

Myzone In-Club EULA – Version 13 March 2024

PLEASE READ THESE LICENCE TERMS CAREFULLY BEFORE ACCESSING or DOWNLOADING ANY SOFTWARE FROM THIS SITE

BY DOWNLOADING OR INSTALLING THE MYZONE IN-CLUB SOFTWARE (**Software**) YOU AGREE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS YOU MUST NOT DOWNLOAD NOR INSTALL THE SOFTWARE.

PLEASE NOTE THAT THERE ARE ALSO SOME ADDITIONAL TERMS WHICH WILL APPLY IF YOU ARE A PARTY DOWNLOADING OR INSTALLING THE SOFTWARE IN A COUNTRY OR USA STATE REFERRED TO IN THE "ADDITIONAL TERRITORY SPECIFIC PROVISIONS" **LISTED BELOW**.

This licence agreement (**Licence**) is a legal agreement between your organisation (**Licensee** or **you**) and Myzone Limited, incorporated in the Isle of Man (company number: 006566V; registered address: Level 3, Gordon House, 10a Prospect Hill, Douglas, Isle of Man IM1 1EJ (**Licensor, us** or **we**) for:

- the Software; and
- any electronic documents or webpages which we refer to in this Licence in respect of the Software (**Documents**).

We license use of the Software and Documents to you on the basis of this Licence. We do not sell the Software or Documents to you. We remain the owners of the Software and Documents at all times.

SYSTEM REQUIREMENTS: THIS SOFTWARE IS COMPATIBLE WITH THE SPECIFICATION REFERRED TO ON OUR WEBSITE AT www.myzone.org/package-options (**System Requirements**).

IMPORTANT NOTICE TO ALL USERS:

- BY ACCEPTING THE LICENCE, YOU AGREE TO ENSURE THAT YOU AND ALL OF YOUR STAFF COMPLY WITH THE REQUIREMENTS OF THE LICENCE. THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CONDITION 4.1 AND CONDITION 5.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, YOU MAY NOT DOWNLOAD NOR ACCESS THIS SOFTWARE OR DOCUMENTS.

You should print a copy of this Licence for future reference.

1 Grant and scope of licence

- 1.1 In consideration of payment by you of the agreed licence fee and you agreeing to abide by the terms of this Licence, we grant to you a non-exclusive, non-transferable licence to use the Software and the Documents in the country in which you downloaded this, on the terms of this Licence.
- 1.2 You may:
 - 1.2.1 download, install and use the Software for your internal business purposes for use at one of your business locations (which is a business location where your club or community group has an arrangement with us for allowing interaction between our Myzone mobile application software and your club or community group), unless otherwise agreed in writing by us;
 - 1.2.2 transfer the Software from one computer to another at the same location as which it was originally installed when you downloaded it (such location being the **Premises**);
 - 1.2.3 provided you comply with the provisions in condition 2, make up to 1 copy of the Software for back-up purposes only;
 - 1.2.4 receive and use any free supplementary software code or update of the Software incorporating “patches” and corrections of errors as may be provided by us from time to time (for the avoidance of doubt, if the Software is updated or upgraded as a result of further software which is provided by us to you, then this updated or upgraded software will become the ‘Software’ for the purposes of this Licence); and
 - 1.2.5 use any Documents in support of the use permitted under condition 1.2.
- 1.3 This Licence commences on the date that you agree to this Licence. It continues in force on an annual basis until the Licence is terminated in accordance with its provisions.
- 1.4 The applicable annual licence fees for the Software are as stated in the quote for the Software licence which is generated by our payment platform used by you to purchase a licence for the Software.

2 Restrictions and obligations

- 2.1 Except as expressly set out in this Licence or as permitted by any local law, you undertake:
- 2.1.1 not to copy the Software or Documents except where such copying is incidental to normal use of the Software, or where it is necessary for the purpose of back-up or operational security;
 - 2.1.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or Documents;
 - 2.1.3 not to make alterations to, or modifications of, the whole or any part of the Software, nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
 - 2.1.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
 - (i) is used only for the purpose of achieving inter-operability of the Software with another software program; and
 - (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
 - (iii) is not used to create any software which is substantially similar to the Software;
 - 2.1.5 to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;
 - 2.1.6 to supervise and control use of the Software and ensure that the Software is used by your staff in accordance with the terms of this Licence;
 - 2.1.7 to include our copyright notice on all entire and partial copies you make of the Software on any medium;

- 2.1.8 not to provide or otherwise make available the Software in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than your staff without prior written consent from us; although the functionality of the Software can be provided to your consumer customers (**End Users**) visiting your Premises; and
- 2.1.9 to comply with all applicable technology control or export laws and regulations.
- 2.2 You agree to have in force at all times: (1) reasonable antivirus, firewalls and other reasonable cyber security and anti-malware measures; **and** (2) daily backups of all of your data which is stored or accessible from the computer on which the Software is installed. You acknowledge that this is important, for you to protect your systems and data when using the Software.
- 2.3 You may not enter into any arrangement with any third parties, including without limitation the End Users, where such arrangement imposes, or seeks to impose, any obligation or liability on us.

