

## TRANSFERLY™ MOBILE APPLICATION END USER LICENSE AGREEMENT

PLEASE READ THE TRANSFERLY™ MOBILE APPLICATION END USER LICENSE AGREEMENT (“EULA”) CAREFULLY AND COMPLETELY. THE EULA IS A LEGAL CONTRACT BETWEEN YOU AND ASURION THAT GOVERNS YOUR USE OF THE APPLICATION. THE EULA LIMITS THE LIABILITY OF ASURION TO YOU AND REQUIRES YOU TO RESOLVE ANY DISPUTES WITH ASURION THROUGH BINDING AND INDIVIDUAL ARBITRATION RATHER THAN THROUGH JURY TRIALS OR CLASS ACTIONS. IF YOU DO NOT AGREE WITH ANY OF THE TERMS OF THE EULA, INCLUDING ASURION’S COLLECTION OF CERTAIN CATEGORIES OF DATA DISCUSSED IN THE EULA BELOW, DO NOT DOWNLOAD, CLICK-TO-ACCEPT, AND/OR USE THE APPLICATION. YOU WILL BEGIN TO INCUR DATA USAGE CHARGES ONCE YOUR SET-UP OF THE APPLICATION IS COMPLETE.

PLEASE CONTACT ASURION AT [TRANSFERLYFEEDBACK@ASURION.COM](mailto:TRANSFERLYFEEDBACK@ASURION.COM) WITH QUESTIONS REGARDING THE APPLICATION OR THE EULA.

**1. DEFINITIONS.** In the EULA: (a) the words “Asurion” and “Our” and “Us” mean Asurion Mobile Applications, LLC and its parents, subsidiaries, branches, affiliates, agents, employees, successors and assigns; (b) the word “Application” means the Transferly Mobile Application and the software provided in connection with the Application; and (c) the words “You” and “Your” mean an individual who downloads or uses the Application and any person or entity represented by that individual.

**2. LICENSE.** Subject to the terms and conditions of the EULA, Asurion grants You a personal, revocable, non-transferable, non-exclusive limited right to access and use the Application solely as permitted by its functions. Asurion grants You no other rights, beyond what is expressly granted to You in the EULA, and Asurion hereby reserves any and all other rights.

**3. FUNCTIONS.** The Application may include several functions, including transferring Your contacts, photos, videos, messages and other content in Asurion’s discretion between select mobile devices through the wi-fi capabilities of each device. Your ability to access those functions depends upon Your mobile device and Your agreement with Your mobile carrier. Asurion does not warrant that the Application will be compatible with or operable on Your mobile device or that any particular Application function will be available to You. You acknowledge and agree that not all of the Application functions may be available to You at all times or at any time. Your mobile device must be powered on and connected to a wi-fi network for the Application to operate, as no information is transferred over the internet. Asurion reserves the right to change, suspend or discontinue the Application and/or any of its functions at any time, for any reason and without notice or liability to You. It is Your responsibility to download any updates to the Application. Asurion will not assume any liability if You do not have the most current version of the Application on Your mobile device.

**4. DATA-USAGE CHARGES.** You acknowledge and agree that You may incur data usage or other fees or charges if You download and use the Application. You are solely responsible for the payment of those fees or charges, and any failure to pay them may result in suspension or termination of Your access to the Application.

**5. PASSWORD & ACCOUNT INFORMATION.** You may be asked to provide an email address and create a password in order to access certain features and functions. If required, you agree that you will provide Asurion with complete and accurate information when creating Your account and using the Application. You are solely responsible for any activity that occurs on or in relation to Your account and for keeping Your password confidential, and You are solely liable for any damages resulting from Your failure to do so. Anyone with access to Your account or password can use the Application on Your mobile device. If You believe that the confidentiality of Your account or password has been compromised, You should change Your password immediately.

**6. COMMUNICATIONS.** You agree to receive certain communications related to the Application in either SMS or electronic form, as well as within the Application. You can opt out of receiving those communications, and You agree that You are solely responsible for any charges or fees associated with those communications.

**7. USE AND RESTRICTIONS ON USE.** The Application is developed and provided by Asurion. The Application is intended for Your personal use only. You may download and use the Application only if You can form a binding contract with Asurion and You are not a person who is barred from downloading or using the Application by laws of the United States or any other applicable jurisdiction. The Application is operated from facilities in the United States, and Asurion makes no representation that the Application is appropriate or available for use in other locations. You shall not use the Application in any way that violates any applicable rules, laws or regulations or infringes any copyright, trademark or other intellectual property right of any third party or discloses a trade secret or confidential information. You shall not: (a) decompile, reverse engineer, disassemble, derive the source code of or decrypt the Application; (b) make any modification, adaptation, improvement, enhancement, translation or derivative work from the Application; (c) redistribute, rent, lease, loan, resell, sublicense, distribute, or otherwise transfer the Application to any third party; or (d) remove, obscure, or alter any proprietary notices (including any notice of copyright or trademark) of the Application.

