

Vx Development LLC  
END USER LICENSE AGREEMENT

This Vx Development LLC Terms of Use and End User EULA Agreement (“EULA”) is a binding contract between you and Vx Development LLC. (“Vx Development,” “we,” or “us”) governing your use of the Vx Development website found at [vxdevelopment.com](http://vxdevelopment.com). and the software application “COMPASS”, and any other products made available by us (in each case, including subdomains) (the “Website”), any application programming interfaces made available by us (“APIs”), any mobile application referencing this EULA (each, an “App”), along with any related websites, networks, or other services provided by us (Websites, APIs, and Apps are, collectively, the “Service”). BY INSTALLING ANY OF THE APPS OR APIs OR OTHERWISE ACCESSING OR USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THIS EULA, INCLUDING THE WARRANTY DISCLAIMERS, INDEMNITY, AND LIMITATION OF LIABILITY PROVISIONS BELOW. IF YOU ARE USING THE SERVICE ON BEHALF OF A COMPANY, ENTITY, OR ORGANIZATION, THEN YOU REPRESENT AND WARRANT THAT YOU: (A) ARE AN AUTHORIZED REPRESENTATIVE OF THAT ENTITY WITH THE AUTHORITY TO BIND THAT ENTITY TO THIS EULA; AND (B) AGREE TO BE BOUND BY THIS EULA ON BEHALF OF THAT ENTITY. IF YOU DO NOT AGREE, THEN YOU MAY NOT USE THE SERVICE. IF YOU DO NOT UNDERSTAND OR AGREE TO THESE TERMS, DO NOT INSTALL ANY OF THE APPS OR APIs OR OTHERWISE ACCESS OR USE ANY OF THE WEBSITES OR SERVICE.

1. **Summary of Material Terms.** As provided in greater detail in this EULA (and without limiting the express language of this EULA), you acknowledge the following:

- a. the APIs and each App that you acquire rights to is licensed, not sold to you, and that you may use the APIs and Apps only as set forth in this EULA;
- c. you consent to the collection, use, and disclosure of your personally identifiable information in accordance with the Privacy Policy, which is hereby incorporated herein by reference;
- d. the Service is provided “as is” without warranties of any kind, and Vx Development’s liability to you is limited.

**Eligibility.** You must be at least 18 years of age to use the Service. By agreeing to this EULA, you represent and warrant to us that you are at least 18 years of age, competent, and legally entitled to enter into this EULA, and you have not previously been suspended or removed from the Service. Vx Development may terminate, or deny

access to and use of, the Service, or any portion thereof, to any individual or entity for any reason, in Vx Development's sole discretion. Vx Development also reserves the right to bring legal action against any individual or entity for any loss or damage that it may suffer as a result of violation of the terms of this EULA.

## **Permitted Uses and Restrictions**

2. **License Grant to You.** The Service is licensed, not sold, to you by Vx Development LLC for use only under the terms of this EULA, and Vx Development reserves all rights not expressly granted to you. The rights granted herein are limited to Vx Development's and its intellectual property rights in the Service and do not include any other intellectual property rights. Subject to your complete and ongoing compliance with the terms and conditions of this EULA, Vx Development hereby grants you a limited, revocable, non-transferable, non-exclusive, and non-sublicensable license to: (i) install and use the App on compatible, authorized devices that you own or control, subject to any specified device limits applicable to the App (as further described in Section 4.b or any limits specified when you acquire the App from us); (ii) access and use the APIs, and send and receive calls from the APIs, in the manner described by any accompanying documentation; and (iii) access and use the Website; in each case solely for your own use or for the entity on whose behalf you are authorized to act. Title and intellectual property rights in and to any content displayed by or accessed through the Service belongs to Vx Development. That content may be protected by copyright or other intellectual property laws and treaties, and may be subject to terms of use of the third party providing that content. This EULA does not grant you any rights to use that content, and you may not copy, distribute, transmit, publish, sell, transfer, create derivative works of, or otherwise exploit any such content.

