



## **Total Drive Software Ltd End User Licence Terms**

### **PLEASE READ THESE LICENCE TERMS CAREFULLY**

**USE OF THE APP CONSTITUTES AN AGREEMENT TO THESE TERMS WHICH WILL BIND YOU.**

**IF YOU DO NOT AGREE TO THESE TERMS PLEASE LOG OUT OF THE APP**

### **WHO WE ARE AND WHAT THIS AGREEMENT DOES**

We Total Drive Software Limited of 37 Shiphay Lane, Torquay, Devon, England TQ2 7DU license you to use:

- TOTAL DRIVE: DRIVING INSTRUCTOR software (**App**) and any updates or supplements to it.
- The related or online electronic documentation (**Documentation**).
- The service you connect to via the App and the content we provide to you through it (**Service**).

as permitted in these terms.

### **YOUR PRIVACY**

We only use any personal data we collect through your use of the App and the Services in the ways set out in our privacy policy.

Please be aware that internet transmissions are never completely private or secure and that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

### **APP STORE TERMS APPLY**

The ways in which you can use the App and Documentation may also be controlled by the App Store upon which you download this app and their rules and policies.

### **OPERATING SYSTEM REQUIREMENTS**

This App requires a handheld (mobile or tablet) device with a minimum of 50MB of memory and requires an operating system from within the last 4 years.

### **SUPPORT FOR THE APP**

**Support.** If you want to learn more about the App or the Service or have any problems using them please contact your Driving Instructor.

**Contacting us (including with complaints).** If you think the App or the Services are faulty or misdescribed or wish to contact us for any other reason please email our customer service team at [hello@totaldrive.co.uk](mailto:hello@totaldrive.co.uk) or call them on 03302290990.

**How we will communicate with you.** If we have to contact you we will do so by email, by SMS or by pre-paid post, using the contact details you have provided to us.

## **HOW YOU MAY USE THE APP**

In return for your agreeing to comply with these terms you may:

- download a copy of the App onto a compatible Smartphone or Tablet to view, use and display the App and the Service on such devices for your personal purposes only.
- use any Documentation to support your permitted use of the App and the Service.
- receive and use any free supplementary software code or update of the App incorporating "patches" and corrections of errors as we may provide to you.

## **CHANGES TO THESE TERMS**

We may need to change these terms to reflect changes in law or best practice or to deal with additional features which we introduce.

We will give you at least 30 days' notice of any change by sending you an SMS with details of the change or notifying you of a change when you next start the App.

If you do not accept the notified changes you may continue to use the App and the Service in accordance with the existing terms but certain new features may not be available to you.

## **UPDATE TO THE APP AND CHANGE TO THE SERVICE**

From time to time we may automatically update the App and change the Service to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively, we may ask you to update the App for these reasons.

If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App and the Services.

The App will always work with the current or previous version of the operating system (as it may be updated from time to time) and match the description of it provided to you when you bought it.

## **IF SOMEONE ELSE OWNS THE DEVICE YOU ARE USING**

If you download the App onto any phone or other device not owned by you, you must have the owner's permission to do so. You will be responsible for complying with these terms, whether or not you own the phone or other device.

## **WE MAY COLLECT TECHNICAL DATA ABOUT YOU**

By using the App or any of the Services, you agree to us collecting and using technical information about the devices you use the App on and related software, hardware and peripherals to improve our products and to provide any Services to you.

## **HOW WE USE YOUR INFORMATION**

Total Drive will not sell or transfer any personal data to any third party. Total Drive may contact you in respect of your account and may from time to time provide information to you via email, text or through the app related to Total Drive or it's associated services and offers should they become available.

## **WE MAY COLLECTION LOCATION DATA ABOUT YOU (but you can turn location services off)**

Certain Services including Telematics will make use of location data sent from your devices. You can turn off this functionality at any time by turning off the location services settings for the App on the device. If you use these Services, you consent to us and our affiliates' and licensees' transmission, collection, retention, maintenance, processing and use of your location data and queries to provide and improve location-based and road traffic-based products and services.

You may stop us collecting such data at any time by turning off the location services settings on your device.

We are not responsible for other websites you link to.

The App or any Service may contain links to other independent websites which are not provided by us. Such independent sites are not under our control, and we are not responsible for and have not checked and approved their content or their privacy policies (if any).

You will need to make your own independent judgement about whether to use any such independent sites, including whether to buy any products or services offered by them.

## **LICENSE RESTRICTIONS**

You agree that you will:

- except in the course of permitted sharing not rent, lease, sub-license, loan, provide, or otherwise make available, the App or the Services in any form, in whole or in part to any person without prior written consent from us;
- not copy the App, Documentation or Services, except as part of the normal use of the App or where it is necessary for the purpose of back-up or operational security;
- not translate, merge, adapt, vary, alter or modify, the whole or any part of the App, Documentation or Services nor permit the App or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use the App and the Services on devices as permitted in these terms;
- not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App or the Services nor attempt to do any such things, except to the extent that (by virtue of sections 50B and 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are necessary to decompile the App to obtain the information necessary to create an independent program that can be operated with the App or with another program

**(Permitted Objective)**, and provided that the information obtained by you during such activities:

- is not disclosed or communicated without the Licensor's prior written consent to any third party to whom it is not necessary to disclose or communicate it in order to achieve the Permitted Objective; and
- is not used to create any software that is substantially similar in its expression to the App;
- is kept secure; and
- is used only for the Permitted Objective;
- comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or any Service.

