



End User Licence Agreement

for GfK Soundmatching Mobile App



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End User Licence Agreement

This GfK SE (“GfK”) End User Licence Agreement (“**Agreement**”) applies to your use of this GfK Application (“**Application**”), named “GfK Sound matching App”, operated by GfK and sets forth a legally binding agreement between you and GfK.

The Application

The Application collects sound information from your mobile device in order to recognise any TV or Radio content you may be consuming. All data is recorded as an encrypted string of numbers and it is not possible to decode this information back into an audible format. **Please read our [Privacy Statement](#) for more information about our information collection and use practices for this Application.**

By downloading and entering the access code for the Application you: (1) agree to be bound by the terms contained in this Agreement; and (2) represent that all information you provided to GfK during the registration process is truthful and accurate. If you do not agree to the terms of this Agreement, we will not licence the Application to you and you must either stop downloading the Application now or treat this Agreement as being at an end under the Termination paragraph below.

This Application requires an Android Smartphone with a minimum of 3.10MB of memory.

GfK provides the Application to you, subject to this Agreement. You represent and warrant that you will use the Application and Content only for the purposes permitted herein, that all information you submit is accurate and otherwise complies with this Agreement, and that you will promptly notify GfK if your contact information changes. GfK makes no representation that the Application is available for use in particular locations.

Privacy Statement

When you use this Application, we shall collect the following information:

- Unique identifier of the mobile device (Android-ID)
- All ambient sound within close proximity of the device
- Motion sensor data (if available)
- Location data (GPS)

We use this information for the following purposes:

- A unique identifier enables us to identify and distinguish between different responses.
- The sound data we collect will be matched against equivalent data from Television and Radio broadcasts, and therefore enables us to estimate the content you might have consumed. Only sound data that relates to Television and Radio content will be analysed, and all other sound data received will be discarded safely.
- Any motion sensor data will enable us to understand if the device was moving or stationary at the time of collection.
- Any GPS data collected will enable to understand the number of locations in which content is being consumed.
- All collected data will be used to analyse your specific media consumption over a 1 week period.



We do not knowingly collect or store any personally identifiable information about you, such as; your name, postal address, email address or telephone numbers. If you believe we have inadvertently collected such information, please contact your panel owner at the contact details set out on the last page of this Agreement.

We do not use or collect your precise geographical location.

Termination

You are being given access to this Application as a member of the NewVista Panel (“Panel”) that has agreed to take part in the Metering Program. **You can at any point cease participation in the Panel by notifying the support team at 0845 2962 701 or metering@icmunlimited.com. You may then uninstall the Application and this Agreement shall terminate.**

Upon termination of this Agreement; (i) your rights under this Agreement will terminate automatically; (ii) you must immediately cease all use of the Application; and (iii) you must immediately delete or remove the Application from your mobile device.

GfK may, in its sole discretion, and at any time, discontinue this Application or any part thereof, with or without notice, or may prevent your use of this Application with or without notice to you. You agree that you do not have any rights in this Application and that GfK will have no liability to you if this Application is discontinued or your ability to access the Application is terminated.

YOU MAY NOT USE THE APPLICATION FOR ANY PURPOSE THAT IS UNLAWFUL OR PROHIBITED BY THIS AGREEMENT. YOUR ACCESS TO THE APPLICATION MAY BE TERMINATED IMMEDIATELY IN GfK’S SOLE DISCRETION, WITH OR WITHOUT NOTICE, IF YOU FAIL TO COMPLY WITH ANY PROVISIONS OF THIS AGREEMENT AND/OR ADDITIONAL TERMS, OR FOR ANY OTHER REASON, OR NO REASON.

Grant of Licence

The Application, including the software (including, without limitation, software, code, files, images, contained in or generated by the software, accompanying data, Boot ROM code and other embedded software), Application Updates (as defined below), documentation and any accompanying fonts, whether in read-only memory, on any other media or in any other form are Licenced to you by GfK subject to the terms of this Agreement. Neither title nor any intellectual property rights are transferred to you, but rather remain with GfK, who owns full and complete title, and GfK reserves all rights not expressly granted to you. The rights granted herein are non-transferable.

The Agreement herein grants you permission to use the Application on as many devices as we request you to install it. You may not make the Application available over a network where it could be used on multiple devices at the same time. This Agreement does not grant you any rights to use GfK proprietary interfaces and other intellectual property in the design, development, manufacture, licensing or distribution of third-party devices and accessories for use with the Application. Any use of the Application in any manner not allowed under this Agreement, including, without limitation, resale, transfer, modification or distribution of the Application is prohibited. Instructions on how to uninstall the Application will be provided to you at the time of download/installation, but this Agreement does not entitle you to receive and does not obligate GfK to provide hard-copy documentation, support, telephone assistance, or enhancements or updates to the Application.. You

may not, modify, alter, copy, publicly display or perform, distribute, create derivative works, of the Application.