## **3. Vx Development Functionality Subscription Terms; Device Limitations**

i. **Individual Subscriptions.** If you acquire a subscription to use a portion of the Service related to the Vx Development Functionality pursuant to an individual subscription plan (an "**Individual Subscription**"), except as may otherwise be expressly stated in the purchase terms applicable to your purchase of that Individual Subscription, that Individual Subscription provides you the right to use the applicable portion of the Service for one year from the date of purchase on one iPad, that you own or control. An Individual Subscription allows the user to only use a single device. If you have an Individual Subscription and share your username and password with a friend or other person, your account may be locked out.

ii. **Portal Subscriptions.** If you acquire portal subscription as a functionality from Vx Development a subscription plan is required. a "**Portal Subscription**"), except as may otherwise be expressly stated in the purchase terms applicable to your purchase of that Business Subscription, that Business Subscription provides you the right to use the applicable portion of the Service for one year from the date of purchase (unless a longer subscription period is expressly agreed to by you and Vx Development). The applicable

user of the access rights granted under the Business Subscription is permitted to use the portal portion of the Service via web service.

iii. **Limitations.** You may not modify, alter, reproduce, or distribute any portion of the Service. You may not directly rent, lease, lend, sell, redistribute, or sublicense the Service. You may not copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of any portion of the Service, any updates, or any part thereof (except to the extent any foregoing restriction is prohibited by applicable law or the terms of any Third Party Service (as defined below)), nor attempt to disable or circumvent any security or other technological measure designed to protect the Service or any content available through the Service. You may not share your password or any other login credentials with any other person or publicly disclose it. If you breach these license restrictions, or otherwise exceed the scope of the licenses granted in this EULA, then you may be subject to prosecution and damages, as well as liability for infringement of intellectual property rights, and denial of access to the Service.

iv. **Applicability to Updates.** This EULA will govern any updates provided to you by Vx Development that replace or supplement the App, unless the upgrade is accompanied by a separate license or revised EULA, in which case the terms of that license or revised EULA will govern.

3. **Fees; Payment Terms.** The COMPASS Application is available to current validated flight instructors at no charge, although certain premium content or features relating to the COMPASS Application and Vx Development's Internet Web Portal infrastructure is available for a fee to flight departments, flight schools, financial institutions and students. Access to the Vx Development's functional service, certain premium features of the Compass Application, or other aspects of the Service, may require you to pay fees. Before you pay any fees, you will have an opportunity to review and accept the fees that you will be charged. All fees are in U.S. dollars, are non-refundable, and shall be paid by you immediately when due. Fee information displayed through the Service is subject to change, and Vx Development may increase or decrease fees as it deems necessary. If Vx Development changes the fees for the Service, including by adding additional fees or charges, Vx Development will provide you advance notice of those changes. If you do not accept the changes, Vx Development may discontinue providing the Service to you. Vx Development will charge the payment method you specify at the time of purchase. As a user of the Service, you agree that you shall, as a condition to using the Service, provide a valid credit card or other authorized payment method to use the Service. You authorize Vx Development to charge all sums as described in this EULA, for the Service you select, to that payment method. If you pay any fees with a credit card, Vx Development may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase. The Service may include functionality for activating, updating, or canceling recurring payments for periodic charges. If you activate or update recurring payments through the Service, you authorize Vx Development to periodically charge, on a going-forward basis and until cancellation of

either the recurring payments or your account, all accrued sums on or before the payment due date for the accrued sums. If you use the Service to update or cancel any existing authorized one-time or recurring payment, it may take up to 7 business days for the update or cancellation to take effect. Your selection to confirm any online payment via the Service is your electronic signature and you agree that (i) this signature is the legal equivalent of your wet or manual signature and (ii) this transaction is equivalent to an in-person transaction where your payment method is physically present. Except as expressly stated in this EULA, Vx Development has no obligation to provide refunds or credits, but may grant them, in each case in Vx Development's sole discretion.

4. **Accounts and Registration.** To access most features of the Service, you may need to register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your email address or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. You may not allow any other person or entity to access or use your account.

5. **Transfer.** You may not rent, lease, lend, or sublicense the Service. All components of the App are provided as part of a bundle and may not be separated from the bundle and distributed as standalone applications. If an App update completely replaces (full install) a previously licensed version of the App, you may not use both versions of the App at the same time nor may you transfer them separately.