**8. MISUSE.** You shall not misuse the Application, including, without limitation, using the Application in any manner that: (a) interferes with or interrupts the Application or any hardware, software, system or network connected with the Application; (b) stalks, harasses, threatens or harms any person or is otherwise invasive of another's privacy rights; (c) uses the Asurion functions on a device without permission; (d) tampers with or makes an unauthorized connection to any network, including, without limitation, the network of any wireless carrier; (e) disseminates viruses or other computer code, files or programs that interrupt, destroy or limit the functionality of the Application or any other computer software or hardware.

**9. PRIVACY & SECURITY.** Our Privacy Policy is available [here](#) and explains the policies of Asurion with respect to the collection, use and disclosure of information related to or derived from Your use of the Application. Please read the Privacy Policy carefully and completely. It is incorporated by reference into the EULA, and by using the Application, You consent to the collection, use and disclosure of Your information as set forth in that Policy. Since Asurion cannot guarantee the security of Your personal information, You acknowledge and agree that You provide it to Asurion at Your own risk.

**10. DATA COLLECTION AND USE.** The Application and Your use of the Application and its functions may collect and convey certain data and information about Your content transfer. Information regarding Asurion's policies for privacy and security with regard to the gathering, use, and disclosure of the collected data and information is located in the Asurion privacy policy, available [here](#).

**11. DISCLAIMER OF WARRANTIES.** THE FOLLOWING DISCLAIMER SHALL APPLY TO YOU TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. YOU ACKNOWLEDGE AND AGREE THAT THE APPLICATION IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND THAT YOUR USE OF OR RELIANCE ON THE APPLICATION IS AT YOUR SOLE RISK AND DISCRETION. ASURION HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND GUARANTIES REGARDING THE APPLICATION, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. FURTHERMORE, ASURION MAKES NO WARRANTY THAT (A) THE APPLICATION WILL MEET YOUR REQUIREMENTS; (B) THE APPLICATION WILL BE AVAILABLE, TIMELY, CURRENT, ACCURATE, RELIABLE, COMPLETE, SECURE OR ERROR-FREE; (C) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL ACCESSED OR OBTAINED BY YOU THROUGH THE APPLICATION WILL BE AS REPRESENTED OR MEET YOUR EXPECTATIONS; OR (D) ANY ERRORS IN THE APPLICATION WILL BE CORRECTED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM ASURION OR THE APPLICATION SHALL CREATE ANY REPRESENTATION, WARRANTY OR GUARANTY. FURTHERMORE, YOU ACKNOWLEDGE AND AGREE THAT ASURION HAS NO OBLIGATION TO SUPPORT OR MAINTAIN THE APPLICATION. YOU ACKNOWLEDGE AND AGREE THAT ASURION MIGHT NOT BE ABLE TO OFFER THE APPLICATION AT ALL, IN THE ABSENCE OF THE FOREGOING DISCLAIMERS AND LIMITATIONS. IN THE EVENT OF ANY FAILURE OF THE APPLICATION TO CONFORM TO ANY APPLICABLE WARRANTY, YOU MAY NOTIFY ASURION AND ASURION WILL, AS YOUR SOLE AND EXCLUSIVE REMEDY, USE COMMERCIALY REASONABLE EFFORTS TO SATISFY THE WARRANTY. ASURION WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE APPLICATION, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY WILL BE YOUR SOLE RESPONSIBILITY.

**12. LIMITATION OF LIABILITY.** THE FOLLOWING LIMITATIONS SHALL APPLY TO YOU TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. UNDER NO CIRCUMSTANCES SHALL ASURION BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR ACCESS OR USE OF OR INABILITY TO ACCESS OR USE THE APPLICATION, WHETHER OR NOT THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT ASURION WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR REVENUES, FAILURE TO TRANSMIT OR RECEIVE ANY DATA, LOSS, MISUSE OR DISCLOSURE OF DATA OR CONFIDENTIAL INFORMATION, BUSINESS INTERRUPTION, LOSS OF PRIVACY, CORRUPTION OR LOSS OF DATA, FAILURE TO RECEIVE OR BACKUP YOUR DATA (OR ARCHIVED DATA) OR ANY OTHER PECUNIARY LOSS WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE APPLICATION. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ASURION'S AGGREGATE LIABILITY TO YOU (WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, STATUTE OR OTHER THEORY OF LIABILITY) SHALL NOT EXCEED THE AMOUNT OF THE FEES PAID BY YOU FOR THE APPLICATION, IF ANY,