Accounts and Security

You are responsible for any and all activities that occur under your account. You agree to notify GfK immediately of any unauthorised use of your account. You further agree not to email, post, or otherwise disseminate any user ID, password, or other information which provides you access to the Application. GfK is not liable for any loss that you may incur as a result of someone else using your account, either with or without your knowledge.

Application Updates

GfK may, at its discretion, provide notifications on Application Updates to you from time to time. You agree to accept these Application Updates, and to pay for any costs associated with receiving them. You must comply with all domestic and international export laws and regulations that apply to the Application and Application Updates. These laws include restrictions on destinations, end users and end use.

Except as and only to the extent permitted by applicable law, or by licensing terms governing use of open-sourced components included with the Application, you may not copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Application, Application Updates, or any part thereof. Any attempt to do so is a violation of the rights of GfK and its licensors and you may be subject to prosecution and damages.

Use of the Application

The following requirements apply to your use the Application:

- You will not use any electronic communication feature of the Application for any purpose that is unlawful, tortious, abusive, intrusive on another's privacy, harassing, libellous, defamatory, embarrassing, obscene, threatening, or hateful.
- You will not upload, post, reproduce, or distribute any information, software, or other material protected by copyright or any other intellectual property right (as well as rights of publicity and privacy) without first obtaining the permission of the owner of such rights.
- You will not use the Application for any commercial purpose not expressly approved by GfK in writing.

Intellectual Property Ownership

There are a number of trademarks, logos, service marks, slogans, product names and designations and other proprietary indicia (collectively "**Trademarks**") used in the Application. By making these Trademarks available through the Application, GfK is not granting you a Licence to use them in any fashion, and you are not granted any Licence under any of GfK's or any third party's Trademarks or other intellectual property rights, except as specifically set forth in this Agreement. No GfK Trademarks may be used as a username, icon, identifier, hyperlink or in any other manner without GfK's prior written permission.

The Application and the selection, coordination, and arrangement thereof, is owned either by GfK or its respective licensors. The unauthorised copying, displaying, selling, distributing or other use of any Content or Application is a violation of the law. You acknowledge having been advised by GfK

that the Application is protected in the U.S. and internationally by a variety of laws, including but not limited to, copyright laws and treaty provisions, trademark laws, patent laws and other intellectual property and proprietary rights laws.

Representations, Disclaimer of Warranties, and Limitations of Liability

GfK and its respective parents, subsidiaries, officers, employees, and website contractors and each of their officers, employees and agents (collectively, “**Company Affiliates**”) make no representation or warranty whatsoever regarding the completeness, accuracy, timeliness or adequacy of any information, facts, views, opinions, statements or recommendations contained on the Application. Reference to any product, process, publication or service of any third party by trade name, domain name, trademark, service mark, logo, manufacturer or otherwise does not constitute or imply its endorsement or recommendation by GfK or the Company Affiliates.

The Internet may be subject to breaches of security. GfK and the Company Affiliates are not responsible for any resulting damage to any user’s device or mobile device from any such security breach, or from any virus, bugs, tampering, unauthorised intervention, fraud, error, omission, interruption, deletion, defect, delay in operation or transmission, computer line failure or any other technical or other malfunction.

GfK and the Company Affiliates make no representation or warranty whatsoever regarding the suitability, functionality, performance, availability or operation of the Application. This Application may be temporarily unavailable due to maintenance or malfunction of computer equipment.

THE APPLICATION (INCLUDING ALL APPLICATION UPDATES) IS MADE AVAILABLE ON AN “AS IS,” “AS AVAILABLE” AND “WITH ALL FAULTS” BASIS. GfK AND THE COMPANY AFFILIATES SPECIFICALLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, WITH RESPECT TO THE APPLICATION AND THE CONTENT. GfK DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN OR SERVICES PERFORMED, PROVIDED OR ENABLED BY OR THROUGH THE APPLICATION (INCLUDING ANY APPLICATION UPDATES) WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE APPLICATION, (INCLUDING ANY APPLICATION UPDATES) WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE APPLICATION (INCLUDING ANY APPLICATION UPDATES) WILL BE CORRECTED.

