



## FLEETBOARD APP LICENCE AGREEMENT (EULA)

### 1. Scope of Contract

- 1.1 Daimler Fleetboard GmbH, Industriestraße 19, 70565 Stuttgart, Germany (“**Fleetboard**”) is offering this application for mobile end devices (the “**Fleetboard App**”) for download from the Mobile App Store (“**platform**”) of an App Store operator (“**platform operator**”).
- 1.2 This Fleetboard App licence agreement (“**EULA**”) regulates the provision of the Fleetboard App by Fleetboard and its use by the customer. The EULA also covers patches, fixes, updates, and new Fleetboard App versions provided by Fleetboard (jointly called “**updates**”) as well as accompanying documents such as user guides provided by Fleetboard.
- 1.3 In case of conflict, the “platform-specific terms” (see item 22) take precedence over items 2 through 12 when the Fleetboard App is purchased from one of the platforms mentioned there.

### 2. Offer and Conclusion of Contract

- 2.1 By publishing the Fleetboard App on the platform, Fleetboard offers the conclusion of a contract that allows customers to use this Fleetboard App for free. Fleetboard’s offer is exclusively addressed to Fleetboard customers with an existing Fleetboard master agreement who want to use the Fleetboard App while performing their commercial or self-employed activities (§ 14 of the German Civil Code). The Fleetboard App is solely intended for use by customers in Germany.
- 2.2 In accepting the offer, customers confirm that they are acting within the context of their commercial or self-employed activities and will use the Fleetboard App exclusively for such purposes.
- 2.3 By accepting the offer through the process provided on the platform, customers enter into a contract with Fleetboard that allows customers to use the Fleetboard App temporarily and for free, under the terms stated in this EULA (the “**app Licence Agreement**”). The contract period of the app Licence Agreement is governed by item 8 of the EULA. The platform operator is not a party of the app Licence Agreement.

### 3. Features and Licensing of the Fleetboard App

- 3.1 The features and purposes of the Fleetboard App as well as the technical requirements for its correct installation and use (“**system requirements**”) are based on the description of the Fleetboard App on the offer page on the platform.
- 3.2 Fleetboard provides the Fleetboard App in object code format with downloadable user documentation by making the Fleetboard App available for download from the platform. The source code of the Fleetboard App is not included in the scope of the app EULA.
- 3.3 If Fleetboard has reason to believe that the Fleetboard App or its contractual use by the customer violates the rights of a third party, Fleetboard has the right to modify the Fleetboard App with the aim of ending the violation or obtaining the required rights for the customer. This may also be achieved by an update. Fleetboard will take the customer’s legitimate interests into adequate consideration.

### 4. Usage Right

- 4.1 With the conclusion of the app Licence Agreement, Fleetboard grants customers a non-exclusive, non-transferable and non-sublicensable right that is limited to the contract period of the app Licence Agreement to use the Fleetboard App themselves for their own commercial purposes or to allow their staff to use it for those purposes.
- 4.2 This includes any copies that are technically required for download, installation and use of the Fleetboard App on a mobile end device, such as in the memory.

## **5. Usage Restrictions**

- 5.1 In the relationship between Fleetboard and the customer, Fleetboard retains exclusive rights to all copies of the Fleetboard App.
- 5.2 Unless otherwise legally mandated (see item 5.5), and unless expressly permitted in the app Licence Agreement, the customer cannot claim and exploit any copyrights to the Fleetboard App.
- 5.3 In particular, customers are not allowed to do the following with the Fleetboard App, in whole or in part:
- a) To make available, publish, (sub-) licence or sell it to third parties with or without compensation or to exploit it commercially or distribute it in any way. Rights to the Fleetboard App may not be rented or leased out or transferred in any way;
  - b) To modify, translate, create work derived from, decompile, reverse engineer, or disassemble it or try in any way to deduce its source code;
  - c) To use for purposes other than those needed to perform their commercial or self-employed activities as defined by § 14 of the German Civil Code;
  - d) To install or use it on hardware that does not meet the minimum system requirements.
- 5.4 The customer shall not remove, modify, or conceal any existing copyright notices or similar references to proprietorship.
- 5.5 Any legally mandated customer rights shall remain unaffected.