DURING THE TWO (2) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM, OR \$50.00, WHICHEVER IS GREATER. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**13. ARBITRATION AGREEMENT.** Most of Your concerns about the Application can be addressed by contacting Asurion at [TRANSFERLYFEEDBACK@ASURION.COM](mailto:TRANSFERLYFEEDBACK@ASURION.COM). For any dispute with Asurion, You agree to first contact us and attempt to resolve the dispute with us informally. In the event Asurion cannot resolve a dispute with You after 60 days, **YOU AND ASURION AGREE TO RESOLVE ANY DISPUTES THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT INSTEAD OF THROUGH COURTS OF GENERAL JURISDICTION. YOU AND ASURION AGREE THAT ANY ARBITRATION WILL TAKE PLACE ON AN INDIVIDUAL BASIS ONLY. YOU AND ASURION AGREE TO WAIVE OUR RIGHTS TO A JURY TRIAL AND TO PARTICIPATE IN CLASS ACTIONS OR OTHER REPRESENTATIVE PROCEEDINGS.**

**A.** This Arbitration Agreement (“ARB AGREE”) shall survive the termination of the EULA and is governed by the Federal Arbitration Act. This ARB AGREE shall be interpreted broadly, and it includes any dispute You have with Asurion that arises out of or relates in any way to Your relationship with Asurion or the Application, whether based in contract, tort, statute, fraud, misrepresentation or otherwise. However, this ARB AGREE does not preclude You from bringing an individual action against Asurion in small claims court or from informing any federal, state or local agencies of Your dispute. Such agencies may be able to seek relief on Your behalf.

**B.** To initiate arbitration, send a written Notice of Claim by certified mail to: Legal Department, P.O. Box 110656, Nashville, TN 37122-0656. The Notice must describe the dispute and the relief sought. If Asurion does not resolve the dispute within 60 days of receipt of the Notice, You may start an arbitration with the American Arbitration Association (“AAA”). You can contact the AAA and obtain a free copy of the rules and forms necessary to start an arbitration proceeding at [www.adr.org](http://www.adr.org) or 1-800-778-7879. Asurion will reimburse You for a filing fee paid to the AAA, and if You are unable to pay a filing fee, Asurion will pay it if You send a written request by certified mail to the Legal Department.

**C.** The arbitration shall be administered by the AAA in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (“Rules”) in effect at the time the arbitration is started and as modified by this ARB AGREE. The arbitrator is bound by the terms of this ARB AGREE and shall decide all issues, with the exception that issues relating to the enforceability of this ARB AGREE may be decided by a court. If Your dispute is for \$25,000 or less, You may conduct the arbitration by submitting documents to the arbitrator or by telephone. If Your dispute is for more than \$25,000, Your right to hearings will be determined by the Rules. Unless otherwise agreed, any hearings will take place in the county/parish of Your mailing address. Asurion will pay all filing, administration and arbitrator fees for any arbitration, unless Your dispute is found by the arbitrator to have been frivolous or brought for an improper purpose under Federal Rule of Civil Procedure 11(b). In that case, the Rules govern payment of such fees.

**D.** The arbitrator shall issue a decision including the facts and law upon which his/her decision is based. If the arbitrator finds in Your favor and issues a damages award that is greater than the value of the last settlement offer made by Asurion or if Asurion made no settlement offer, and the arbitrator awards You any damages, Asurion will: (1) pay You the amount of the award or \$2,500, whichever is greater; and (2) pay Your attorney, if any, the attorney's fees and expenses reasonably incurred in the arbitration. While the right to the attorney's fees and expenses discussed above is in addition to any right You may have under applicable law, neither You nor Your attorney may recover duplicate awards of attorney's fees and expenses. Asurion hereby waives any right it may have under applicable law to recover attorney's fees and expenses from You if it prevails in the arbitration.

**E.** If You seek declaratory or injunctive relief, that relief can be awarded only to the extent necessary to provide You relief. **YOU AND ASURION AGREE THAT EACH PARTY MAY BRING CLAIMS AGAINST EACH OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT IN A PURPORTED CLASS ACTION, CLASS ARBITRATION OR OTHER REPRESENTATIVE PROCEEDING.** Unless You and Asurion agree otherwise, the arbitrator may not consolidate Your dispute with the dispute of any other person and may not preside over any form of representative or class proceeding. If this specific provision of this ARB AGREE is found to be unenforceable, then the entirety of this ARB AGREE is null and void.