6. **Consent to Use of Data.** You agree that Vx Development may collect and use technical and related information, including but not limited to technical information about your iOS device (including device UUID), computer, your physical location, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support, and other services to you (if any) related to the App. Vx Development may use User Content in an aggregated manner or for analytics purposes, but not in a manner that specifically identifies you. Vx Development may use this information, as long as it is in a form that does not personally identify you, for analytics purposes (including aggregated and anonymized analytics), to improve our products and the Service, or to provide services or technologies to you.

#### 7. **User Contributions**

a. **User Content Generally.** Certain features of the Service may permit users to upload content to the Service, such as flight instruction log book entries, flight time, instructor comments, endorsements, aircraft information, and other content ("**User Content**") and to publish User Content on the Service. Subject to the limited license below, you retain copyright and any other proprietary rights that you may hold in the User Content that you post to the Service.

b. **Limited License Grant to Vx Development.** By posting or publishing User Content, you hereby grant Vx Development the right to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, host, store, transfer, perform, and display your User Content, in whole or in part, in any and all media or distribution methods (now known or later developed.) in connection with the Service. You also grant Vx Development and sub-licensees the right to use the first part of your account email address (excluding the domain) to identify you in connection with your User Content.

c. **User Content Representations and Warranties.** You are solely responsible for your User Content and the consequences of posting or publishing User Content. By posting or publishing User Content, you affirm, represent, and warrant that you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize Vx Development and users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this section, in the manner contemplated by Vx Development, the Service, and this EULA. You represent and warrant that any User Content you submit to Vx Development does not infringe or violate any copyright, trademark or other intellectual property rights of any third party, including any rights of privacy or publicity. You shall be solely responsible for keeping a duplicate copy of all User Content, and you acknowledge that Vx Development accepts no responsibility or liability for the loss of your User Content.

8. **Prohibited Conduct.** By using the Service, you agree not to:

- a. use the Service for any illegal purpose or in violation of any local, state, national, or international law or in a manner that causes Vx Development to violate any law or regulation;
- b. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right;
- c. post, upload, or distribute any User Content or other content that is unlawful, defamatory, libelous, misleading, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate;
- d. interfere with security-related features of the Service, including by disabling or circumventing features that prevent or limit use or copying of any content;
- e. interfere with the operation of the Service or any user's enjoyment of the Service, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another user of the Service; (iii) attempting to collect personal information about another user or third party without consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service, or violating any regulation, policy, or procedure of any network, equipment, or server;
- f. perform any fraudulent activity including impersonating any person or entity, using a false e-mail address, claiming a false affiliation, accessing any other account on the Service without permission, misleading as to the origin of User Content, or falsifying your age or date of birth;

- g. sell or otherwise transfer the access granted under this EULA or any Materials (as defined below) or any right or ability to view, access, or use any Material; or
- h. attempt to do any of the acts described in this Section 6, or assist or permit any person in engaging in any of the acts described in this Section 6.

**9. Responsibility of Users.** We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. Vx Development may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates this EULA, any Vx Development policy, or is otherwise harmful or objectionable. By operating the Service, Vx Development does not represent or imply that it endorses the material on the Service, or that it believes that material to be accurate, useful, or non-harmful. You are responsible for taking precautions as necessary to protect yourself and your computer systems from viruses, worms, Trojan horses, and other harmful or destructive content. The User Content could contain content that violate the terms of this EULA. For example, the User Content could contain content that is offensive, indecent, or otherwise objectionable, as well as content containing technical inaccuracies, typographical mistakes, and other errors. User Content could also contain material that violates the privacy or publicity rights, or infringes the intellectual property and other proprietary rights, of third parties, or the downloading, copying or use of which is subject to additional terms and conditions, stated or unstated. Vx Development disclaims any responsibility for and any liability in connection with any harm resulting from the use of User Content, or from any downloading by users of User Content. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against Vx Development with respect to User Content.

**10. Ownership; Proprietary Rights.**

a. **Vx Development Materials.** The Service is owned and operated by Vx Development. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service (“**Materials**”) provided by Vx Development are protected by intellectual property and other laws. All Materials included in the Service are the property of Vx Development or our third party licensors. This includes the mark “Vx Development” and corresponding logo, each of which are trademarks of Vx Development. Except as expressly authorized by Vx Development, you may not make use of the Materials. Vx Development reserves all rights to the Materials not granted expressly in this EULA.

b. **Customer Name and Logos.** Vx Development may include your company, entity or organization’s name, logo and/or a summary description of your and your company, entity or organization’s use of the Service in Vx Development’s marketing materials, including on its website and in press releases and sales presentations.