3 Intellectual property rights

- 3.1 You acknowledge that all intellectual property rights in the Software and the Documents anywhere in the world belong to us, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software or the Documents other than the right to use them in accordance with the terms of this Licence.
- 3.2 Subject to Condition 2.1.4, you acknowledge that you have no right to have access to the Software in source code form.

4 Limited warranty

- 4.1 We warrant that:
- 4.1.1 the Software will, when properly used in accordance with the System Requirements, perform materially in accordance with the functions described on our website at www.myzone.org/package-options (**Function List**);
- for each Year for which you have paid the applicable licence fee (**Warranty Period**).

- 4.2 If, within the Warranty Period, you notify us using the support contact details shown on our website at www.myzone.org/customer-support of any fault in the Software as a result of which it fails to perform materially in accordance with the Function List, we will, at our sole option, either issue an update or replacement for the Software (as part of our next update or release cycle), provided that you make available all the information that may be necessary to help us to be able to remedy the fault, including reasonable information to enable us to recreate the fault.
- 4.3 The warranty and our obligations in Conditions 4.1 and 4.2 do not apply:
- 4.3.1 if the fault in the Software results from you having altered or modified the Software; or
- 4.3.2 if the fault in the Software results from you having used the Software in breach of the terms of this Licence.

5 Limitation of liability

- 5.1 You acknowledge that the Software has not been developed to meet your individual requirements, including any particular cybersecurity requirements you might be subject to under law or otherwise, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documents meet your requirements.
- 5.2 We only supply the Software and Documents for internal use by your business, and you agree not to use the Software or Documents for any re-sale purposes (although you may charge the End Users (whether specifically for the Software, or as part of any other fees which you charge End Users) for use of the Software at the Premises, but in such circumstances, you agree that you shall be solely responsible for paying all applicable taxes associated with such amounts at the appropriate rate and shall promptly reimburse us for any tax liability incurred by us as a result of such charging activity by you).
- 5.3 We shall not in any circumstances whatever be liable to you, whether in contract, tort (including without limitation, negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:
- 5.3.1 loss of profits, sales, business, or revenue;
- 5.3.2 business interruption;

- 5.3.3 loss of anticipated savings;
- 5.3.4 wasted expenditure (including without limitation, wasted management time);
- 5.3.5 loss or corruption of data or information;
- 5.3.6 loss of business opportunity, goodwill or reputation;

where any of the losses set out in condition 5.3.1 to condition 5.3.6 are direct or indirect; or

- 5.3.7 any special, indirect or consequential loss, damage, charges or expenses.

5.4 Other than the losses set out in condition 5.3 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including without limitation, negligence) or otherwise, for the totality of all claims in relation to this Licence where the causes of the claim arise in a particular Year shall be limited to the greater of:

- 5.4.1 100% of the total Licence Fees (excluding any taxes in respect of those Licence Fees) paid by you to us in the relevant Year in which the causes of the claims arose; and

- 5.4.2 £500.

By way of illustration, if two different claims arose at different times, where the causes of both of those claims occurred in Year 1, and if the applicable Licence Fees in Year 1 which have been paid by you to us were £4,000+VAT, then the maximum amount recoverable by you against us, for the totality of those two claims, would be £4,000 (and not £4,000 per claim; and not £4,000+VAT).

In this Condition 5.4 and in the Licence:

- “**Licence Fees**” means the fees paid by you to us in respect of the Software in the relevant Year; and
- “**Year**” means a period of 12 months from either: (1) the date of the commencement of this Licence; or (2) an anniversary of the commencement date of this Licence.

5.5 The maximum liability cap in Condition 5.4 does not apply to condition 5.6.

5.6 Nothing in this Licence shall limit or exclude our liability for:

5.6.1 death or personal injury resulting from our negligence;

5.6.2 fraud or fraudulent misrepresentation;

5.6.3 any other liability that cannot be excluded or limited by English law.

