

# END-USER LICENSE AGREEMENT FOR WIKITUDE

**IMPORTANT. READ CAREFULLY:** This End-User License Agreement (EULA or Agreement) is a legal agreement between you as end user and Wikitude GmbH ("Wikitude") (together the "Parties" and individually a "Party").

By accepting these terms or installing, copying, or otherwise using any of Wikitude's applications, products, services, software or websites provided or made available by or on behalf of Wikitude, including but not limited to the access to content and functionalities provided or made available by or on behalf of Wikitude or any third party ("Content"), the use of such applications, products, services, software and websites or any augmented reality application or browser (together the „Product“), you are agreeing to be bound by the terms of this Agreement and you acknowledge that you have read, understood and agree to abide by and comply with all terms, conditions and notices contained in or referenced by this Agreement, and that you have the authority to do so.

If you do not agree to be legally bound by the terms and conditions of this Agreement, click on "NO" below. If you do not agree to be bound by the terms of this Agreement (including those documents referenced herein), no agreement will exist between you and Wikitude. In this case you must not install or use the Product.

Unless otherwise agreed in writing, the legal relationship between Wikitude and you is set forth solely by this Agreement and this Agreement constitute the entire agreement between Wikitude and you, superceding any prior agreements between Wikitude and you (including, but not limited to, any prior versions of this Agreement). However, you also may be subject to additional terms and conditions that may apply when you use affiliate or other Wikitude's services or products.

If you are under the age of 19, it is required to read the Agreement with a parent or guardian. The use of the Product is only allowed to persons aged 14 and older. In addition, the use of the Product by persons under the age of 19 is under condition of the permission of the parents or competent guardian, respectively.

The Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Product is licensed, not sold.

## 1. GRANT OF LICENSE

Wikitude grants you the right to use the Product under the following conditions.

The Product is licensed and not sold under this Agreement. Subject to the terms and conditions herein, this Agreement grants you a personal, revocable, non-exclusive, non-transferable license that permits you to use the single copy of that Product installed on the Type of Computer as set forth in Section 1.2 of this Agreement.

### 1.1 Time frame of license

Wikitude is not obliged to support this product indefinitely. You acknowledge and hereby accept that the range and nature of the Product may be subject to temporary and/or permanent changes without prior notice. This includes but is not limited to updates, bug fixes and patches.

## 1.2 Type of computer

The type of computer you may install the Product on to:

- Mobile phones
- Tablet computers
- Portable computing devices

## 2. MAINTENANCE

Wikitude is not required to maintain the Product nor the server infrastructure. Wikitude may terminate the Product or its services at any time. You allow Wikitude to install updates of the Product at any time without any further consent.

In addition, Wikitude reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Product (or any part thereof) with or without notice. You acknowledge and agree that Wikitude shall not be liable to you or to any third party for any modification, termination, suspension or discontinuance of the Product (or any part thereof) or your access thereto.

Wikitude will be under no circumstances obliged to undertake corrections of the Product or to develop updates.

## 3. ACCESS OR USE OF THIRD PARTY CONTENT

Wikitude may provide you with access to Content of third parties who uses the Wikitude content interface and/or Wikitude services for the purpose of developing and/or publishing Content on a Wikitude mobile application or mobile webpage ("Content Partner").

You acknowledge and hereby accept that Wikitude does not control any Content developed, published or otherwise submitted via the Wikitude content interface or the Wikitude services and, as such, Wikitude does not guarantee the accuracy, integrity or quality of such Content made available through third party. The parties of this Agreement (i.e. you and Wikitude) acknowledge that solely Content Partners will enter into a contractual relationship with you as end users for accessing or using Content; Wikitude will only act on behalf of the Content Providers. Wikitude does not have control of, or liability for, any Content which may be available to you; Wikitude will not and cannot review the Content. The Content falls under the full and sole responsibility of the Content Partner.

Content Partner may include an additional, separate end user license agreement to the Content that will govern your rights to the Content („Content Partner EULA"). In this case the access or use of this Content is subject to this Content Partner EULA. However, such Content Partner EULA can never and will never be allowed to precede this Agreement and Wikitude's position and rights towards you or third parties. Any Content Partner EULA applies solely between you and the Content Partner.