**14. CLAIM LIMITATION.** Unless otherwise allowed by applicable law, any claim related to the Application shall be brought within one year of the events giving rise to the claim. Failure to assert any such claim during that one-year period results in the claim being forever waived and barred.

**15. INTELLECTUAL PROPERTY RIGHTS.** You agree that all copyrights, patents, trademarks, trade secrets and other intellectual property or proprietary rights associated with the Application are the exclusive property of Asurion, and all such rights not expressly granted to You in the EULA are hereby reserved and retained by Asurion. If You submit comments or ideas about the Application, including ways to improve the Application or other products or services ("Ideas"), You agree that Your submission is gratuitous, unsolicited and without restriction. It does not place Asurion under any fiduciary or other obligation, and Asurion is free to use the Idea without compensation to You and/or to disclose the Idea to anyone on a non-confidential basis. You further acknowledge that Asurion does not, by acceptance of Your submission, waive any rights to use similar or related ideas previously known to Asurion, or developed by its employees or obtained from sources other than You.

**16. OPEN SOURCE AND THIRD-PARTY SOFTWARE.** The Application may include open source or third-party software, and Your use of the Application is subject to any licenses or agreements governing that software.

**17. INDEMNIFICATION.** You agree to indemnify, defend, and hold harmless Asurion from any claim, proceeding, loss, damage, liability or expense of any kind arising out of or in connection with the following: (a) Your use or misuse of the Application; (b) Your alleged or actual breach of the EULA; (c) Your alleged or actual violation of any applicable rule, law or regulation; (d) Your negligence or willful misconduct; or (e) Your alleged or actual violation of the intellectual property or other rights of third parties. Asurion

reserves the right, at Your expense, to assume the exclusive defense and control of any matter which You are required to indemnify, and You agree to cooperate in that defense.

**18. ASSIGNMENT.** The EULA and any rights or licenses granted hereunder may not be transferred or assigned by You, but may be transferred or assigned by Asurion, without restriction. Any attempted transfer or assignment in violation of this provision is null and void.

**19. SEVERABILITY.** If any term of the EULA is found to be invalid or unenforceable, that term should be modified to the extent possible to make it valid or enforceable without losing its intent and purpose. If no such modification is possible, the term should be severed from the EULA.

**20. COMPLIANCE WITH U.S. EXPORT LAWS.** By downloading the Application, You acknowledge that the Application is subject to U.S. Export law, and that You will comply with all domestic and international export laws and regulations that apply to the Application.

**21. WAIVER.** Any failure to enforce a right or term of the EULA shall not be deemed a waiver of that right or term.

**22. ENTIRE AGREEMENT.** This EULA and the documents incorporated by reference constitute the entire agreement between You and Asurion with respect to the Application and supersede any prior or contemporaneous agreements.

**23. GOVERNING LAW.** The EULA and Your relationship with Asurion shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to conflicts of law provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

#### **ADDENDUM FOR DOWNLOADS FROM THE APPLE APP STORE**

The following additional terms and conditions apply to You if You downloaded the Application from the Apple App Store (“iTunes-Sourced Software”). You acknowledge and agree that the EULA is between You and Asurion only, and not Apple, and that Apple has no responsibility for the iTunes-Sourced Software or its content. Your use of the iTunes-Sourced Software must comply with the App Store Terms of Service. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the iTunes-Sourced Software. In the event of any failure of the iTunes-Sourced Software to conform to any applicable warranty, You may notify Apple, and Apple will refund the purchase price of the iTunes-Sourced Software to You. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the iTunes-Sourced Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by the EULA and any law applicable to Asurion. You acknowledge that Apple is not responsible for addressing any claims relating to the iTunes-Sourced Software or Your possession or use of the iTunes-Sourced Software, including, but not limited to: (i) product liability claims; (ii) claims that the iTunes-Sourced Software fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation; and all such claims

are governed solely by the EULA and any law applicable to Asurion. You acknowledge that, in the event of any third-party claim that the iTunes-Sourced Software or Your possession or use of that iTunes-Sourced Software infringes intellectual property rights, Asurion, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such claim to the extent required by the EULA. You and Asurion acknowledge and agree that Apple and Apple's subsidiaries are third-party beneficiaries of the EULA as relates to Your license of the iTunes-Sourced Software and that upon Your acceptance of the EULA, Apple will have the right (and will be deemed to have accepted the right) to enforce the EULA as relates to Your license of the iTunes-Sourced Software against You as a third-party beneficiary thereof.

**Last Updated: May 2017**