

## Mobile Application End User License Agreement

This Mobile Application End User License Agreement ("**Agreement**") is a binding agreement between you ("**End User**" or "**you**") and Oomf Inc. ("**Company**"). This Agreement governs your use of the Oomf App (including all related documentation, the "**Application**"). The Application is licensed, not sold, to you.

BY USING APPLICATION, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE 18 YEARS OF AGE OR OLDER/OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (C) ACCEPT THIS AGREEMENT AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT DOWNLOAD/ INSTALL/USE THE APPLICATION AND DELETE IT FROM YOUR MOBILE DEVICE.

1. License Grant. Subject to the terms of this Agreement, Company grants you a limited, non-exclusive and nontransferable license to:

(a) download, install and use the Application for your personal, non-commercial use on a single mobile device owned or otherwise controlled by you ("**Mobile Device**") strictly in accordance with the Application's documentation; and

(b) access, stream, download and use on such Mobile Device the Content and Services (as defined in **Section 5**) made available in or otherwise accessible through the Application, strictly in accordance with this Agreement and the Terms of Use applicable to such Content and Services as set forth in **Section 5**.

2. License Restrictions.

(a) Licensee shall:

(i) provide truthful, complete and accurate personal, contact and financial information to us;

(ii) pay any and all fees upon concluding your use of the charger (the "**Charger**"), including late fees for any charger not returned within the allotted twenty four hour rental period.

(iii) use, and require its customers to use, the Application strictly in accordance with any documentation and/or written instructions given by us;

(iv) take reasonable care of the Charger and be liable for all loss, theft or damage to the Charger due to your negligence or wrongful conduct by you or anyone acting by, through or on your behalf;

(v) be solely responsible and liable for all transactions effected through the use of the Application and as a result of your use of the Charger;

(vi) promptly notify us if you become aware of any deficiency, fault or malfunctioning in the Charger by emailing us at [hello@theoomf.com](mailto:hello@theoomf.com);

(vii) return the Charger to the charging station after concluding your use of the Charger, and in no event later than twenty four (24) hours after gaining possession of the Charger; and

(viii) in the event the Charger is lost, stolen, damaged, destroyed, defaced, vandalized, otherwise marked or not returned to the charging station within twenty-four (24) hours after gaining possession of the Charger, you grant us, or a third-party designee, authorization to submit for payment, and process and collect from you the full retail value of the Charger, along with a processing and handling fee, using the financial information, whether the credit card, bank account or other payment information, provided to us or our third-party designee. Chargers returned late, or after the twenty-four (24) hour rental period, will incur a minimum of a \$5.00 fee per day until returned up to the retail cost of the charger. \$75 for an Oomf Mini, \$300 for an Omnicharge 20.

(b) Licensee shall not:

(i) provide inaccurate or false personal, contact and financial information to us;

(ii) damage, destroy, deface, vandalize or otherwise make any mark on the Charger;

(iii) copy the Application, except as expressly permitted by this license;

(iv) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Application;

(v) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Application or any part thereof;

(vi) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from the Application, including any copy thereof;

(vii) rent, encumber, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Application or any features or functionality of the Application, to any third party for any reason, including by making the Application available on a network where it is capable of being accessed by more than one device at any time;

(viii) remove, disable, circumvent or otherwise create or implement any workaround to any copy protection, rights management or security features in or protecting the Application; or

(ix) use the Application in, or in association with, the design, construction, maintenance or operation of any hazardous environments or systems, including any power generation systems; aircraft navigation or communication systems, air traffic control systems or any other transport management systems; safety-critical applications, including medical or life-support systems, vehicle operation applications or any police, fire or other safety response systems; and military or aerospace applications, weapons systems or environments.

3. Reservation of Rights. You acknowledge and agree that the Application is provided under license, and not sold, to you. You do not acquire any ownership interest in the Application under this Agreement, or any other rights thereto other than to use the Application in accordance with the license granted, and subject to all terms, conditions and restrictions, under this Agreement. Company and its licensors and service providers reserve and shall retain their entire right, title and interest in and to the Application, including all copyrights, trademarks and other intellectual property rights therein or relating thereto, except as expressly granted to you in this Agreement.

4. Collection and Use of Your Information. You acknowledge that when you download, install or use the Application, Company may use automatic means (including, for example, cookies and web beacons) to collect information about your Mobile Device and about your use of the Application. You also may be required to provide certain information about yourself as a condition to downloading, installing or using the Application or certain of its features or functionality, and the Application may provide you with opportunities to share information about yourself with others. All information we collect through or in connection with this Application are subject to our [Privacy Policy](#) By downloading, installing, using and providing information to or through this Application, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

5. Content and Services. The Application may provide you with access to Company's website located at [www.theoomf.com](http://www.theoomf.com) or [Oomf.it](http://Oomf.it) (the "**Website**") and products and services accessible thereon, and certain features, functionality and content accessible on or through the Application may be hosted on the Website (collectively, "**Content and Services**"). Your access to and use of such Content and Services are

governed by Website's [Terms of Use](#) and [Privacy Policy](#) which are incorporated herein by this reference. Your access to and use of such Content and Services may require you to acknowledge your acceptance of such Terms of Use and Privacy Policy and/or to register with the Website and your failure to do so may restrict you from accessing or using certain of the Application's features and functionality. Any violation of such Terms of Use will also be deemed a violation of this Agreement.