## **6. FOSS and Third Party Components**

- 6.1 The Fleetboard App may contain parts of Free and Open Source Software (“**FOSS**”). For FOSS, the information and terms defined for FOSS apply and take priority.

[See Imprint and Update in App](#)

- 6.2 In addition, the Fleetboard App may contain or use proprietary parts (software or content) of third parties. The information and terms defined for third party content apply and take priority. Insofar as rights to this third party content are granted directly by those third parties, the customer enters into a contract with that third party, subject to any applicable terms. In case of a violation, the third party can make the customer liable.
- 6.3 By accepting the licence terms applicable to FOSS and proprietary parts of third parties, the customer also commits to abide by these terms vis-à-vis Fleetboard.

## **7. Responsibilities of the Customer**

- 7.1 The customer is obliged to use the Fleetboard App exclusively as defined under this EULA and in accordance with any applicable law.
- 7.2 The customer shall be solely responsible for meeting and maintaining all system requirements as well as for procuring and operating all other tools needed for a proper and appropriate use of the Fleetboard App. These tools in particular include suitable hardware and software as well as a sufficiently dimensioned Internet and mobile network connection. Customers shall be solely responsible vis-à-vis Fleetboard for the security of their systems and for protecting those systems from malware and attacks. Insofar as the customer obtains or has purchased services or components from Fleetboard, Fleetboard’s responsibility based on the underlying contract shall remain unaffected.
- 7.3 In the event that rights to the Fleetboard App are asserted against the customer by a third party or if the customer otherwise suspects that the Fleetboard App or its contractual use might violate the rights of a third party, the customer shall immediately inform Fleetboard, at least in text form. If the Fleetboard App malfunctions or if its availability falls below the guaranteed threshold (item 9), the customer shall immediately inform the contact specified under “App Support” and adequately describe the cause and effects of the malfunctioning.
- 7.4 If Fleetboard is made liable by a third party due to a customer’s violation against this EULA, the customer shall exempt Fleetboard from all claims, expenses, and other costs that are arising from this directly or indirectly. The exemption includes reasonable costs of legal defence. The obligation of exemption does not apply if the customer is not responsible for the violation. Fleetboard reserves the right to defend itself against such claims. Any further legal claims and rights of Fleetboard shall remain unaffected by this.

7.5 The customer shall check in appropriate intervals whether Fleetboard has made an update for the Fleetboard App available. The customer shall immediately install any available updates, unless this is unreasonable for the customer.

## **8. Material Defects and Defects of Title**

8.1 Claims and rights of the customer in the case of defects are governed by the legal provisions of the contract of loan law (§§ 598 ff. of the German Civil Code).

8.2 Fleetboard may also remove defects of the Fleetboard App by providing an update.

8.3 If the customer modifies the Fleetboard App without the consent of Fleetboard, the customer shall not be entitled to any claims or rights due to defects, unless those defects were not caused by the modification. This does not constitute a permission to perform such modifications.

## **9. Availability (Backend)**

9.1 Insofar as Fleetboard makes the Fleetboard App features available on servers that can be accessed via the Internet (“**backend functions**”), the correct use of the Fleetboard App and its backend functions as specified by the availability guaranteed by Fleetboard (item 9.2) requires a stable Internet connection.

9.2 Fleetboard operates backend functions within the framework of normal availability at its Internet node in Fleetboard’s data centre, taking service and maintenance work as well as troubleshooting activities under consideration. The customer shall not be entitled to an uninterrupted availability of the backend functions.

## **10. Liability**

The parties shall be mutually liable under the legal provisions regulating the free-of-charge licensing of the Fleetboard App, especially the terms of the contract of loan law (§§ 598 ff. of the German Civil Code).

## **11. Data Protection**

11.1 Both parties commit to the adherence to any applicable data protection regulations, particularly those specified by the EU General Data Protection Regulation and the German Data Protection Act.

11.2 Details on how personal data is processed during the installation and use of the app can be found under the data protection notes on the offer page of the platform and in the Fleetboard App.

