

# Terms of Use

**IMPORTANT – READ CAREFULLY:** The following terms constitute the end user license agreement (“EULA”) that is a legally binding agreement between you (“You” or “Your”) and Rizza Marco (VAT number) p.IVA 01807090335, Via Bolledi 6, Carpaneto Piacentino (PC), 29013 (Italy) (“Application Provider,” “us,” or “our”). This EULA governs the use of:

- the website(s) where this EULA is posted (“Site”);
- the Services (as defined below);
- the mobile applications where this EULA is posted (the “Licensed Application(s”).

**By downloading or using the Licensed Application, visiting or accessing the Site, or using the Services in any manner, You agree to this EULA and all terms contained herein, and you agree to comply with and be bound by ANY APPLICABLE THIRD PARTY LICENSES OR TERMS WHEN USING THE LICENSED APPLICATION. This EULA contains PROVISIONS THAT GOVERN THE RESOLUTION OF CLAIMS YOU MAY HAVE; DISCLAIMERS OF CERTAIN WARRANTIES; AUTOMATICALLY RENEWING SUBSCRIPTIONS; AND CERTAIN LIMITATIONS ON OUR LIABILITY. If You do NOT agree to ALL TERMS AND CONDITIONS OF this EULA, do not access the Site, stop using the Services and the Licensed Application, and immediately delete the Licensed Application from your device.**

Questions, complaints or claims with respect to this EULA should be sent to [spods.app@gmail.com](mailto:spods.app@gmail.com).

All personal data shall be processed by the Application Provider in accordance with the Licensed Application’s Privacy Policy.

You and Application Provider acknowledge and accept that (i) the provisions of this EULA shall not be deemed to set an agreement between You and Apple Inc. or its subsidiaries (collectively, “Apple”) in any manner whatsoever, (ii) Application Provider is solely responsible for the Licensed Application and the content thereof, (iii) Apple and its subsidiaries are third party beneficiaries of this EULA, therefore Apple and its subsidiaries shall have the right and are deemed to have accepted the right to enforce this EULA against You as a third party beneficiary thereof.

The Application Provider may update the Site, the Licensed Applications and/or the Services and/or this EULA from time to time. In such a case, the Application Provider will take appropriate measures to inform You, in accordance with the significance of the changes performed. By continuing to access or use the Site and/or the Licensed Applications and/or Services after updates become effective, You agree to be bound by the updated EULA.

To the extent applicable, and to the extent it is not already specified, the following provisions referred to the Licensed Applications and the Services shall also apply to the Site.

## 1. Scope of License

According to this EULA, the Application Provider grants You a non-transferable license to use for personal and non-commercial use the Licensed Applications and/or the Services on any Apple-branded device that You own or control and in accordance with all applicable laws and Apple’s guidelines on the use of the apps rendered available on its App Store, including the [Apple Media Services Terms and Conditions](#) (“Apple’s Usage Rules”), except that the Licensed Application may be accessed and used by other accounts associated with Your account via Apple Family Sharing or volume purchasing. This license does not allow You to use the Licensed Applications on any device that You do not own or control.

Please consider that the Licensed Applications and/or the Services are licensed, not sold, to You for use only under the terms of this EULA, unless the same are accompanied by a different license agreement, in which case the terms of that different license agreement will govern the relationship between You and the Application Provider, subject to Your prior acceptance of that separate

license agreement. You do not acquire any ownership rights or licenses by using the Site and/or the Licensed Applications and/or the Services.

The Application Provider reserves all rights not expressly granted to You hereinafter or within the different license agreement.

You may not:

- distribute or make the Licensed Applications and/or the Services available over a network where it could be used by multiple devices at the same time, except that such Licensed Application may be accessed and used by other accounts associated with You via Apple Family Sharing;
- rent, lease, lend, sell, redistribute or sublicense the Licensed Applications and/or the Services or use them for any commercial purpose;
- copy (except as expressly permitted by this license and Apple's Usage Rules), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Licensed Applications and/or the Services, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open sourced components included with the Licensed Applications and/or Services). Any attempt to do so is a violation of the rights of the Application Provider and its licensors, if any.