YOU AGREE THAT GfK AND THE COMPANY AFFILIATES ARE NOT LIABLE TO YOU FOR DAMAGES OF ANY KIND, WHETHER BASED IN TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES RESULTING IN ANY WAY FROM OR IN CONNECTION WITH: (I) THE APPLICATION; (II) ANY ERRORS OR OMISSIONS IN THE TECHNICAL OPERATION OR CONTENT OF THE APPLICATION; (III) ANY ACTION TAKEN IN CONNECTION WITH AN INVESTIGATION BY GfK, LAW ENFORCEMENT OR OTHER AUTHORITIES REGARDING YOUR USE OF THE APPLICATION; (IV) ANY ACTION TAKEN IN CONNECTION WITH COPYRIGHT OWNERS; OR (V) THE CONDUCT, ACTIONS OR INACTIONS OF APPLICATION USERS OR YOUR INTERACTIONS OR RELATIONSHIPS WITH APPLICATION USERS, EVEN IF GfK OR THE COMPANY AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER CAUSED IN WHOLE OR IN PART BY

NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR THEFT OR DESTRUCTION OF, OR UNAUTHORISED ACCESS TO, THE APPLICATION OR ITS RELATED INFORMATION OR PROGRAMS.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF CERTAIN WARRANTIES AND CONDITIONS, OR THE DISCLAIMER OF SOME TYPES OF DAMAGES, SO SOME OF THE ABOVE MAY NOT APPLY TO YOU.

BY ACCESSING THIS APPLICATION, REGISTERING WITH THE APPLICATION AND/OR ACCEPTING ANY INFORMATION FROM THIS APPLICATION YOU AGREE TO INDEMNIFY, DEFEND AND HOLD GfK AND THE COMPANY AFFILIATES HARMLESS FROM AND AGAINST ANY ACTUAL OR ALLEGED CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS, DAMAGES, LOSSES, LIABILITIES, AND ALL COSTS AND EXPENSES OF DEFENSE (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) ARISING OUT OF OR RELATING TO: (A) YOUR BREACH OF THIS AGREEMENT; (B) YOUR VIOLATION OF ANY LOCAL, STATE, FEDERAL OR INTERNATIONAL LAW, RULE OR REGULATION; (C) A CLAIM BY A THIRD PARTY THAT IS BASED ON YOUR USE OF THE APPLICATION; (D) INFORMATION OR MATERIAL POSTED OR TRANSMITTED THROUGH YOUR MOBILE DEVICE OR ACCOUNT, EVEN IF NOT SUBMITTED BY YOU; (E) ANY MISREPRESENTATION MADE BY YOU; (F) ANY DISPUTE BETWEEN YOU AND ANOTHER USER OF THE APPLICATION; (G) THE THEFT, MISAPPROPRIATION OR DISCLOSURE OF YOUR PASSWORD; (H) YOUR AUTHORISATION OF ANYONE ELSE TO USE YOUR PASSWORD. YOU WILL CO-OPERATE AS FULLY AND AS REASONABLY REQUIRED IN GfK'S DEFENSE OF ANY CLAIM. GfK RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY YOU, AND YOU SHALL NOT, IN ANY EVENT, SETTLE ANY MATTER WITHOUT THE WRITTEN CONSENT OF GfK.

Assignment

GfK may assign this contract, in whole or in part, at any time with or without notice to you. You may not assign this contract, or any part of it, to any other person. Any attempt by you to do so is void. You may not transfer to anyone else, either temporarily or permanently, any rights to use all or any part of the Application. To the extent that you allow a third party to use your device, you shall remain solely responsible for the use of the Application by others using the device.

General Information

This Agreement constitutes the entire agreement between you and GfK governing your use of the Application, superseding any prior agreements. You may also be subject to additional terms and conditions (including, but not limited to, terms and conditions from your Internet service provider) that may apply to your use of the Application. If any provision of this Agreement is held to be invalid or unenforceable, this will not affect any other provisions of this Agreement. The failure of GfK to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

By using the Application, you agree that the laws of England and Wales apply to all matters relating to use of the Application, and you agree that any litigation shall be subject to the exclusive jurisdiction of England and Wales. The United Nations Convention on Contracts for the International



Sale of Goods (1980) is hereby excluded in its entirety from application to this Agreement. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Application or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. The section titles in this Agreement are for convenience only and have no legal or contractual effect.

Both you and GfK acknowledge and agree that no partnership is formed and neither of you nor GfK has the power or the authority to obligate or bind the other.

The failure of GfK to comply with this Agreement because of an act of God, war, fire, riot, terrorism, earthquake, actions of local or governmental authorities or for any other reason beyond the reasonable control of GfK, shall not be deemed a breach of this Agreement.

From time to time we may update this Agreement. Your use of this Application after we post any changes to this Agreement constitutes your agreement to those changes. If GfK in its reasonable discretion believes that a change to this Agreement will benefit you or have a neutral impact on you, GfK may make the change without informing you. If GfK reasonably thinks that a change to this Agreement will have a detrimental material impact on you, we will give you notice through the Application or by some other means and you may terminate this Agreement with effect as of the date of change. You agree to review this Agreement periodically to ensure that you are familiar with the most recent version.

Contact information

In the event of a complaint or concern regarding this Agreement or the Application, or for more information, please contact ICM at the following address:

ICM Unlimited
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10 Great Pulteney Street
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W1F 9NB

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