

Rapid Remote Application Terms Of Service

PLEASE READ THE RAPID REMOTE APPLICATION (“RRA”) TERMS OF SERVICE (“TOS”) CAREFULLY AND COMPLETELY. THE TOS LIMITS ASURION’S LIABILITY TO YOU AND, UNLESS EXPRESSLY STATED OTHERWISE BELOW, 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, DO NOT CLICK TO ACCEPT IT AND DO NOT USE THE RRA.

- 1. DEFINITIONS.** In the TOS: (a) “Asurion,” “We,” “Us” and “Our” means Asurion Mobile Applications, LLC and its parents, subsidiaries, branches, affiliates, agents, employees, successors and assigns; (b) “Rapid Remote Application” and “RRA” mean the RRA and software provided in connection with the RRA; and (c) “You” and “Your” mean an individual who downloads or uses the RRA and any person or entity represented by that individual.
- 2. USE.** The RRA is intended for Your personal use only. You may download and use the RRA only if You can form a binding contract with Us, and You are not a person who is barred from downloading or using the RRA by laws of any applicable jurisdiction.
- 3. LICENSE.** Subject to the TOS, Asurion grants You a personal, revocable, non-transferable, non-exclusive limited right to access and use the RRA on Your mobile device solely as permitted by its functions. Asurion grants You no other rights, beyond what is expressly granted to You herein, and Asurion reserves any and all other rights, including the right to change, suspend or discontinue the RRA and/or any of its functions at any time, for any reason and without notice or liability to You.
- 4. REMOTE ACCESS & PASSWORDS.** The RRA allows a third-party to gain remote access to and/or control of Your mobile device. If You know or suspect that the passwords associated with or stored on Your mobile device have been available to or accessed by anyone as a result of the RRA, You should immediately change or reset those passwords.
- 5. DATA-USAGE & CHARGES.** You acknowledge and agree that You may incur data usage or other charges when downloading or using the RRA and that You are solely responsible for their payment.
- 6. PRIVACY & SECURITY.** Our Privacy Policy is available here and explains Our policies with respect to the collection, use and disclosure of information related to or derived from Your use of the RRA. Please read it carefully and completely. By using the RRA, You consent to the collection, use and disclosure of Your information as set forth in that Policy.
- 7. RESTRICTIONS ON USE AND MISUSE.** You shall not use the RRA in any way that violates any applicable rules, laws or regulations or infringes any copyright, trademark or other intellectual property right. You shall not: (a) decompile, reverse engineer, disassemble, derive the source code of or decrypt the RRA; (b) make any modification, adaptation, improvement, enhancement, translation or derivative work from the RRA; (c) redistribute, rent, lease, loan, resell, sublicense, distribute, or otherwise transfer the RRA to any third party; or (d) remove, obscure, or alter any RRA proprietary notices. You shall not misuse the RRA, including, without limitation, using the RRA in any manner that: (a) interferes with or interrupts the RRA or any hardware, software, system or network connected with it; (b) stalks, harasses, threatens or harms any person or is otherwise invasive of another’s privacy rights; (c) uses the RRA 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 RRA or any other computer software or hardware.

