

# Eristica End User License Agreement and Terms of Service

This Mobile Application End User License Agreement (this "**Agreement**") is a binding agreement between you ("**you**") and Eristica LTD ("**Company**"). This Agreement governs your use of the ERISTICA APPLICATION on the iOS, Google Play, Windows Store platform, (including all related documentation, the "**Application**"). The Application is licensed, not sold, to you.

BY CLICKING THE "AGREE" BUTTON/ DOWNLOADING/ INSTALLING/USING THE APPLICATION, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE 18 YEARS OF AGE OR OLDER AND 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:

1. download, install and use the Application for your personal, non-commercial use on a single mobile device/ PC owned or otherwise controlled by you ("**Mobile Device**") strictly in accordance with the Application's documentation;
2. access, stream, download and use on such Mobile Device the Website Content and Services (as defined in **Section 9**) made available in or otherwise accessible through the Application, strictly in accordance with this Agreement and the Terms of Use applicable to such Website Content and Services as set forth in **Section 9**].

Any use of the Application in any other manner, including, without limitation, resale, transfer, modification or distribution of the Application or text, pictures, music, [barcodes,] video, data, hyperlinks, displays, and other content associated with the Application ("**Content**") is prohibited.

2. User Challenges. Users of the Application create a challenge for other users ("**Challenge**"). Challenges are not sweepstakes, contests, or lotteries, nor are they sponsored by or affiliated in any way with Company. You agree that your participation in any Challenge is completely voluntary and at your sole risk. Neither [Apple Inc. ("**Apple**")]] nor its affiliates are in any way affiliated with Company, Challenges, or the users who offer Challenges. You specifically acknowledge that financial transactions, bets, and wagering among users in relation to or connection with use of the Application or Challenges are strictly prohibited. Company does not engage in the business of betting or wagering, nor should users of the Application. As used in this Agreement, "bet or wager" means the staking or risking by any person of something of value upon the outcome of a

contest of others, a sporting event, a game subject to chance, or an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome and includes the purchase of a chance or opportunity to win a lottery or other prize. You further specifically acknowledge that Company, its partners, sponsors, representatives, agents, officers, directors, employees and affiliates in no way accept, record, or facilitate the exchange of any payments, credits, or wagers among users or with third parties.

3. Age Restriction. Only individuals eighteen (18) years of age or older may use the Application. If you are less than eighteen (18) years of age, you must immediately uninstall the Application and discontinue its use.

4. General License Restrictions. You shall not:

1. copy the Application, except as expressly permitted by this Agreement;
2. modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Application;
3. reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Application or any part thereof;
4. 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;
5. rent, 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;
6. remove, disable, circumvent or otherwise create or implement any workaround to any copy protection, rights management or security features in or protecting the Application;
7. [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, emergency or life-saving purposes, vehicle control or operation applications or any police, fire or other safety response systems; and military or aerospace applications, weapons systems or environments;] or
8. use the Application to in any way that:
  1. uses technology or other means to access unauthorized content or non-public [spaces], content, material or places;

2. uses or launches any automated system or process, including without limitation, "bots," "spiders," or "crawlers," to access unauthorized content or non-public spaces;
3. attempts to introduce viruses or any other harmful computer code, files or programs that interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
4. attempts to damage, disable, overburden, or impair Company servers or networks;
5. attempts to gain unauthorized access to a Company computer network;
6. attempts to gain unauthorized access to Company's user accounts;
7. constitutes, or encourages conduct that would constitute, a criminal offense, or that gives rise to civil liability;
8. violates this Agreement in any manner; or
9. fails to comply with applicable third party terms and conditions or other third party policies.