Fleetboard appreciates your interest in the app. The protection of your privacy as a user of the app is very important to us. In the following, we shall inform you about how we handle personal data related to the app. “Personal data” means all the information that refers to an identified or identifiable natural person.

## **12. Responsibility and Data Protection Officer**

The party responsible for the processing of personal data is Daimler Fleetboard GmbH, Industriestraße 19, 70565 Stuttgart, Germany (“**Fleetboard**” or “**We**”).

You can reach our data protection officer under the following address:

Daimler AG  
Chief Officer Corporate Data Protection  
HPC G353  
D-70546 Stuttgart, Germany  
E-mail: data.protection@daimler.com

## **13. Scope, Purpose, and Legal Bases of Data Processing**

### **13.1 Data Categories**

Fleetboard processes personal user data entered by the user during app login and usage, data the user has released for processing on the device, as well as data related to the use of the app from the following categories.

The release of such data is mandated neither legally nor contractually, nor is it required for the conclusion of the contract. The user is not obligated to release such data. If such data is not released, however, the app may not function properly or fully, or its use may be limited as a result.

### **13.2 Purposes and Legal Bases of Data Processing**

Fleetboard processes the data according to applicable data protection laws, especially according to the EU General Data Protection Regulation (*GDPR*). The data is processed within the following extent and for the following purposes:

a) Performance of Contract (Legal Basis: Art. 6 Point 1 b) GDPR)

We process the following categories of personal data for the performance of the contract with you to the extent necessary to allow you to use the app (provisioning of the app and of its functionalities):

Data Processing Required for the Performance of the Contract	
Data Category	Storage Duration
Login data	Permanent
Contact data	Permanent
Identifying data	Permanent
Transactional data	Permanent

As a matter of principle, Fleetboard deletes the personal data as soon as further processing for the purposes of the performance of the contract is no longer required, which means after the specified storage duration. Further storage or processing is based solely on item 16.

b) Consent to the Data Processing (Legal Basis: Art. 6 Point 1 a) GDPR)

Insofar as you have consented to our processing of personal data for further purposes (such as the analysis of usage data, compare item 4), this data processing shall be based on this consent.

Any consent is always given on a voluntary basis and can be revoked at any time. You can also revoke your consent via e-mail to support@Fleetboard.com.

Your revocation does not affect the lawfulness of any data processing performed on the basis of your consent prior to your revocation. Any continued processing of this data based on another legal basis, such as for compliance with a legal obligation (compare d)) shall likewise remain unaffected.

c) Pursuit of Legitimate Interests (Legal Basis: Art. 6 Point 1 f) GDPR)

To the extent necessary, we shall process your personal data beyond the fulfilment of the contract to safeguard legitimate interests of Fleetboard or of third parties:

Data Processing for the Pursuit of Legitimate Interests		
Data Category	Legitimate Interest	Storage Duration
Login data	To authenticate the user.	Permanent
Contact data	To inform the user about any new General Terms and Conditions.	Permanent
Identifying data	To identify the user and to avoid identity theft. To acquire data of the identified user from the vehicle.	Permanent
Transactional data	Date and time to log the time of user authentication.	Permanent

As a matter of principle, Fleetboard deletes this personal data as soon as further processing or storage for the purpose of safeguarding the specific legitimate interests is no longer required, which means after the specified storage duration has expired. Further storage or processing is based solely on item 7.

d) Compliance with Legal Obligations (Legal Basis: Art. 6 Point 1 c) GDPR)

As a company, Fleetboard is subject to legal obligations and requirements, such as data retention requirements based on trade and tax laws. Fleetboard thus also processes personal user data to the extent required for compliance with legal obligations. Fleetboard discloses personal data of a user only if legally obligated towards regulatory and law enforcement agencies.

## 14. Analysis of Usage Data

If you have consented to the analysis of your usage data by activating that option, we shall analyse app usage data (USAGE FREQUENCY, DEVICE INFORMATION) to detect preferences and to improve the app. This allows us to better tailor the app to the needs of our users and to improve the offer.

You can revoke your consent to the analysis of usage data at any time by disabling the option under Settings. You can also grant the permission again by reactivating the option. To the extent that cookies are used for this analysis, their use will be suspended when you disable the analysis option.

