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## TERMS OF USE (APP)

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These Terms of Use are entered into between you, the user of our Services (the "**Customer**", "**you**", "**your**") and FEST Technology Inc. ("**FEST**", "**we**", "**us**", "**our**"), located at 207-2460 Sainte-Cunégonde Street, Montreal, Quebec H3J 2Z5, Canada. Please read these Terms of Use carefully as they contain your rights and obligations when using our website, FEST mobile application (the "**Application**") and/or Content (collectively, the "**Services**").

Please read these Terms of Use carefully before using or accessing the Services, as they contain important information about your obligations when using the Services. If you wish to use any of the Services, you must agree to be bound by and comply with these Terms of Use. Any use of the Services signifies your acceptance of these Terms of Use. If you do not agree, please do not access or use our Services and please close your account.

Your use of our Services is also subject to our [Privacy Policy](#), which explains how we collect, use and disclose Personal Information in the course of providing the Services.

If you have any questions, complaints or claims regarding our Services, including our Application, you may contact us by email at: [help@festapp.io](mailto:help@festapp.io).

These Terms of Use become effective on the date you (a) download our App if the Terms of Use are identified in the App Store or Google Play Store; (b) agree to these Terms of Use, whichever occurs first (the "**Effective Date**").

### 1. Definitions

**"Anonymized Data"** means all Usage Data, User Data, and other data generated by the Services that has been processed through appropriate technology or an industry standard de-identification method and therefore no longer identifies an identified or identifiable individual. For purposes of certainty, Anonymized Data does not include Personal Information.

**"Confidential Information"** means any information of one party (the "**Disclosing Party**") that is or will be in the possession of the other party (the "**Receiving Party**") of a confidential or proprietary nature, including information of a technical nature ; such as know-how, software, source code, algorithms, specifications, formulas, trade secrets, order lists, product orders, employee and contractor lists, delivery site locations, and information of a commercial nature, such as cost information profits, pricing policies, markets, sales, suppliers, customers, future development plans, plans for future products, marketing plans or strategies, and other information of a similar nature that is not generally disclosed by a party to the public.

**"Content"** means any information, data, documents, information, graphics, logos, images, audio clips, videos, stories, blog posts, digital downloads and other content provided by FEST through the Services.

**"Festival Content"** means any information, data, documents, information, graphics, logos, images, audio clips, videos, stories, blog posts, digital downloads and other content relating to a festival and posted by an Organizer through the Services for public display and access on the Application in connection with the provision of our Services.

**"Intellectual Property"** means all intellectual property, including, without limitation, works, inventions (whether or not patentable), discoveries, improvements, trade secrets, know-how, scientific formulas, data, information, images, reports, results, analyses, software, models, research and development information, technical information, prototypes, specifications, designs, drawings, algorithms, products, compositions, processes and protocols, methods, tests, devices computer programs, trademarks, and all proprietary rights under patent law, copyright law, trademark law, industrial design law, semiconductor chip law, or any other statutory provision or principle of civil or common law applicable to the protection of information or intangible property rights, including trade secret law, which may confer a right in any of the foregoing, as well as all applications, registrations or other evidence of a right in any of the foregoing.

**"Mobile Operators"** means the company that owns the operating systems of the mobile devices through which you download, access and/or use the Application, such as Apple or Google.

**"Organizer"** means any business, entity or organization that organizes a festival or similar event and promotes and/or posts it via the Services.

**"Personal Information"** means information that meets the definition of "personal information", "personal data", "personal data" and/or any similar nomenclature under applicable law and that is (i) submitted by you through the Services or (ii) collected or generated by the Services.

**"Usage Data"** means data captured through the Services and/or generated by the Services regarding statistics, trends, performance, and analytics, such as page views, performance statistics, errors that have occurred, and electronic attributes of devices and appliances, such as web browser name and version, operating system and country. Usage Data is generally used to improve our Services, monitor their performance and identify their most popular features.

**"User Content"** means any User Data, information, data, documents, information, images, and other content transmitted, uploaded and/or posted by you via the Services.

**"User Data"** means (i) any Personal Information; and (ii) any data generated or submitted by User through the Services, including any User Content. Notwithstanding anything to the contrary in these Terms, Anonymized Data and Usage Data are not considered User Data.