If You breach this restriction, You may be subject to prosecution and damages. The terms of the license will govern any upgrades provided by the Application Provider that replace and/or supplement the Licensed Applications, unless such upgrade is accompanied by a separate license, in which case the terms of that license shall prevail over this EULA.

You acknowledge and accept to comply with applicable third party terms of agreement related to the use of the Licensed Applications and/or Services.

## **2. Eligibility**

The Licensed Application, the Services, and the Site are intended for users over the age of 18. You may access and use the Licensed Applications, the Services and the Site only if you are 18 years of age or older.

## **3. Term and Termination; Auto Renewal**

APPLICATION PROVIDER MAY SUSPEND OR TERMINATE YOUR ACCESS TO THE LICENSED APPLICATION, THE SITE OR THE SERVICES IN OUR SOLE DISCRETION, WITH OR WITHOUT NOTICE IF WE SUSPECT THAT YOU ARE IN VIOLATION OF, OR REASONABLY LIKELY TO BE IN VIOLATION OF, ANY PROVISIONS OF THIS EULA OR ANY ADDITIONAL INSTRUCTIONS, GUIDELINES OR POLICIES INCORPORATED HEREIN BY REFERENCE.

This EULA shall be effective starting from the date that You accept the same expressly or by installing or otherwise using the Licensed Applications, the Services, and/or the Site, and shall terminate on the date of Your disposal of the Licensed Applications, except for earlier termination, executed in accordance with this EULA. Upon installation or expiration of a free trial offer (if applicable), You will be charged the applicable subscription fees (if any) for Your use of the Licensed Application. Upon expiration of the initial term of Your subscription, whether such subscription is weekly, monthly, quarterly, yearly, or otherwise, Your subscription will automatically renew for recurring subscription periods of the same duration unless and until you affirmatively cancel Your subscription. Cancel any time through (i) Your account within the Licensed Application; or (ii) if you purchased a subscription through the Apple app Store, you may cancel your subscription by selecting Subscriptions in your APPLE APP STORE Account settings and selecting the subscription you want to modify, or according to the current process outlined by apple APP store. It is understood that the validity of this EULA and the validity of any purchase associated with the Licensed Applications or the Site shall be considered independently from each other, meaning that (i) the termination of such associated purchase shall not affect the validity of this EULA and (ii) the termination of this EULA shall not affect the validity of such associated purchase.

Your rights under this license will terminate automatically if You attempt to circumvent any technical protection measures used in connection with the Licensed Applications, the Site and/or Services. Also, this license will be terminated by the Application Provider should You fail to remediate Your breach(es) of the terms of this EULA within 15 days from the receipt of a proper notice by the Application Provider. Upon termination of the license, You shall cease all use of the Licensed Applications and destroy all copies, full or partial, of the Licensed Applications.

## 4. Services and Third Party Materials

The Licensed Applications and the Site may enable access to the Application Provider's and third parties' services and web sites (collectively and individually, "Services"). Use of the Licensed Applications, the Site, and/or the Services may require Internet access and/or third parties' Services. In any case, the cost related to Internet access and third parties' Services - as well as any liability related to the above - shall be borne exclusively by You.

The Licensed Applications may also enable access to certain virtual goods to be used within the Licensed Applications and/or the Services. The purchase of these virtual goods shall be final and non-refundable and you acknowledge that, except if it is expressly allowed, the transfer of the same is prohibited. You acknowledge that (i) the Application Provider may modify or eliminate virtual goods at any time, without notice, and (ii) in case of termination of this EULA, you will have no right on the virtual goods for any reason whatsoever.

You understand that by using any of the Services, You may encounter content that may be deemed offensive, indecent, or objectionable, which content may or may not be identified as having explicit language, and that the results of any search or entering of a particular URL may automatically and unintentionally generate links or references to objectionable material. Nevertheless, You agree to use the Services at Your sole risk and You acknowledge that the Application Provider shall not have any liability to You for content that may be found to be offensive, indecent, or objectionable.

Certain Services may display, include or make available content, data, information, applications or materials from third parties ("Third Party Materials") or provide links to certain third parties' web sites. By using the Services, You acknowledge and agree that the Application Provider is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of such Third Party Materials or web sites. The Application Provider does not warrant or endorse and does not assume and will not have any liability or responsibility to You or any other person for any third-party Services, Third Party Materials or web sites, or for any other materials, products, or services of third parties. Third Party Materials and links to other web sites are provided solely as a convenience to You.