6. Geographic Restrictions. The Content and Services are based in the state of Massachusetts in the United States and provided for access and use only by persons located in the United States. You acknowledge that you may not be able to access all or some of the Content and Services outside of the United States and that access thereto may not be legal by certain persons or in certain countries. If you access the Content and Services from outside the United States, you are responsible for compliance with local laws.

7. Updates. Company may from time to time in its sole discretion develop and provide Application updates, which may include upgrades, bug fixes, patches and other error corrections and/or new features (collectively, including related documentation, "**Updates**"). Updates may also modify or delete in their entirety certain features and functionality. You agree that Company has no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. Based on your Mobile Device settings, when your Mobile Device is connected to the internet either:

(a) the Application will automatically download and install all available Updates; or

(b) you may receive notice of or be prompted to download and install available Updates.

You shall promptly download and install all Updates and acknowledge and agree that the Application or portions thereof may not properly operate should you fail to do so. You further agree that all Updates will be deemed part of the Application and be subject to all terms and conditions of this Agreement.

8. Third Party Materials. The Application may display, include or make available third-party content (including data, information, applications and other products services and/or materials) or provide links to third-party websites or services, including through third-party advertising ("**Third Party Materials**"). You acknowledge and agree that Company is not responsible for Third Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect thereof. Company does not assume and will not have any liability or responsibility to you or any other person or entity for any Third Party Materials. Third Party Materials and links thereto are provided solely as a convenience to you and you

access and use them at entirely at your own risk and subject to such third parties' terms and conditions.

9. Term and Termination.

(a) The term of Agreement commences when you download/install the Application and will continue in effect until terminated by you or Company as set forth in this **Section 9**.

(b) You may terminate this Agreement by deleting the Application and all copies thereof from your Mobile Device.

(c) Company may terminate this Agreement at any time without notice if it ceases to support the Application, which Company may do in its sole discretion. In addition, this Agreement will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.

(d) Upon termination:

(i) all rights granted to you under this Agreement will also terminate;  
and

(ii) you must cease all use of the Application and delete all copies of the Application from your Mobile Device and account.

(e) Termination will not limit any of Company's rights or remedies at law or in equity.

10. Disclaimer of Warranties. THE APPLICATION IS PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, COMPANY, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE APPLICATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, COMPANY PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE APPLICATION WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY

PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

11. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, HAVE ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE THE APPLICATION OR THE CONTENT AND SERVICES FOR:

(a) PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, COMPUTER FAILURE OR MALFUNCTION OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES

(b) DIRECT DAMAGES IN AMOUNTS THAT IN THE AGGREGATE EXCEED THE AMOUNT ACTUALLY PAID BY YOU FOR THE APPLICATION.

THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

12. Indemnification. Except where not applicable by applicable law, you agree to indemnify, defend and hold harmless Company and its officers, directors, employees, agents, affiliates, successors and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising from or relating to your use or misuse of the Application or your breach of this Agreement. Furthermore, you agree that we assume no responsibility for the content you submit or make available through this Application.

13. Export Regulation. The Application may be subject to US export control laws, including the US Export Administration Act and its associated regulations. You shall not, directly or indirectly, export, re-export or release the Application to, or make the

Application accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. You shall comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Application available outside the US.

14. US Government Rights. The Application is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if you are an agency of the US Government or any contractor therefor, you receive only those rights with respect to the Application as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

15. Severability. If any provision of this Agreement is illegal or unenforceable under applicable law, the remainder of the provision will be amended to achieve as closely as possible the effect of the original term and all other provisions of this Agreement will continue in full force and effect.

16. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Massachusetts without giving effect to any choice or conflict of law provision or rule. Any legal suit, action or proceeding arising out of or related to this Agreement or the Application shall be instituted exclusively in the federal courts of the United States or the courts of the State of Massachusetts in each case located. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

17. Limitation of Time to File Claims. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE APPLICATION MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

18. Entire Agreement. This Agreement and our Privacy Policy constitute the entire agreement between you and Company with respect to the Application and supersede all prior or contemporaneous understandings and agreements, whether written or oral, with respect to the Application.

19. Waiver. No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder. In the event of a conflict between this Agreement and any applicable purchase or other terms, the terms of this Agreement shall govern.