5. Restrictions Relating to Challenges and Your Use. You shall not use the Application in any way, make any Challenge through the Application or make any information or materials available through the Application that:

1. is, or encourages behavior that is, or may be considered illegal, immoral dangerous, defamatory, objectionable, indecent or pornographic or that displays, nudity;
2. harasses, abuses, stalks, threatens, defames, or otherwise infringes or violates the rights of any other party (including but not limited to rights of publicity or other proprietary rights);
3. is unlawful, fraudulent, or deceptive;
4. threatens harm to others or acts of violence;
5. promotes or encourages self-harm of any type, including self-mutilation, eating disorders or drug abuse;
6. harasses or bullies any person or group;
7. is or encourages hate speech; or

8. is or involves a claim to that you are another person or publishes another person's personal information.

In addition, we do not collect, and you are not permitted to provide through the Application, or ask anyone else to provide, sensitive information including information about medical or health conditions, racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership or sex life.

6. Company Requests. You agree that Company is not in any way responsible for any use of the Application by you, including any use in breach of this Agreement, nor for any harassing, threatening, defamatory, offensive or illegal messages or transmissions that you may receive as a result of using the Application. Company reserves the right, in its sole discretion, to terminate any license, remove any Challenge or other material or information associated with your use of the Application, assist law enforcement in the prosecution of criminal liability, or assert a civil or criminal legal action with respect to Content or use of the Application, that Company reasonably believes is or might be in violation of this Agreement.

7. 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.

8. 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 you, 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, or video images of, yourself with others including, without limitation, user names, passwords, proper names, email address, address, location, [financial information (including credit card information)], [GPS location information, and information for and from third party social-media accounts]. All information we collect through or in connection with the Application ("**User Information**") is subject to our Privacy Policy [www.eristica.com/privacy\\_policy.pdf](http://www.eristica.com/privacy_policy.pdf). By downloading, installing, using or providing information to or through the Application, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy and you consent to the transmission of User Information to Company and its agents and third party partners, and consent to Company and its agents and third party partners, receiving, collecting, storing, processing, transmitting, and

using User Information for Application functionality and for the purposes disclosed in the Privacy Policy.

9. Website Content and Services. The Application may provide you with access to Company's website located at [www.eristica.com](http://www.eristica.com) and [www.youtube.com/user/EristicaApp](http://www.youtube.com/user/EristicaApp) (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, "**Website Content and Services**"). Your access to and use of such Website Content and Services are governed by Website's Terms of Use and Privacy Policy located at [www.eristica.com/privacy\\_policy.pdf](http://www.eristica.com/privacy_policy.pdf) and [www.eristica.com/tos.pdf](http://www.eristica.com/tos.pdf), which are incorporated herein by this reference. Your access to and use of such Website 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.

10. Geographic Restrictions. You acknowledge that you may not be able to access all or some of the Application, the Content or Website Content and Services from your location and that access thereto may not be legal by certain persons in certain countries. If you access the Application, the Content or Website Content and Services, you are responsible for compliance with all applicable laws, including local laws.

11. 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:

1. the Application will automatically download and install all available Updates; or
2. 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 unless separate terms accompany such Updates, in which case the separate terms will apply.

12. Third Party Materials. The Application may display, include or make available third party content (including data, information, applications, video images of other users of the Application 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 has no right or interest in, and 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 or access 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. In addition, Third Party Materials or third party services and that may be accessed from, displayed on or linked to from your MOBILE DEVICE are not available in all languages or in all countries. Company 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 Third Party Materials or third party services, you do so at your own initiative and are responsible for compliance with any applicable laws, including but not limited to applicable local laws.

13. Content. You understand that by using the application, you may encounter content that may be deemed offensive, indecent, or objectionable, which content may or may not be identified as having explicit language. You agree that Company shall not have any liability to you for content that may be found to be offensive, indecent, or objectionable. You agree that the Application contains 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 permitted use of the Application.