## 4. ACCESS OR USE OF PREMIUM CONTENT

You may decide to access or use Content which is offered to you as paid content ("Premium Content"). In this case you are obliged to pay the fees indicated for that Premium Content ("End User Fee").

In order to access or use Premium Content you must open an user account as set forth below.

All purchases of Premium Content are final and you do not have the right to withdraw from, or terminate, such purchase once the access to such Premium Content has been granted. You acknowledge and hereby accept that Wikitude will have no obligation to provide a refund or repayment - for whatever reason - of any amounts paid by you to Wikitude or any other third party for Premium Content.

All payments for Premium Content will be carried out by a third party being engaged or acting on behalf of Wikitude or the Content Partner to handle, collect or receive payments from you as end user ("Third Party Payment Provider").

## 5. USER ACCOUNT

In order to use the Product you may open an user account ("User Account").

While opening the User Account you shall provide true, accurate, current and complete information about yourself as prompted by the Wikitude's registration form (such information being the "Registration Data") and you shall maintain and promptly update the Registration Data to keep it true, accurate, current and complete at all times. If you provide any information that is untrue, inaccurate, not current or incomplete, or Wikitude has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Wikitude has the right to suspend or terminate your User Account and refuse any and all current or future use of the Product (or any portion thereof).

You will be able to administer your User Account through a password protected interface. You are responsible for maintaining the confidentiality of your User Account and your User Account password. You are responsible for all activity that occurs via your User Account. If you have reason to believe that your User Account security has been breached it is your responsibility to notify us in a timely manner so that we can take the appropriate action in respect to your User Account.

You acknowledge and agree that Wikitude may, at its sole discretion, refuse or close your User Account at any time and without any cause.

## 6. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS

You are obliged to use the Product and any portion thereof in a responsible and law-abiding manner and in accordance with this Agreement, all applicable laws and regulations.

As a condition of your use of the Product you agree not to use the Product or any other services or products made available by Wikitude for any purposes other than set forth in this Agreement.

You agree that Wikitude may analyze user behavior in an anonymous way and use this information for internal purpose.

You may not at any time during this Agreement:

- copy, deliver or distribute the Product without written permit from Wikitude;
- reverse engineer, decompile, or disassemble the Product, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation,
- sell, rent, lend, convey, redistribute, sublicense, lease, resell, or otherwise

transfer for value, to any third party all or any part of the Product,

- use the Product in any manner or for any purpose that violates any applicable law, any right of any third person, including but not limited to intellectual property rights, rights of privacy, or rights of publicity, or in any manner inconsistent with this Agreement,
- use the Product intentionally to encourage or promote copyright infringement or the exploitation of copyright infringing materials.

## 7. COPYRIGHT

The Product is protected by copyright and other intellectual property laws and treaties. Wikitude owns the title, copyright, and other intellectual property rights in the Product.

## 8. LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

- YOUR USE OF THE PRODUCT IS AT YOUR SOLE RISK. THE PRODUCT IS PROVIDED ON AN „AS IS“ AND „AS AVAILABLE“ BASIS.
- WIKITUDE EXPRESSLY DISCLAIMS ALL WARRANTIES, ENDORSEMENTS, GUARANTEES, CONDITIONS AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONDITIONS, ENDORSEMENTS, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF DURABILITY, MERCHANTABILITY, MERCHANTABLE QUALITY, SATISFACTORY QUALITY, ACCURACY, TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ARISING FROM A STATUTE OR CUSTOM OR A COURSE OF DEALING OR USAGE OF TRADE.
- ANY MATERIAL OR SOFTWARE DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE PRODUCT IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA OR ANY OTHER DAMAGE THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL OR SOFTWARE, RESPECTIVELY.
- NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM WIKITUDE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS AND CONDITIONS.

IN PARTICULAR, AND WITHOUT LIMITING THE FOREGOING, WIKITUDE MAKES NO WARRANTY THAT:

- THE PRODUCT OR ITS FUNCTIONALITY AND QUALITY WILL MEET YOUR REQUIREMENTS AND EXPECTATIONS.
- THE PRODUCT WILL BE UNINTERRUPTED, TIMELY, SECURE, OR FREE OF DEFICIENCIES AND INTERRUPTIONS.
- ANY DEFICIENCIES AND ERRORS IN THE PRODUCT WILL BE CORRECTED.