**11. Data Sync Services.** Certain features of the Service may allow automatic syncing of data between your authorized devices. To accomplish data syncing, information is sent from your device to a hosted data service. Use of that feature requires compatible

devices and Internet access, may require periodic updates, and may be affected by the performance of these factors. Vx Development reserves the right to limit the number of accounts that may be created from a device and the number of devices associated with an account. High-speed Internet access is strongly recommended for use. You agree that meeting these requirements, which may change from time to time, is your responsibility.

**12. Use of Location-based Data.** The Service may include certain features or services that rely upon device-based location information, which use GPS and other location identification systems. To provide those features or services, where available, Vx Development may collect, use, transmit, process, and maintain your location data, including, but not limited to, the geographic location of your device and information related to your account and any devices registered thereunder, as further described in the Privacy Policy. You hereby agree and consent to Vx Development's collection, use, transmission, processing, and maintenance of that location and account data to provide and improve those features or services.

**13. Digital Millennium Copyright Act**

**a. DMCA Notification.** We comply with the provisions of the Digital Millennium Copyright Act applicable to Internet service providers (17 U.S.C. §512, as amended). If you have an intellectual property rights-related complaint about material posted on the Service, you may contact our Designated Agent at the following address:

Vx Development LLC

ATTN: Support

4451 Airport Road

Springfield, Tennessee

Email: [info@vxdevelopment.com](mailto:info@vxdevelopment.com)

Any notice alleging that materials hosted by or distributed through the Service infringe intellectual property rights must include the following information:

- i. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- ii. a description of the copyright-protected work or other intellectual property right that you claim has been infringed;
- iii. a description of the material that you claim is infringing and where it is located on the Service;
- iv. your address, telephone number, and email address;
- v. a statement by you that you have a good faith belief that the use of those materials on the Service is not authorized by the copyright owner, its agent, or the law; and
- vi. a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

**b. Repeat Infringers.** Vx Development will promptly terminate without notice the accounts of users that are determined by Vx Development to be Repeat Infringers. A "Repeat Infringer" is a user who has been notified of infringing activity or has had User Content removed from the Service at least twice.

14. **Pricing and Product Availability.** To the extent that products or prices, e.g. software application and web access prices, offered by Vx Development may be displayed within the Service, that content is by its nature subject to change without notice.

15. **Termination; Discontinuation and Modification of the Service.** This EULA is effective until terminated. Your rights under this EULA will terminate automatically without notice from Vx Development if you fail to comply with any term(s) of this EULA. In addition, Vx Development may in its sole discretion terminate your user account on the Service or suspend or terminate your access to the Service at any time for any reason or no reason, with or without notice. You may terminate your account at any time by contacting customer service at the applicable contact information in Section 35. If you terminate your account, you remain obligated to pay all outstanding fees, if any, incurred prior to termination relating to your use of the Service. Upon the termination of this EULA, you will cease all use of the Service and destroy all copies, full or partial, of the App. We also reserve the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. We will have no liability whatsoever on account of any change to the Service or any suspension or termination of your access to or use of the Service.

16. **Privacy Policy.** Your use of the Service is subject to the [Privacy Policy](#), which is hereby incorporated by reference into this EULA. By using the Service, you agree that you have read, understood, and agree to the data collection, use, and disclosure provisions set forth in the Privacy Policy.

17. **Feedback.** If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service (“**Feedback**”), then you hereby grant Vx Development an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Service and create other products and services.

18. **Indemnification.** You are responsible for your use of the Service and you will indemnify, defend and hold harmless Vx Development, its licensors (including suppliers of data), and its and their officers, directors, employees, consultants, affiliates, subsidiaries, suppliers, and agents (together, the “**Vx Development Entities**”) from and against all claims and liabilities (including claims by third parties) and costs, losses, and expenses (including attorneys’ fees) incident thereto or incident to successfully establishing the right to indemnification, for injury to or death of any person or persons, including your employees, if any, including any aircraft, arising out of or in any way relating to: (a) your violation of any portion of this EULA, any representation, warranty, or agreement referenced in this EULA, or any applicable law or regulation; (b) your access to, utilization of, or alleged use of the Service; (c) other property, or privacy right; or (d) any dispute or issue between you and any third party. These obligations apply whether or not arising in tort or occasioned by the negligence of Vx Development,

except to the extent of any obligation, liability, claim, or remedy in tort due to the recklessness or willful misconduct of Vx Development. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.