Health information displayed by any Licensed Applications and Services is for general informational purposes only. No medical advice is provided by any Licensed Applications and Services, and the information should not be so construed or used. Using and/or accessing the Services and/or providing personal or medical information to the Application Provider or third-party Services providers does not create a physician-patient relationship between you and the Application Provider or third-party Services providers. Nothing contained in the Licensed Applications is intended to create a physician-patient relationship, to replace the services of a licensed, trained physician or health professional or to be a substitute for medical advice of a physician or trained health professional licensed in your state or country. **You should not rely on anything contained in the Licensed Applications, and you should consult a physician licensed in your state or country in all matters relating to your health.** By using the Services, you agree, represent and warrant that your physician has notified you that you are able to participate in wellness and fitness programs, workouts, exercises or any of the related activities made available to you in connection with the Licensed Application and Services. Activities promoted by the Licensed Application and Services may pose risks even to those who are currently in good health. You hereby agree that You shall not make any health or medical related decision based in whole or in part on anything contained in the Licensed Applications or the Services. The Licensed Applications, unless otherwise indicated in relation to a License Application, (i) have not been tested with individuals with health conditions; (ii) do not provide clinical advice; (iii) shall not be intended to be a medical device or treatment and, therefore, (iv)

have not been cleared or approved by any governmental body or any ministry of health of/under any jurisdiction.

Neither the Application Provider, nor any of its content providers, guarantees the availability, accuracy, completeness, reliability, or timeliness of location data displayed by any Licensed Applications and Services.

In addition, third party Services and Third Party Materials that may be accessed from, displayed on or linked to from Your device may not be available in all languages or in all countries. The Application Provider makes no representation that such Services and materials are appropriate or available for use in any particular location. To the extent You choose to access such Services or materials, You do so at Your own initiative and are responsible for compliance with any applicable laws, including but not limited to applicable local laws. The Application Provider, and its licensors, reserve the right to change, suspend, remove, or disable access to any Services at any time without notice. In no event will the Application Provider be liable for the removal of or disabling of access to any such Services. The Application Provider may also impose limits on the use of or access to certain Services, in any case and without notice or liability.

## **5. Intellectual Property Rights**

To the maximum extent permitted by applicable law, the Application Provider and/or its licensor retain all right, title and interest in and to the Licensed Applications, the Services, the Site and any content of the same, including, but not limited to, all copyrights, trademarks, logos, trade secrets, trade names, service marks, proprietary rights, patents, titles, computer codes, audiovisual effects, themes, characters, characters names, stories, dialog, settings, artwork, sound effects, musical works, and any and all moral rights, whether registered or not, and all applications and derivative works thereof. You hereby acknowledge that no title or ownership in the Licensed Applications, the Services, the Site or any content of the same is being transferred or assigned hereby, and this EULA is not to be construed as a sale of any rights in the same nor as granting, by implication or otherwise, any license or right to use any right of the Application Provider and/or its licensor without the written permission of the rights holder.

Apple®, App Store® and related trademarks, service marks, names and logos are the property of Apple, Inc.

## **6. Content You Post or Submit; License; Restrictions**

BY SUBMITTING ANY COMMENTS, PHOTOS, INFORMATION, OR OTHER CONTENT, YOU ACKNOWLEDGE THAT YOUR CONTENT MAY BE POSTED IN THE LICENSED APPLICATION, ON THE SITE, AND/OR OTHER WEBSITES, APPLICATIONS, OR SOCIAL MEDIA PLATFORMS OWNED OR CONTROLLED BY APPLICATION PROVIDER, IN ITS SOLE DISCRETION. Application Provider reserves the right to, and may or may not, monitor or screen Your submissions and content prior to posting anything in the Licensed Application. By submitting any content, You acknowledge that Application Provider has no obligation to use or post any such content You submit.