## 9. LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WIKITUDE SHALL NOT BE LIABLE

FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WIKITUDE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), (i) ARISING OUT OF OR RESULTING FROM THE USE OR THE INABILITY TO USE THE PRODUCT OR (ii) RESULTING FROM PRODUCT WARRANTIES, END USER ASSISTANCE AND PRODUCT SUPPORT WITH RESPECT TO CONTENT.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS ABOVE MAY NOT APPLY TO YOU.

THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

## 10. INDEMNIFICATION

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD WIKITUDE AND ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, CO-BRANDERS AND INDEPENDENT CONTRACTORS HARMLESS FROM AND AGAINST ANY LOSS, LIABILITY, CLAIM, DEMAND, DAMAGES, COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEYS FEES AND DISBURSEMENTS, MADE BY ANY THIRD PARTY DUE TO OR ARISING OUT OF YOUR USE OF THE PRODUCT, A VIOLATION OF ANY APPLICABLE LAWS OR A VIOLATION OF THIS AGREEMENT.

## 11. INTELLECTUAL PROPERTY

1.1. We respect the Intellectual Property Rights of others and we prohibit users and Content Partners from using, uploading, posting, publishing or otherwise submitting any materials that violate third party's Intellectual Property Rights. „Intellectual Property Rights“ means all intellectual property rights, industrial property rights and other similar rights recognized throughout the world, whether existing under statute or at common law or equity, now or hereafter in force or recognized, including: (i) copyrights, rights in trade secrets, rights in marks, patents, design rights, data base rights, rights in processes, rights in methods, moral rights, mask work rights, publicity and personality rights, and privacy rights; and (ii) any application or right to apply for any of the rights referred to in paragraph (i), and all enhancements, improvements, renewals, extensions and restorations.

All right, title and interest, including but not limited to Intellectual Property Rights, in and to the Product are owned by Wikitude.

This Agreement do not transfer any Intellectual Property Rights from Wikitude to you or any third parties. If you infringe the Intellectual Property Rights of Wikitude or other third parties, Wikitude may, in it's sole discretion, terminate or deny access to and use of the Product.

## 12. PRIVACY

Wikitude cares about your privacy.

By submitting personal information to Wikitude, including without limitation your

name, address, your unique device id and your current location data and other personal information, you consent to the collection, processing, transmission, use, retention and disclosure of such information by Wikitude for any purposes set out in Wikitude's Privacy Policy as modified from time to time in its sole and reasonable discretion.

You agree that once you have activated the "Location Sharing" (subject to availability) function of the Product Wikitude has the right to collect, use, process, transmit and/or disclose your location data or the GPS-location which has been provided by you or which Wikitude receives from GPS location service providers ("End User Data"), all in accordance with Wikitude's Privacy Policy. The use of such End User Data will be limited solely as necessary to provide services or functionality for the Content or to disclose your location data or the GPS-location to other users of the Product.

If you withdraw your consent to the collection, use, processing, transmission and/or disclosure of such End User Data, Wikitude will immediately cease to collect, use, process, transmit and/or disclose the End User Data or perform any other actions for which the end users consent has been withdrawn.

### 13. TERMINATION

Without prejudice to any other rights, Wikitude may terminate this Agreement if you fail to comply with the terms and conditions of this Agreement. In such event, you must destroy all copies of the Product and all of its component parts.

These Terms and Conditions terminate automatically at any time by deleting or closing your User Account, notifying Wikitude or discontinuing the use of the Product.

Termination does not affect your liability or obligations under this Agreement.

Wikitude holds the sole right to modify or replace this Agreement. If changes have been made, a new version of this Agreement will be published and made available at [www.wikitude.com](http://www.wikitude.com).

It is agreed that the continued utilization of the Product after the publication of a new version or modification of this Agreement will be regarded as an acceptance of the new or modified Agreement. If you do not wish to be bound by these new version or modification of the Agreement, you must not use the Product.