## 2. Accounts

You represent and warrant that you are at least fourteen (14) years old. You may only create an account with us if you are at least fourteen (14) years old. Also, please note that some events may not allow entry or purchase of tickets to individuals under a certain age above fourteen (14), so it is your sole responsibility to check with the Organizers.

You agree that you are responsible for maintaining the confidentiality of your account credentials, as well as any activity that occurs as a result of using your account. You agree to use reasonable efforts to prevent unauthorized use of our Services. You may not share your account and password, allow others to use your account, or assist anyone who is not a registered user to access the Services.

You agree to notify us immediately if you become aware of any unauthorized use of your login credentials, and to immediately change your credentials using the built-in features available to you.

### **3. Changes**

We may change our Services, for example by adding new features over time, at our sole discretion exercised in a reasonable manner. If we make any significant changes to the Services, we will notify you.

We may need to change these Terms to accommodate new technology, features, regulatory or other requirements, based on our legitimate business needs. If we need to change these Terms, we will notify you at least 30 days in advance on the relevant Services interface and/or by email, with a notice that includes the proposed changes, the date such changes will be effective, how you can respond to such notice, and the consequences of not responding.

### **4. Acceptable Use**

When you use our Services, you must follow certain maintenance rules. If you fail to comply with these rules, we may restrict or block your access to the Services, and we will consider such actions to be a material breach of these Terms of Service. These are your obligations, and we are not responsible for any damages that result from your failures. You also may not encourage others to violate our house rules. These rules are:

- a) Not decompile, disassemble, reverse engineer, investigate, modify, create derivative works of, or otherwise access the interfaces contained in the Services that are not intended for users
- b) Do not attempt to gain unauthorized access to the Services, or otherwise circumvent the Services' software protection or monitoring mechanisms;
- c) Do not access the Services to build a similar or competitive product or service or to copy the ideas, features, functions or graphics of the Services;
- d) Not impersonate any person, including registering using another person's identity to create an account
- e) Do not access, search or create accounts for the Services by any means other than our public interfaces (e.g., "scraping" or creating accounts in bulk);
- f) Don't abuse referrals or promotions to get more credit than you deserve;
- g) Do not use the Services in any manner that is in violation of applicable laws, including to send unsolicited communications, promotions or advertisements, or to spam users;
- h) Don't hack us! That means you can't scan, probe or test vulnerabilities in our services, introduce malware or deploy denial of service attacks;
- i) If you comment on our content through our blogs, you agree to be respectful to other users and to us. This means you must take responsibility for your own words and comments, not say anything online that you wouldn't say in person, and not treat others unfairly, including insulting them or attacking their opinions in any other way. We respect freedom of speech and diversity of opinion, and we expect the same from you when you use our Services. If you do not abide by these rules, we may also delete your comments at our sole discretion.

### **5. Intellectual Property; Data**

Our trademarks, logos, products and services are our Intellectual Property. Unless otherwise permitted by law, please do not use or display our marks in any manner without our prior consent.

Notwithstanding anything to the contrary, we shall be the sole owner of any suggestions, enhancement requests, recommendations or other feedback you provide to us, as it relates to the Services, and you hereby assign to us, without limitation of any kind, all of your right, title and interest therein, and we accept such assignment.

All title, ownership rights and Intellectual Property rights in and to the Services and all copies thereof are owned by us and our licensor(s). All rights are reserved, except as expressly stated in these Terms of Use. The Content included in or made available through the Services is owned by us, and the Festival Content is owned by the Organizers. No part of the Services may be reproduced in any form or by any means, except as expressly permitted by these Terms of Use.

You own all right, title and interest in and to all User Data. You hereby grant us a revocable (but only under these Terms), fully paid, non-exclusive, royalty-free, limited, worldwide license to aggregate, reproduce, distribute, use and display the User Data as may be necessary for us to provide the Services to you and to the Organizers, and to exercise our rights and obligations under these Terms.

Notwithstanding anything to the contrary in these Terms of Use, you agree and acknowledge that FEST owns all right, title and interest in and to the Anonymized Data and Usage Data.