By submitting any content through the Licensed Application or the Site, and unless Application Provider indicates otherwise, You acknowledge that You have granted Application Provider a non-exclusive, royalty-free, perpetual, irrevocable and fully sublicensable right to use, reproduce, copy, modify, display, adapt, publish, translate, create derivative works from, publicly perform, reverse engineer, transfer, transmit, broadcast, distribute, license, sell, give or otherwise make available such submission throughout the world in any media, as well as to use Your name, likeness, and other identifying indicia ("Name and Likeness"), in any way, including for advertising and promotional purposes, in any and all media, without limitation as to time or territory, and without additional consideration to You. You acknowledge that You have no right to review or approve how Your submissions or Name and Likeness are used.

You are solely responsible for the content that you publish or display (hereinafter, "post") on/through the Licensed Applications and/or the Service, or transmit to other users. You will not post

or transmit to other users in any way whatsoever, any defamatory, inaccurate, abusive, obscene, profane, offensive, sexually explicit, threatening, harassing, racially offensive, or illegal material, or any material that infringes or violates another party's rights (including, but not limited to, intellectual property rights, and rights of privacy and publicity). Any content You may create, draft, design or in any way produce using the Licensed Applications is for Your personal and non-commercial use only. In case You upload content of any kind, You automatically provide to the Application Provider a free, worldwide license to use such content. Also, You represent and warrant that such content will not breach the Application Provider's or third parties' rights.

In case of breach of the previous obligations, You will be deemed liable and responsible for any damage or cost incurred or suffered by the Application Provider. Your profile on the Licensed Applications and the Service will be permanently deleted, and the greatest effort will be put into preventing you from rejoining the Licensed Applications and the Services.

## **7. Indemnities**

To the extent not prohibited by law, in no event shall the Application Provider be liable for any third party claim arising from your non-compliance with this EULA and/or any applicable law. By downloading, accessing, or using the Licensed Application, or by accessing or using the Site or Services in any manner whatsoever, You shall DEFEND, indemnify and hold the Application Provider harmless from any claim, damage, loss, cost, fee, or other liability borne by the Application Provider in relation to or arising out of: (i) Your non-compliance with this EULA, (ii) Your use of the Licensed Applications and/or the Services (including the content and information that You publish or display), (iii) Your violation of any applicable law, and (iv) Your violation of the rights of any third party.

You and Application Provider agree that as between Application Provider and Apple, Application Provider, not Apple, is responsible for addressing any claims by You or any third party relating specifically to the Licensed Application or Your possession and/or use of the Licensed Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Licensed Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection, privacy, or similar legislation, including in connection with the Licensed Application's content or use of the HealthKit and HomeKit frameworks (if applicable). Application Provider acknowledges and agrees that, in the event of any third party claim that the Licensed Application or Your possession and use of that Licensed Application infringes a third party's intellectual property rights, Application Provider, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

## **8. Disclaimer of Warranties**

You expressly acknowledge and agree that:

- The material contained in the Licensed Application and the Site may contain inaccuracies and typographical errors;
- the Licensed Applications (and all updates thereto), the Services, and the Site contain proprietary content, information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright, and that You will not use such proprietary content, information or materials in any way whatsoever except for enjoying the use of the Licensed Applications, the Services and the Site. No portion of the Licensed Applications, the Services and the Site may be reproduced in any form or by any means. You agree not to modify, rent, lease, loan, sell, distribute, or create derivative works based on the Licensed Applications, the Services, or the Site in any manner, and You shall not exploit the Services in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity. You further agree not to use the Licensed Applications, the Services, or the Site in any manner to harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of any other party, and that the Application

Provider is not in any way responsible for any such use by You, nor for any harassing, threatening, defamatory, offensive or illegal messages or transmissions that You may receive as a result of using the Licensed Applications, the Services, or the Site;

- Your use of the Licensed Applications and/or the Services is at Your sole risk (including, FOR example, the entire risk as to satisfactory quality, performance, accuracy and effort). To the maximum extent permitted by applicable law, the Licensed Applications, any Services, and the Site are provided "as is" and "as available", with all faults and without warranty of any kind, and the Application Provider hereby disclaims all warranties and conditions with respect to the Licensed Applications, any Services, and the Site, 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. The Application Provider does not warrant against interference with your enjoyment of the Licensed Applications, that the functions contained in, or services performed or provided by, the Licensed Applications will meet Your requirements, that the operation of the Licensed Applications or Services will be uninterrupted or error-free, or that defects in the Licensed Applications or Services will be corrected. No oral or written information or advice given by the Application Provider or its authorized representatives shall create a warranty. Should the Licensed Application or Services prove defective, You assume the entire cost of all necessary servicing, repair or correction.
- SOME JURISDICTIONS DO NOT ALLOW FOR THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