## 15. Receivers of Personal Data

### 15.1 Data Processing Performed by Service Providers Commissioned by Fleetboard

Fleetboard commissions external service providers (data processors) with tasks in the area of development to process data for the purposes specified in item 13, to the extent required for the performance of these tasks.

The service providers were carefully selected by Fleetboard and are monitored on a regular basis, particularly in regard to careful handling and protection of any personal data they have access to. All our service providers are obligated to comply with our confidentiality policy and all legal requirements.

### 15.2 Disclosure to Third Parties

If, within the framework of the app, third party services from Adesso AG, IT Sonix custom development GmbH, Mercedes-Benz Research & Development India Pvt Ltd., Microsoft Corporation are used, Fleetboard shall disclose personal user data to these third parties. This shall be done only as far as required for the purposes of providing and using the app and its functionalities (compare item 2 a)), for the pursuit of legitimate interests of Fleetboard or third parties (compare item 2 c)), or as far as you have consented to the disclosure beforehand (compare item 2 b)).

### 15.3 Data Receivers in Third Countries

Personal user data will be disclosed by Fleetboard to receivers in countries outside the EU/EEA to the following extent:

As appropriate safeguards for these receivers as defined by Art. 46 GDPR, there are standard data protection clauses approved or published by the European Commission, binding internal data protection regulations, or similar instruments. An electronic copy of the pertinent excerpts is available on request from the data protection officer.

### 15.4 Public Authorities or Bodies

Personal data is disclosed to public authorities or bodies only in the context of mandatory national legal stipulations (compare item 2.d)).

## 16. Storage Duration and Deletion of Data

Fleetboard stores and processes your personal data only for as long as it is necessary for the specific purpose (compare item 2). In addition, data is stored and processed only as far as this is permissible based on another legal basis according to item 2, such as for the compliance with legal stipulations (e.g. data retention requirements based on trade and tax laws). In this case, Fleetboard shall limit any further data processing to this purpose and to the legal basis of any further processing.

## 17. Rights of the Data Subject

### 17.1 Information, Rectification, Erasure, Restriction of Processing, Portability

As the person affected by the data processing (the "data subject"), you have the right of access to your information (Art. 15 GDPR), the right to rectification (Art. 16 GDPR), the right to erasure (Art. 17 GDPR), the right to restriction of processing (Art. 18 GDPR), as well as the right to data portability (Art. 20 GDPR). For the right of access and the right to erasure, restrictions based on §§ 34 and 35 of the German Data Protection Act apply.

#### Right to object

For reasons relating to your particular situation, you have the right to file an objection at any time to processing of personal data pertaining to you that is collected under Art.6 Section 1 e) GDPR (data processing in the public interest) or Art. 6 Section 1 f) GDPR (data processing based on a consideration of interests). If you file an objection, we will continue to process your personal data only if we can document mandatory, legitimate reasons that outweigh your interests, rights and freedoms, or if processing is for the assertion, exercise or defense of legal claims.

## 17.2 Complaint

If you believe that the processing of your personal data violates any legal stipulations, you have the right to lodge a complaint with a supervisory data protection authority (Art. 77 GDPR).

## 18. Updates to Data Protection Notes

Fleetboard reserves the right to update these data protection notes from time to time with future effect, to adequately adjust them to modified situations or technical developments. Fleetboard shall inform data subjects about any substantial changes in a reasonable manner with an appropriate period of notice and shall inform them of their rights relating to the change.

Status: May 2018

## 19. Compliance

The parties agree not to commit any actions that are punishable by law due to fraud or breach of trust, insolvency offences, violations against fair trade laws, granting of an undue advantage, acceptance of a benefit, corruption, corruptibility, or similar offences, including any attempted offences. In case of any violations, the other party shall have the extraordinary right to terminate the contract for important reasons. Every party agrees to comply with all laws and regulations applicable to itself and the business relationship between the parties.

## 20. Applicable Law, Jurisdiction

- 20.1 The app licence agreement as well as any claims and rights resulting from and related to it are subject to German law with the exception of the Convention on Contracts for the International Sale of Goods (CISG), Vienna, 11 April 1980.
- 20.2 Stuttgart (Mitte) shall be the exclusive legal venue for all disputes arising from or related to the app licence agreement.