For the avoidance of doubt, and notwithstanding any provision to the contrary, all of the provisions of the Licence apply subject to this Condition 5.6.

5.7 This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Software and Documents. Except as expressly stated in this Licence, there are no conditions, warranties, representations or other terms, express or implied (whether by law, conduct, a course of dealings, or otherwise), that are binding on us. Any condition, warranty, representation or other term concerning the supply of the Software and Documents which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

6 Termination

6.1 Either party may terminate this Licence immediately by written notice to the other if the other commits a material breach of this Licence (and in circumstances where the breach is remediable, the defaulting party fails to remedy it within 5 days after the service of written notice requiring it to do so).

6.2 We may also suspend or terminate your use of the Software for non-payment of the Licence Fees, but this does not affect your payment obligations for the Licence Fees for the respective Year in which the suspension or termination has occurred (as there will be no deduction from the applicable Licence Fees due from you to us for any suspended or terminated period).

6.3 On termination for any reason:

6.3.1 all rights granted to you under this Licence shall cease;

6.3.2 you must immediately cease all activities authorised by this Licence; and

- 6.3.3 you must immediately and permanently delete or remove the Software from all computer equipment in your possession, and immediately destroy all copies of the Software and Documents then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.
- 6.4 If either party does not wish to renew the Licence for a subsequent 12 month period following the expiry of the current Year, then it must provide the other party with at least 30 days prior written notice (or electronic notice) before the expiry of the current Year.
- 6.5 Termination of this Licence is without prejudice to each party's rights and remedies.

7 Communications between us

- 7.1 We may update the terms of this Licence at any time on notice to you in accordance with this condition 7. Your continued use of the Software and Documents following the deemed receipt and service of the notice under condition 7.3 shall constitute your acceptance to the terms of this Licence, as varied. If you do not wish to accept the terms of the Licence (as varied) you must immediately stop using and accessing the Software and Document on the deemed receipt and service of the notice and confirm that you are rejecting the variation (and in such cases, we may either: (1) withdraw the variation; or (2) we may terminate the Licence and you will be provided with a pro-rata refund of any unexpired period for the Software for the Year which you have paid for).
- 7.2 If we have to contact you, we will do so by email or by pre-paid post to the address you provided in accordance with your order for the Software.
- 7.3 Note that any notice:
 - 7.3.1 given by us to you will be deemed received and properly served in any of the following circumstances: 24 hours after it is first posted on our website; when an email is sent to you; or on confirmation by a postal carrier or courier of delivery of a letter to you; and
 - 7.3.2 given by you to us will be deemed received and properly served once it is received by us.

8 Events outside our control

- 8.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in condition 8.2.
- 8.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation any or all of the following: (1) failure of public or private telecommunications networks; (2) malware or cyber attack; (3) failure of power or utilities; (4) fire or explosion; (5) sickness of staff; (6) industrial action by staff or third parties.
- 8.3 If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:
- 8.3.1 our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control.

9 How we may use your personal information

- 9.1 Information regarding how we process your personal data is provided at www.myzone.org/legal.

10 Other important terms

- 10.1 We may transfer our rights and obligations under this Licence to another organisation (upon notice to you), but this will not affect your rights or your obligations under this Licence.
- 10.2 You may only transfer your rights or your obligations under this Licence to another party if we agree in writing.
- 10.3 This Licence and any document expressly referred to in it constitutes the entire agreement between us and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between you and us, whether written or oral, relating to its subject matter.
- 10.4 You acknowledge that in entering into this Licence you do not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty

(whether made innocently or negligently) that is not set out in this Licence or any document expressly referred to in it.

- 10.5 You agree that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Licence or any document expressly referred to in it.
- 10.6 A waiver of any right or remedy by us is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 10.7 A delay or failure to exercise, or the single or partial exercise of, any right or remedy by us shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 10.8 Each of the conditions of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 10.9 This Licence does not confer any rights on any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 10.10 The rights of each party to rescind or vary this Licence are not subject to the consent of any third party.
- 10.11 This Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law.
- 10.12 In the event of a dispute arising, you and we agree that the dispute shall be referred to and finally resolved by arbitration (rather than court proceedings), under the UNCCITRAL Arbitration Rules (2021), which rules are deemed to be incorporated by reference into this Condition 10.12. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London and the language of the arbitral proceedings shall be English. The governing law of the arbitration agreement shall be the substantive law of England. The appointing authority shall be the London Court of International Arbitration.

Additional territory specific provisions