**19. Disclaimers; No Warranty; Other Limitations.** THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS, WITH ALL FAULTS AND WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. THE Vx Development ENTITIES DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. THE Vx Development ENTITIES DO NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED. YOUR SOLE REMEDY IN THE EVENT OF ANY DEFICIENCY, ERROR, OR INACCURACY IN THE SERVICE SHALL BE TO REQUEST THAT Vx Development CORRECT THE MATTER OR, IF Vx Development FAILS TO DO SO, TO DISCONTINUE YOUR USE OF THE SERVICE.

Vx Development USES AVAILABLE THIRD PARTY DATA TO CREATE GRAPHICAL FILES (INCLUDING TFRs - TEMPORARY FLIGHT RESTRICTIONS), BUT Vx Development DOES NOT GUARANTEE THAT THE ORIGINAL SOURCES (INCLUDING THE FAA) HAVE PROVIDED DATA THAT IS ACCURATE, COMPLETE, TIMELY, OR PROPERLY FORMATTED FOR DISPLAY. USERS SHOULD ALWAYS CONTACT OFFICIAL SOURCES FOR THE MOST ACCURATE AND TIMELY UPDATES.

THE SERVICE IS NOT INTENDED FOR USE IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL SYSTEMS, LIFE SUPPORT MACHINES OR OTHER EQUIPMENT IN WHICH THE FAILURE OF THE SERVICE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. YOUR USE OF THIS REAL TIME ROUTE GUIDANCE APPLICATION IS AT YOUR SOLE RISK. LOCATION DATA MAY NOT BE ACCURATE.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE Vx Development ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THIS EULA. YOU ASSUME ALL RISK FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICE, YOUR DEALING WITH ANY OTHER SERVICE USER, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE. YOU UNDERSTAND AND AGREE THAT

YOU USE THE SERVICE, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE SERVICE AND ANY ASSOCIATED SITES OR SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE), OR THE LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICE OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT. SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

**20. Limitation of Liability.** THE AGGREGATE LIABILITY OF THE Vx Development ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THIS EULA, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO Vx Development FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT(S) OR CIRCUMSTANCES GIVING RISE TO CLAIM; OR (B) \$100.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE Vx Development ENTITIES SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY LOSS OF PROFITS OR REVENUES, WHETHER INCURRED DIRECTLY OR INDIRECTLY, OR ANY LOSS OF DATA, USE, GOODWILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (A) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICE; OR (B) ANY CONTENT OBTAINED FROM THE SERVICE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. ACCORDINGLY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

EACH PROVISION OF THIS EULA THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THIS EULA. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS EULA. THE LIMITATIONS IN THIS SECTION 24 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**21. Third Party Disputes.** Vx Development IS NOT AFFILIATED WITH ANY CARRIER, SERVICE PROVIDER, OR THIRD PARTY SERVICE, AND ANY DISPUTE YOU HAVE WITH ANY CARRIER, SERVICE PROVIDER, THIRD PARTY SERVICE OR OTHER THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY OTHER USER OF THE SERVICE, IS DIRECTLY BETWEEN YOU AND THAT THIRD PARTY, AND YOU IRREVOCABLY RELEASE Vx Development (AND OUR OFFICERS, DIRECTORS, AGENTS, SUBSIDIARIES, JOINT VENTURES AND EMPLOYEES) FROM ANY AND ALL CLAIMS, DEMANDS AND DAMAGES (ACTUAL AND

CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THOSE DISPUTES.

22. **Export Control.** You may not use or otherwise export or re-export the Service except as authorized by United States law and the laws of the jurisdiction in which the Service is accessed or obtained. In particular, but without limitation, the App 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 Persons List or Entity List. By using the Service, you represent and warrant that you are not located in any of those countries or on any of those lists. 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, and nuclear, chemical, or biological weapons.

23. **Government End Users.** The App 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 those 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.