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8. **DISCLAIMER OF WARRANTIES** THE FOLLOWING DISCLAIMER SHALL APPLY TO YOU ONLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. YOU ACKNOWLEDGE AND AGREE THAT THE RRA IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND THAT YOUR USE OF OR RELIANCE ON THE RRA IS AT YOUR SOLE RISK AND DISCRETION. ASURION HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, CONDITIONS AND GUARANTIES REGARDING THE RRA, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. FURTHERMORE, ASURION MAKES NO WARRANTY THAT (A) THE RRA WILL MEET YOUR REQUIREMENTS; (B) THE RRA 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 RRA WILL BE AS REPRESENTED OR MEET YOUR EXPECTATIONS; OR (D) ANY ERRORS IN THE RRA WILL BE CORRECTED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THE RRA SHALL CREATE ANY REPRESENTATION, WARRANTY OR GUARANTY. FURTHERMORE, YOU ACKNOWLEDGE AND AGREE THAT ASURION HAS NO OBLIGATION TO SUPPORT OR MAINTAIN THE RRA. YOU ACKNOWLEDGE AND AGREE THAT WE MIGHT NOT BE ABLE TO OFFER THE RRA AT ALL, IN THE ABSENCE OF THE FOREGOING DISCLAIMERS AND LIMITATIONS. IN THE EVENT OF ANY FAILURE OF THE RRA TO CONFORM TO ANY APPLICABLE WARRANTY, YOU MAY NOTIFY US AND WE WILL, AS YOUR SOLE AND EXCLUSIVE REMEDY, USE COMMERCIALY REASONABLE EFFORTS TO SATISFY THE WARRANTY. WE WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE RRA, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY WILL BE YOUR SOLE RESPONSIBILITY.
9. **LIMITATION OF LIABILITY.** THE FOLLOWING LIMITATIONS SHALL APPLY TO YOU ONLY 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 RRA, WHETHER OR NOT THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT WE WERE 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 RRA. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OUR 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 RRA, 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.
10. **ARBITRATION AGREEMENT AND DISPUTE RESOLUTION.** Most of Your concerns about the RRA can be addressed by contacting Asurion at 888-442-9019 or asurionmobile@mailmw.custhelp.com. For any dispute with Us, You agree to first contact Asurion and attempt to resolve the dispute with Us informally.
- A. In the event We cannot resolve a dispute with You after 60 days, **YOU AND WE AGREE TO RESOLVE ANY DISPUTES THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT INSTEAD OF THROUGH COURTS OF GENERAL JURISDICTION. YOU AND WE**

AGREE THAT ANY ARBITRATION WILL TAKE PLACE ON AN INDIVIDUAL BASIS ONLY. YOU AND WE AGREE TO WAIVE OUR RIGHTS TO A JURY TRIAL AND TO PARTICIPATE IN CLASS ACTIONS OR OTHER REPRESENTATIVE PROCEEDINGS. This Arbitration Agreement (“ARB AGREE”) shall survive the termination of the TOS and is governed by the Federal Arbitration Act. This ARB AGREE shall be interpreted broadly, and it includes any dispute You have with Us that arises out of or relates in any way to Your relationship with Us or the RRA, whether based in contract, tort, statute, fraud, misrepresentation or otherwise. However, this ARB AGREE does not preclude You from bringing an individual action against Us 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 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 \$10,000 or less, You may conduct the arbitration by submitting documents to the arbitrator or by telephone. If Your dispute is for more than \$10,000, 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 WE 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 We 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.

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- 11. CLAIM LIMITATION.** Unless otherwise required by applicable law, any claim related to the RRA shall be brought within one year of the events giving rise to it. Failure to assert any such claim during that period results in the claim being barred.
- 12. THIRD-PARTY CONTENT.** RRA may expose You to content, websites, products and services created or provided by parties other than Asurion (“third-party content”). Asurion does not review, endorse or assume responsibility for third-party content and shall have no liability to You for access to or use of it. You access or use third-party content at Your own risk and discretion.
- 13. INTELLECTUAL PROPERTY RIGHTS.** You agree that all copyrights, patents, trademarks, trade secrets and other intellectual property or proprietary rights associated with the RRA are Asurion’s exclusive property, and all such rights not expressly granted to You in the TOS are hereby reserved and retained by Asurion. If You submit comments or ideas about the RRA, including ways to improve the RRA 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 Ideas without compensation to You and/or to disclose the Ideas 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 Asurion’s employees or obtained from sources other than You.
- 14. OPEN SOURCE AND THIRD-PARTY SOFTWARE.** The RRA may include open source or third-party software, and Your use of the RRA is subject to any licenses or agreements governing that software.
- 15. INDEMNIFICATION.** You agree to indemnify, defend, and hold Asurion harmless from any claim, proceeding, loss, damage, liability or expense of any kind arising out of or in connection with Your use or misuse of the RRA. We reserve 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.
- 16. ASSIGNMENT, SEVERABILITY AND WAIVER.** The TOS and any rights or licenses granted hereunder may not be transferred or assigned by You, but may be transferred or assigned by Us, without restriction. If any term of the TOS 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 TOS. Any failure to enforce a right or term of the TOS shall not be deemed a waiver of that right or term.
- 17. ENTIRE AGREEMENT AND GOVERNING LAW.** This TOS and the documents incorporated by reference constitute the entire agreement between us with respect to the RRA and supersede any prior or contemporaneous agreements. The TOS and Your relationship with Us shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to conflicts of law provisions.

6.9.2015