14. User-Generated Content. You may generate content, written, in video or other format or otherwise, while using the Application ("User-Generated Content"). You acknowledge and agree that User-Generated Content may be used, reproduced, displayed, modified, deleted, added too, adapted, and published by Company (for example, in product marketing campaigns). You grant Company and its successors a worldwide, irrevocable, transferrable, sub-licensable, fully-paid and royalty-free, and non-exclusive license to use, reproduce, display, modify, delete from, add to, adapt, publish, and prepare derivative works from the User-Generated Content. You further acknowledge and agree that you, and you alone, are responsible for the User-Generated Content and the development of the User-Generated Content and that Company has no ownership interest in the User-Generated Content or rights to the User-Generated Content, except for the rights to use provided for in this Agreement. Furthermore, you agree that none of Company and its officers, directors, employees, agents, affiliates, successors and assigns assumes any responsibility for the User-Generated Content you or others submit or make available through the Application. Without limiting the generality of the foregoing, Company shall not have any responsibility for any video images posted or made available by you through the Application.

15. Term and Termination.

1. The term of Agreement commences when you download/install the Application/ acknowledge your acceptance and will continue in effect until terminated by you or Company as set forth in this **Section 15**.

2. You may terminate this Agreement by deleting the Application and all copies thereof from your Mobile Device.
3. Company may terminate this Agreement at any time without notice, including 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.
4. Upon termination:

1. all rights granted to you under this Agreement will also terminate; and
2. you must cease all use of the Application and delete all copies of the Application from your Mobile Device and account.

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

16. Disclaimer of Warranties. THE APPLICATION, THE CONTENT AND THE WEBSITE CONTENT AND SERVICES ARE PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. YOU ARE USING THE APPLICATION AT YOUR OWN RISK. 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, THE CONTENT [OR THE WEBSITE CONTENT AND SERVICES] 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.

17. 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, THE CONTENT, ANY CHALLENGE OR THE WEBSITE CONTENT AND SERVICES FOR:

1. 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; OR
2. 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.

18. Indemnification. You agree to indemnify, defend and hold harmless Company and its officers, directors, employees, agents, affiliates, successors and assigns (collectively, "**Indemnitees**") 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 attorneys' fees, arising from or relating to your use or misuse of the Application or your breach of this Agreement.

19. Intellectual Property. ERISTICA LTD, the Eristica logo, and other Company trademarks, service marks, graphics and logos used in connection with the Application are trademarks or registered trademarks of Company (collectively "**Company Marks**"). Other trademarks, service marks, graphics and logos used in connection with the Application are the trademarks of their respective owners (collectively "**Third Party Marks**"). The Company Marks and Third Party Marks may not be copied, imitated or used, in whole or in part, without the prior written permission of Company or the applicable holder thereof. The Application and the Content are protected by copyright, trademark, patent, trade secret, international treaties, laws and other proprietary rights, and also may have security components that protect digital information.

20. Export Regulation. The Application may be subject to US export control laws, including the US Export Administration Act and its associated regulations and other applicable export control laws. 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 and all other applicable laws prior to exporting, re-exporting, releasing or otherwise making the Application available outside in any other jurisdiction. 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; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

21. 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.

22. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of [JURISDICTION] 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 [JURISDICTION] in each case located in [CITY]. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

23. 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, THE CONTENT OR THE WEBSITE CONTENT AND SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

24. 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.

25. 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. Only a specific, written waiver signed by an authorized representative of Company shall have any legal effect as a waiver by Company of any terms of this Agreement.

26. Modification. Company reserves the right to change or modify the terms of this Agreement or any other Company terms, conditions, or policies related to use of the Application (including those identified in this Agreement) at any time and at its sole discretion by posting revisions on the Company website (<http://www.eristica.com>) or within the Application. Continued use of the Application following the posting of these changes or modifications will constitute your acknowledgement and agreement to such changes or modifications.

27. Third Party Beneficiary. User agrees that Company's service providers, licensors, or others involved in creating or providing the Application are third party beneficiaries of this Agreement and

may rely upon the provisions of this Agreement, including but not limited to, the provisions concerning indemnification, disclaimer of warranties, and limitation of liability.

28. Apple EULA Terms. This Agreement incorporates and supplements the Apple Minimum Terms of Developer's End-User License Agreement (available at <http://www.apple.com/legal/internet-services/itunes/appstore/dev/minterms/>).