24. **Controlling Law.** This EULA is governed by and construed in accordance with the laws of the State of Texas, without regard to conflict of law principles that would result in the application of the laws of another jurisdiction. This EULA is not governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If a lawsuit or court proceeding is permitted under this EULA, then you and Vx Development agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Harris County, Texas for the purpose of litigating any dispute. YOU AND Vx Development HEREBY WAIVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY PROCEEDING IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH OR ARISING OUT OF THIS EULA AND ANY PROCEEDING IN ANY COURT WITH RESPECT TO THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT OF THIS EULA, WHETHER PURPORTING TO BE AT LAW OR IN EQUITY, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. We operate the Service from our offices in Texas, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.

25. **CLASS ACTION WAIVER.** WHERE PERMITTED BY APPLICABLE LAW, YOU AND Vx Development AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION.

Unless both you and Vx Development agree, no arbitrator or judge may consolidate more than one person's claims or otherwise preside over any form of a representative or class proceeding.

**26. Consent to Electronic Communications.** By using the Service, you consent to receiving certain electronic communications from us as further described in this EULA or our [Privacy Policy](#). Please read our [Privacy Policy](#) to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing. You agree that Vx Development may send periodic email newsletters to email addresses used to subscribe to the Service or otherwise register with Vx Development in connection with the Service. To be excluded from these mailings, send an email to the applicable email address in Section 35 indicating the email address you want removed. If you are a European citizen and the General Data Protection Regulation ("GDPR") applies to you, you can find details about your rights under the GDPR in our [Privacy Policy](#).

**27. Modification of this EULA.** We reserve the right, at our discretion, to change this EULA on a going-forward basis at any time. Please check this EULA periodically for changes. If a change to this EULA materially modifies your rights or obligations, you will be required to accept the modified EULA in order to continue to use the Service. Material modifications are effective upon your acceptance of the modified EULA. Immaterial modifications are effective upon publication. Disputes arising under this EULA will be resolved in accordance with the version of this EULA that was in effect at the time the dispute arose.

**28. General.** This EULA, together with the Privacy Policy and any other agreements expressly incorporated by reference into this EULA, are the entire and exclusive agreement between you and Vx Development with respect to the use of the Service and all prior or contemporaneous understandings regarding that subject matter. Except as expressly permitted above, this EULA may be amended only by a written agreement signed by authorized representatives of you and Vx Development. Any translation of this EULA 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 EULA will govern. You may not assign or transfer this EULA or your rights under this EULA, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign this EULA at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of this EULA, or any provision of this EULA, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in this EULA is for convenience only and will not have any impact on the interpretation of any provision. NOTHING IN THIS EULA WILL AFFECT ANY NON-WAIVABLE STATUTORY RIGHTS THAT APPLY TO YOU. If any part of this EULA is held to be invalid or unenforceable, the validity, legality, and enforceability of the remaining provisions will remain in full force and effect. Upon termination of this EULA,

Sections 1 through 30, along with the Privacy Policy and any other accompanying agreements, will survive.

29. **Notice Regarding Apple.** If you are using our mobile applications on an iOS device, the terms of this Section 29 apply. You acknowledge that this EULA is between you and Vx Development only, not with Apple, and Apple is not responsible for the Service or its content. Apple has no obligation to furnish any maintenance or support services with respect to the Service. If the Service fails to conform to any applicable warranty, you may notify Apple, and Apple will refund any applicable purchase price for the mobile application to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Service. Apple is not responsible for addressing any claim by you or any third party relating to the Service or your possession or use of the Service, including: (a) product liability claims; (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, or discharge of any third party claim that the Service or your possession and use of the mobile application infringe that third party's intellectual property rights. You agree to comply with any applicable third party terms when using the Service. You hereby represent and warrant that: (i) you are 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) you are not listed on any U.S. Government list of prohibited or restricted parties.

30. **Third Party Acknowledgements.** Portions of the App may utilize or include third party software and other copyrighted material ("**Third Party Software**") provided under separate license terms (the "**Third Party Terms**"). Your use of the Third Party Software in conjunction with the App in a manner consistent with the terms of this EULA is permitted, however, you may have broader rights under the applicable Third Party Terms and nothing in this EULA is intended to impose further restrictions on your use of the Third Party Software. Acknowledgements, licensing terms and disclaimers for that material are contained in the online electronic documentation for the Service, and your use of that material is governed by their respective terms.