## **6. Mobile Devices; Application**

You agree and understand that these Terms of Use, including this Section 6, are between you and FEST, and not with Apple. We are solely responsible for our Application and its Content. The rules of use set forth in the App Store Terms of Service or the Google Play Store Terms of Service, whichever is applicable, take precedence over these Terms of Service.

Subject to these Terms of Use, and during the Term, we grant you a revocable, non-exclusive, non-transferable, non-sublicensable, limited license to download, install, use and access our Application for your personal and lawful use. This license applies to devices owned or controlled by you and is subject to Mobile Operator rules. If you are using an iOS version of our Application, this license is valid only for Apple branded products.

From time to time, we may release updates, new versions or upgrades to our Application (together, "**Updates**"). Updates are provided when available, at our sole discretion or as required by applicable law, and may include bug fixes, security updates, new features, and improvements to existing features. If we provide you with an Update, it is your responsibility to update your Application. We may not support previous versions of our Application, and we have no responsibility for their support and maintenance, including security patches. It is important that you install Updates to ensure that you are using a secure version of our Application.

Mobile Operators have no obligation to provide maintenance and support services in connection with the application.

We are solely responsible for any warranty set forth in these Terms of Use, whether express or implied, to the extent not effectively excluded. In the event that the Application does not comply with any applicable warranty, you may notify your Mobile Operator, and the Mobile Operator will

refund the purchase price of the Application, if any. To the maximum extent permitted by applicable law, Mobile Operator shall have no further warranty obligations whatsoever with respect to the Application, and any other claims, losses, liabilities, damages, costs or expenses attributable to a breach of any warranty shall be our sole responsibility.

You acknowledge that we, and not the Mobile Operator, are responsible for handling any claims by you or third parties regarding the App, or your possession or use of it, including, but not limited to: (a) product liability claims; (b) any claim that the App does not comply with any applicable legal or regulatory requirements; and (c) claims arising under consumer protection, privacy, or similar legislation.

In the event that a third party claims that the Application or your possession and use of the Application infringes on the Intellectual Property rights of a third party, we, and not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any claim of Intellectual Property infringement.

You represent and warrant that (a) 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 "state sponsor of terrorism"; and (b) you are not on any U.S. government list of prohibited or restricted parties

In order to provide our Services, we may use third parties. You agree to abide by the terms of the third parties when you use the App, including those applicable to third party websites, sites and applications made available to you from time to time as part of our App or Services, including integration partners that may be available via an API, such as Spotify and Apple Music, and your use of connection partners such as Apple, Facebook or Google to log in or create your account ("**Third-Party Material**"). You agree and understand that we are not responsible for the Third-Party Materials and that your use of the Third Party Materials is at your own risk. We encourage you to review their terms of use and privacy practices before using such Third-Party Materials.

## **7. Confidentiality**

Confidential Information does not include information that the Receiving Party can demonstrate: (i) is readily available to the public in the same form through no fault of the Receiving Party; (ii) does not originate from the Disclosing Party and was lawfully obtained by the Receiving Party in the same form from an independent third party without any restriction on disclosure, or (iii) does not originate from the Disclosing Party and was in the Receiving Party's possession in the same form prior to being disclosed to the Receiving Party by the Disclosing Party.

The Receiving Party acknowledges and agrees that the Confidential Information is proprietary information of the Disclosing Party and may constitute Intellectual Property of the Disclosing Party, whether or not any portion of such information is protected by valid copyright or patent protection. The Receiving Party shall use the Disclosing Party's Confidential Information only for the purposes set forth in these Terms and shall protect such Confidential Information with at least the same degree of care and confidentiality, and in no event less than a reasonable degree of care and confidentiality, that the Receiving Party uses for its own Confidential Information.

The Receiving Party shall take all reasonable steps to ensure that the Disclosing Party's Confidential Information is not made available or disclosed by it or any of its representatives to third parties, except (i) as required by applicable law, including a valid court order; (ii) with the prior written

consent of the Disclosing Party; (iii) as permitted or reasonably inferred from these Terms; or (iv) if the disclosure is made to legal counsel, an auditor or as reasonably required in the administration of a legal entity. The Receiving Party will use reasonable diligence to ensure that its representatives are subject to the same confidentiality obligations as the Receiving Party.