In any case, the Application Provider shall be solely responsible for (i) addressing any claim relating the Licensed Applications and/or the Services, including any third party's intellectual property claim; and (ii) providing any maintenance and support service with respect to the Licensed Applications as required under this EULA and/or applicable law. You and Application Provider acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Licensed Application.

You acknowledge and agree that in the event of any failure of the Licensed Applications to conform to any applicable warranties, You may notify Apple and require refund of the purchase price of the Licensed Applications. You and Application Provider acknowledge and agree that to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Licensed Application, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Application Provider's sole responsibility.

## **9. Limitation of Liability**

TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL THE APPLICATION PROVIDER, OR ITS LICENSOR, 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 LICENSED APPLICATIONS AND/OR THE SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF THE APPLICATION PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL THE APPLICATION PROVIDER'S 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 FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF CERTAIN TYPES OF DAMAGES, IN WHICH CASE SOME OF THE LIMITATIONS ABOVE MAY NOT APPLY TO YOU. The above

limitations or exclusions do not affect Your statutory consumer rights in Your applicable jurisdiction (e.g., pursuant to the Italian Legislative Decree no. 206/2005, "Italian Consumer Code").

## **10. Mobile Service, Internet and Service Fees**

You are solely responsible for payment of any costs or expenses incurred as a result of downloading and using the Licensed Application, including any wireless, network, data usage, and roaming charges.

The Licensed Application may not work with all devices or all mobile carriers. Application Provider makes no representations that the Licensed Application will be compatible with or provided by all mobile carriers. In the event that You incur third-party service provider fees in connection with downloading and using the Licensed Application, or for products or services provided by any third-party service providers, You agree to pay such costs and expenses to the respective party in exchange for Your continued use of such products or services. Some services may be subject to different or additional terms (including fees), which You will be required to agree to prior to Your use of such services.

## **11. Legal compliance**

You may not use or otherwise export or re-export the Licensed Applications and/or the Services except as authorized by the relevant applicable laws. You 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, nor will you export or re-export the Licensed Application to such countries; and (ii) You are not listed on any U.S. Government list of prohibited or restricted parties; and (iii) You will not export or re-export the Licensed Application 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.

You also agree that You will not use these products for any purposes prohibited by Italian law and other relevant applicable laws.

## **12. Governing law, Jurisdiction**

The laws of the Italy, excluding its conflicts of law rules, shall govern this EULA and your use of the Licensed Applications and Services.

Any controversy or claim arising out of Your use of the Licensed Applications, the Site, the Services, this EULA, and/or our Privacy Policy shall be submitted, at Application Provider's discretion, before (i) Your domicile's competent Court; or (ii) the Courts of Milan, Italy.

## **13. Miscellaneous**

The Application Provider may assign this EULA or any right set out herein, in whole or in part, without Your consent, to any person or entity at any time (notwithstanding the Licensed Applications are transferred). You may not assign or delegate any rights or obligations under this EULA without the Application Provider's previous consent, and any unauthorized assignment and delegation by You is void.

Any failure by the Application Provider to exercise or enforce any of its rights under this EULA does not waive its right to enforce such right. Any waiver of such rights shall only be effective if it is in writing and signed by an authorized representative of the Application Provider.

Upon expiration, termination, or cancellation of this EULA, those provisions which, by their nature would continue beyond expiration, termination, or cancellation, will survive.

If any provision, or part thereof, of this EULA is found to be unlawful, void or for any reason unenforceable, that provision, or the affected part thereof, shall be deemed amended in order to achieve as closely as possible the same effect as originally drafted. Any invalid or unenforceable

portion should be construed as narrowly as possible in order to give effect to as much of this EULA as possible. Any unaffected provision of this EULA shall remain in full force and effect.

**Last updated:** August 1 2020