and Features by User following electronic notice to User of such changes.

(b) **Notices; Support.** Any notice required by or in connection with this Agreement shall be in writing and shall be given to the appropriate party by personal delivery or by email, certified mail, postage prepaid, or recognized overnight delivery services to the contact information provided by User or the contact information provided by the Company at <http://www.ghosttrack.com>. If you have any questions about this Agreement, support, questions, or complaints, or if you want to contact the Company for any reason, please direct all correspondence to: [support@ghosttrack.com](mailto:support@ghosttrack.com). Each party agrees to keep current all contact information. User shall promptly update any and all contact information provided by User in the event of any change in the information initially provided to Company.

(c) **Severability.** If any term or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, it shall first be modified to the minimum extent necessary to be enforceable under applicable law, and if not possible, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

(d) **Governing Law; Venue; Attorneys' Fees.** The parties shall attempt to promptly resolve through good faith negotiation any and all disputes arising out of or in connection with this Agreement or its performance, including, but not limited to, any questions regarding the existence, validity or termination hereof. This Agreement shall be governed in all respects by the laws of the state of Washington and the United States of America as such laws are applied to agreements entered into and to be performed entirely within the state of Washington without reference or regard to its conflicts of laws provisions. This Agreement is prepared and executed in the English language only and any translations of this Agreement to any other language shall have no effect. All proceedings related to the terms of this Agreement will be conducted in the English language. In the event of any litigation or arbitration between the parties hereto arising out of this Agreement, the prevailing party shall be allowed all reasonable attorneys' fees, court costs, arbitration fees and expenses incurred in such litigation or arbitration, including all such expenses incurred on appeal. All disputes arising under this Agreement or any arbitration thereof shall be brought in the Superior Court of King County, Washington or the U.S. District Court for the Western District of Washington,

including all such expenses incurred on appeal. All disputes arising under this Agreement or any arbitration thereof shall be brought in the Superior Court of King County, Washington or the U.S. District Court for the Western District of Washington, and the parties consent to the exclusive jurisdiction of these courts.

(e) **Binding Effect; Assignment.** The provisions of this Agreement shall be binding upon and inure to the benefit of their respective heirs, Immediate Family Members, personal representatives, trustees, successors and assigns of the parties hereto. User may not transfer or assign any rights under this Agreement without the prior express written approval of the Company. The Company may transfer or assign this Agreement, including its rights and obligations hereunder, in whole or in part, by operation of law, or in the event of a merger, acquisition, conversion or any similar transaction.

(f) **Waiver.** Failure or delay by either party to exercise or enforce any right conferred by these terms shall not be deemed to be a waiver of any such right. Further, a waiver, express or implied, by either party of any default by the other in the observance and performance of any of the conditions, covenants or duties set forth in this Agreement shall not constitute or be construed as a waiver of any subsequent or other default.

(g) **Apple EULA.** This Agreement shall not override the Apple EULA (which a User must agree to prior to use of the Application in Apple's iOS marketplace and which can be found at <http://www.apple.com/legal/internet-services/itunes/appstore/dev/stdeula/>, as amended from time to time). Users are hereby bound by this Agreement as well as the Apple EULA, provided that in the event of a conflict between the Apple EULA and this Agreement, this Agreement shall prevail and control. To the extent that this Agreement does not address items discussed in Apple's EULA, the Apple EULA shall control. The parties to this Agreement acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement. Upon the User's acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce the Agreement against the User as a third party beneficiary thereof.

(h) **Relationship of Parties.** The relationship of the parties shall be that of independent licensor and licensee of Application on an independent contractor basis, and nothing herein shall create any form of partnership, joint venture or other form of association.

(i) **Survival.** Upon termination of this Agreement for any reason, the provisions of Sections 1, 5, and 8 -17 shall survive indefinitely.

**BY ACCESSING OR USING THE APPLICATION AND/OR FEATURES, USER ACKNOWLEDGES THAT USER HAS READ, UNDERSTANDS, AND AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT.**