The Receiving Party shall not make copies or reproductions of the Disclosing Party's Confidential Information (in any medium) except as necessary for the purposes of these Terms (including for back-up and business continuity).

## **8. Representations and Warranties**

FEST warrants and represents that the Services will be performed in a professional, diligent and workmanlike manner.

You warrant and represent that you are in compliance with these Terms of Use and all applicable laws relating to the Services.

## **9. Indemnification**

You hereby agree to indemnify, defend and hold us (including our representatives) harmless from and against any and all claims, penalties, fines, costs, expenses (including reasonable attorneys' fees), actions, damages, losses or liabilities arising directly or indirectly out of, related to, in connection with or resulting from (i) your access, use or alleged use of the Services in a manner not authorized by these Terms, including any violation of any of Sections 2, 4, 5 and 7; and (ii) your negligence, fraud and/or willful misconduct.

## **10. Disclaimer of Liability**

To the extent permitted by applicable law, FEST is not responsible for verifying the information provided by Organizers and does not warrant or guarantee that the Festival Content and other information provided by Organizers about their events and activities are true. You are solely responsible for exercising due diligence and conducting your own checks on any festival and Organizer. FEST does not verify the compliance of any Organizer using the Services with applicable laws based on their location.

You are solely responsible for the accuracy, truthfulness and quality of the User Data, User Content and any content or information provided directly or indirectly by you through the Services. We have no control over, and accept no responsibility for, the accuracy, truthfulness and quality of the User Data and User Content, including, without limitation, violations of Intellectual Property, applicable laws and privacy rights. You acknowledge and agree that any results produced or obtained through the Services (or use thereof) are for informational purposes only. We assume no responsibility for any business decisions, including, without limitation, investment decisions, resulting from such results. You must ensure that the results are accurate and consistent.

We do not operate wireless network services or other communications service providers through which you may access the Services, and we have no control over their operations as providers of such services. Accordingly, (i) we disclaim any liability for or relating to your use of such providers to access the Services and (ii) we cannot guarantee the privacy or security of wireless data transmissions.

The Services may contain links to integration partners, third-party websites or third party content. We are not responsible for any integration partners, third-party websites or third party content.

#### **11. Term; Termination**

These Terms of Use are effective as of the Effective Date and remain in full force and effect for as long as you use our Services (including for as long as the Application is installed on your mobile device) (the "**Term**").

Either party may terminate these Terms of Use for cause in the event that the other party is in material breach of these Terms of Use and has not cured such breach within thirty (30) days of receipt of notice of material breach.

All provisions which by their nature should survive the Term shall survive the Term.

#### **12. Applicable Laws and Jurisdiction**

These Terms of Use, including their interpretation and effect, shall be governed by the laws applicable in the Province of Quebec, Canada.

#### **13. Force Majeure**

FEST shall not be liable for any delay or failure in the performance of these Terms due to causes beyond its reasonable control, including, but not limited to, acts of God or public enemy, acts of government in its sovereign or contractual capacity, floods, earthquakes, epidemics pandemics (including any additional consequences or conditions resulting from the outbreak of the COVID-19 coronavirus) or other natural disasters, strikes or other labor disputes, acts of war, acts of civil disobedience, denial of service and distributed denial of service, ransomware and other cyber-attacks that are not caused or facilitated by negligence, unforeseen traffic and roadblocks, unavailability of products and price increases due to retailers ("**Force Majeure**").

#### **14. General**

The waiver of a breach of any provision of these Terms shall not constitute or be construed as a waiver of any other or subsequent breach.

If any provision of these Terms violates any applicable law, or is unlawful for any reason, such provision shall be deemed to be severable and shall not affect the validity of the remaining provisions.

We may assign or transfer these Terms, in whole or in part, at any time in connection with a bona fide corporate reorganization, sale of our assets, merger and acquisition, or receivership. You may not assign or transfer these Terms, in whole or in part, to any other person without our prior written consent, which shall not be unreasonably withheld. Any attempt by you to assign these Terms without our consent is void. You may not transfer or assign to anyone else, temporarily or permanently, any right to use the Services or any portion of the Services.