## 21. Miscellaneous

- 21.1 Place of performance for both parties shall be the Fleetboard headquarters. Fleetboard is permitted to use agents (“**subcontractors**”) for the provision of services. Fleetboard is liable for subcontractors based on item 10.
- 21.2 The app licence agreement includes the final provisions regarding all rights and duties of the parties regarding licensing and use of the Fleetboard App.
- 21.3 Any additions to and modifications of the app licence agreement must be submitted in writing to take effect. This shall also apply to an alteration of this requirement for the written form. Insofar as this agreement stipulates the written form for declarations, agreements, information, or communications, the written form shall not be preserved by text form (§ 126b of the German Civil Code).
- 21.4 The customer can offset any claims from the applicable app licence agreement only with claims that are uncontested, legally binding or ready for decision and may assert a right of retention only on the basis of such claims.
- 21.5 Without written agreement from Fleetboard, the customer shall not be permitted to transfer any claims arising from the app licence agreement. § 354a point 1 of the German Commercial Code (*HGB*) shall remain unaffected.
- 21.6 Fleetboard does not store the wording of the contract after its conclusion for access by the customer and does not make the wording available to the customer after the termination of the contract.

## 22. Platform-specific Terms (for “Apple App Store” only)

- 22.1 The app licence agreement is concluded between the customer and Fleetboard, not with Apple. Fleetboard is solely responsible for the Fleetboard App and its contents, not Apple.
- 22.2 The terms of this EULA governing the use of the Fleetboard App shall not apply if and insofar as they contradict the version of Apple’s “*App Store Terms of Services*” that was valid at the time the contract was concluded.

- 22.3 Fleetboard grants the customer the non-transferable right to use the Fleetboard App on Apple products owned or controlled by the customer, as permitted under the “Usage Rules” in Apple’s “App Store Terms of Service”. As an exception, the Fleetboard App may also be purchased and used under different accounts that are linked to the purchaser via “Family Sharing” or “volume purchasing”.
- 22.4 Fleetboard shall be solely responsible for maintenance and support services that Fleetboard promises in the EULA or that Fleetboard is legally bound to provide. Apple shall in no way be responsible for providing maintenance and support services for the Fleetboard App.
- 22.5 Fleetboard shall be solely responsible for the Fleetboard App warranty. If the app does not meet any of the applicable terms of the warranty, the customer shall have the right to notify Apple to be reimbursed by Apple for the Fleetboard App purchase price, where applicable. To the extent permitted by law, Apple does not assume any other liability with regards to the Fleetboard App. Fleetboard shall be responsible for all other claims, losses, damages, costs, and expenses which the customer can claim under the applicable terms if a contractually guaranteed right is not met.
- 22.6 Fleetboard, not Apple, shall be responsible for accepting claims from the customer or a third party regarding the Fleetboard App and its ownership and / or use by the customer. This includes the following claims, among others: (a) product liability claims; (b) claims asserting that the app violates any applicable legal or regulatory provisions; and (c) claims arising from consumer protection, data protection, or similar laws, also insofar as these are based on the use of the “HealthKit” or the “HomeKit Framework” by the Fleetboard App.
- 22.7 If a third party claims that the Fleetboard App or its ownership or use by the customer infringes upon property rights of this third party, Fleetboard, not Apple, shall be responsible for clarifying, defending, settling or rejecting the claim under the relevant requirements.
- 22.8 The customer confirms that (a) he or she is not based in a country that is under an embargo by the U.S. government or that the U.S. government has qualified as a state that supports terrorism; and (b) he or she is not listed by the U.S. government as a party with which no trade relations are permitted.
- 22.9 Customers should direct all questions, comments, or complaints connected to the Fleetboard App to: support@Fleetboard.com, +49.711.17.91999.
- 22.10 Apple and its subsidiary companies are third party beneficiaries of this EULA, which means that once the customer has accepted this EULA, they have the right (and this right shall be deemed to be accepted by Apple) to enforce this right towards the customer.