### **ACCEPTABLE USE RESTRICTIONS**

You must:

- not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the App, any Service or any operating system;
- not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service, to the extent that such use is not licensed by these terms;
- not transmit any material that is defamatory, offensive, or otherwise objectionable in relation to your use of the App or any Service;
- not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

### **INTELLECTUAL PROPERTY RIGHTS**

All intellectual property rights in the App, the Documentation and the Services throughout the world belong to us (or our licensors) and the rights in the App and the Services are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, the Documentation or the Services other than the right to use them in accordance with these terms.

### **LIABILITY**

#### **No Liability**

No third parties or us give any guarantee that the information contained with the Total Drive Booking Service will be error free. By using this service, you understand that the information may contain errors and we do not accept liability for these errors, to the amount that is allowed by law.

All bookings for services on this booking software are made with the Service Provider and not with Total Drive. Total Drive only facilitates the online booking with the Service Provider. The contract is between you and the Service Provider and Total Drive is not part of that

agreement and therefore Total Drive has no direct or indirect responsibility in that contract. Before making a booking, you need to check that you agree with the Service Providers terms and conditions.

**Our responsibility for loss or damage suffered by you**

**We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking these terms or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time you accepted these terms, both we and you knew it might happen.

**We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

**When we are liable for damage to your property.** If defective digital content that we have supplied damages a device or digital content belonging to you, we will either repair the damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

**We are not liable for business losses.** The Pupil element of the App is for domestic and private use. If you use the App for any commercial, business or resale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

**Limitations to the App and the Services.** The App and the Services are provided for general information and entertainment purposes only. They do not offer advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of information obtained from the App or the Service. Although we make reasonable efforts to update the information provided by the App and the Service, we make no representations, warranties or guarantees, whether express or implied, that such information is accurate, complete or up to date.

**Please back-up content and data used with the App.** We recommend that you back up any content and data used in connection with the App, to protect yourself in case of problems with the App or the Service.

**Check that the App and the Services are suitable for you.** The App and the Services have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Services (as described on the appstore site and in the Documentation) meet your requirements.

**We are not responsible for events outside our control.** If our provision of the Services or support for the App or the Services is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event but if there is a risk of substantial delay you may contact us to end your contract with us and receive a refund for any Services you have paid for but not received.

**We are not responsible for loss of personal information.** Total Drive, its Directors, Employees, or other Representatives will not be liable for any claims, emergencies, damages, causes of action, demands, losses or expenses including solicitors' fees and costs in connection with the use of your personal information in accordance with this agreement and your consent.

## **BOOKING CONDITIONS**

**Responsibility of accuracy of information to Service Providers.** Services and products are carried out and provided by trusted third parties to a Service Provider but making a booking, it is your responsibility to tell the Service Providers directly about any physical or mental condition that you have and that may require special facilities.

**Cancellations.** Total Drive does not accept responsibility for cancellations by the user or by the Service Provider regardless of the circumstances in which the cancellation is made. Total Drive should not accept any liability for losses, additional expenses or any claim whatsoever due to changes in the services, sickness, weathers, strikes, pandemic, Government restrictions or any other causes. All such losses, additional expenses or claims will be borne by you unless otherwise agreed between you and the Service Provider. Total Drive does not accept any liability for losses, additional expenses or any claim because of changes in services, sickness, weathers, strikes, pandemic, Government restrictions or any other cause. All losses, extra fees or claims will be your responsibility unless otherwise agreed between you and the Service Provider.

**No liability in credit or debit card transactions.** Total Drive makes all reasonable efforts to ensure that all credit card and debit card transactions are secure. However, if unauthorised charges appear on your credit card or debit card statement for any card used on this service at any time during or after you make your reservation, conduct for a transaction or disclose your card details on this service, Total Drive shall not be liable or responsible in any way in respect of any damage or loss of whatsoever nature suffered by you arising from or in any way connected with said use, transaction or disclosure subject to any statutory rights that you may have.

**Copyright Notice and limited Licence.** This service contains material which is owned by or licenced to us. This material includes, but is not limited to, the design, layout, look, appearance and graphics. Reproduction is prohibited in accordance with the copyright notice which forms part of these terms and conditions. Any person breaching any of these provisions will be prosecuted.

**Automatic collection of information/cookies.** Refer to our privacy policy for information as to how information and cookies is retained.

**When an appointment is confirmed.** Total Drive does not accept responsibility for cancellations by the User or by the Service Provider.

## **WE MAY END YOUR RIGHTS TO USE THE APP AND THE SERVICES IF YOU BREAK THESE TERMS**

We may end your rights to use the App and Services at any time by contacting you if you have broken these terms in a serious way. If what you have done can be put right we will give you a reasonable opportunity to do so.

If we end your rights to use the App and Services:

- You must stop all activities authorised by these terms and any other agreements entered into with us, including your use of the App and any Services.
- You must delete or remove the App from all devices in your possession and immediately destroy all copies of the App which you have and confirm to us that you have done this.
- We may remotely access your devices and remove the App from them and cease providing you with access to the Services.

## **WE MAY TRANSFER THIS AGREEMENT TO SOMEONE ELSE**

We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.

#### **YOU NEED OUR CONSENT TO TRANSFER YOUR RIGHTS TO SOMEONE ELSE**

You may only transfer your rights or your obligations under these terms to another person if we agree in writing.

#### **NO RIGHTS FOR THIRD PARTIES**

This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

#### **IF A COURT FINDS PART OF THIS CONTRACT ILLEGAL, THE REST WILL CONTINUE IN FORCE**

Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

#### **EVEN IF WE DELAY IN ENFORCING THIS CONTRACT, WE CAN STILL ENFORCE IT LATER**

Even if we delay in enforcing this contract, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

#### **WHICH LAWS APPLY TO THIS CONTRACT AND WHERE YOU MAY BRING LEGAL PROCEEDINGS**

These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

#### **ALTERNATIVE DISPUTE RESOLUTION**

Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to contact the alternative dispute resolution provider we use.