### 14. APPLICABLE LAW

This Agreement and the use of the Product shall be governed by Austrian Law with the exclusion of the UN Sales Convention and the Austrian conflict of law rules of Austrian private international law.

Any disputes arising out of or in connection with this Agreement and the use of the Product, including disputes on its conclusion, binding effect, amendment and termination, shall be of the exclusive jurisdiction of the competent court having subject jurisdiction at the Wikitude registered office (i.e. Salzburg, Austria).

### 15. MISCELLANEOUS

This Agreement is the entire agreement between you and Wikitude concerning the subject matter herein, and supersedes all prior communications, proposals and representations with respect to the Product or any other subject matter covered herein.

Except as provided in this Agreement, neither Party may use the name, trademarks,

trade names, domain names or other designation of the other Party without the written approval of the other Party.

The failure of any Party at any time to enforce or require performance of any provision hereof shall in no way operate as a waiver or affect the right of such Party at a later time to enforce the same. Any waiver of an obligation, agreement or condition contained herein shall be valid and effective only if in writing and signed by the Party to whom such compliance is owed. No such waiver shall be deemed to be a waiver of any subsequent breach, claim or failure to perform or of any obligation, agreement or condition other than the one expressly waived.

If any provision of this Agreement is held invalid or unenforceable, the provision will be construed to reflect the Party's original intent. Despite the invalidity or unenforceability of such provision, all other provisions of this Agreement will remain in full force and effect.

## 16. ADDITIONAL PROVISIONS REGARDING APPLE

Notwithstanding anything in this EULA to the contrary, the following provisions shall be effective when you download the application ("Licensed Application") from Apple AppStore:

1. Acknowledgement: Both parties to this EULA (i.e. you as end-user and Wikitude) acknowledge that the EULA is concluded between Wikitude and the end-user only, and not with Apple Inc. or any of its subsidiaries ("Apple"), and Wikitude (or the Content Partner respectively), not Apple, are solely responsible for the Licensed Application and the content thereof. The EULA does not provide for usage rules for Licensed Applications that are less restrictive than the Usage Rules set forth for Licensed Applications in, or otherwise be in conflict with, the App Store Terms of Service as of the Effective Date (which you acknowledge you have had the opportunity to review).

2. Scope of License: The license granted to you for the Licensed Application is limited to a non-transferable license to use the Licensed Application on any iOS device that you own or control and as permitted by the Usage Rules set forth in the App Store Terms of Service.

3. Maintenance and Support: Wikitude (or the Content Partner respectively) is solely responsible for providing any maintenance and support services with respect to the Licensed Application, as specified in the EULA, or as required under applicable law. Both parties to this EULA acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Licensed Application.

4. Warranty: Wikitude (or the Content Partner respectively) is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the Licensed Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Licensed Application to you; 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 is Wikitude's sole responsibility (or the Content Partner's sole responsibility respectively).

5. Product Claims: Both parties to this EULA acknowledge that Wikitude (or the Content Partner respectively), not Apple, are responsible for addressing any claims of the end-user or any third party relating to the Licensed Application or the end-

user's possession and/or use of that 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 or similar legislation. This EULA shall not limit Wikitude's liability (or the Content Partner's liability respectively) to you beyond what is permitted by applicable law.

6. Intellectual Property Rights: Both parties to this EULA acknowledge that, in the event of any third party claim that the Licensed Application or your possession and use of that Licensed Application infringes that third party's intellectual property rights, Wikitude (or the Content Partner respectively), not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

7. Legal Compliance: You hereby 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.

8. Wikitude's Name and Address: Any of your questions, complaints or claims with respect to the Licensed Application can be directed to:

Wikitude GmbH  
Ginzkeyplatz 11  
5020 Salzburg/Austria  
Phone: +43 662 243310  
Email: [info@wikitude.com](mailto:info@wikitude.com)

For the contact details of the Content Partner please see your agreements (in particular, the end-user license agreement) with the respective Content Partner.

9. Third Party Beneficiary: Both parties to this EULA acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this EULA, and that, upon the end-user's acceptance of the terms and conditions of the EULA, Apple will have the right (and will be deemed to have accepted the right) to enforce the EULA against you as a third party beneficiary thereof.