

Factl End User License Agreement and Terms of Use

Last Updated: May 14, 2015

This End User License Agreement and Terms of Service (the “**EULA**”) is an agreement between you (“**you**” or “**user**”) and Factl LLC. (“**Factl**,” “**we**,” or “**us**”). This Agreement governs your access and use of Factl’s applications (“**Applications**”) and their features and contents, whether accessed via computer, mobile device or other technology (“**Service**”). By using the Service, you agree to be bound by the terms and conditions contained in this EULA.

1. Introduction and Eligibility Please read this End User License Agreement and Terms of Use (these “**Terms**”) carefully before using the Service. These Terms include Factl’s Privacy Policy, which is incorporated by reference into these Terms. We have included several annotations in boxes to help explain or emphasize key sections. These annotations are for convenience only and have no legal or contractual effect. **These Terms are a legally binding contract. It may change as our business changes, and you agree you will review it and any updates regularly. Your continued use of the Services means you accept any changes. Binding Agreement.** These Terms are a binding agreement between you and Factl LLC. (“**Factl**,” “**we**,” “**us**”). “**You**” and “**users**” shall mean all users of the Service. You accept these Terms each time you use the Service. If you do not accept these Terms, you must not use the Service. If you are under 18 years of age, you represent and agree that you possess the legal consent of your parent or guardian to access and use the Service.
Revisions to Terms. We may revise these Terms at any time by posting an updated version. You should visit this page periodically to review the most current Terms, because you are bound by them. Your continued use of the Service after a change to these Terms constitutes your binding acceptance of

these Terms. Without limiting the foregoing, we may try to contact you via email to let you know when we make material changes to these Terms.

2. The Service The "**Service**" means any website, mobile application ("**App**"), or Internet service under Factl's control. The Service enables people to beautifully preserve and gather shared memories and build a single continuous story of their lives by providing users with the ability to share photographs and messages among other users.

3. Eligibility to Use the Service **Children.** The Service is not intended to be used by people under the age of 13, so please do not use the service if you under the age of 13. **Agent of a Company, Entity, or Organization.** If you are using the Service on behalf of a company, entity, or organization (collectively "**Organization**"), then you represent and warrant that you: (i) are an authorized representative of that Organization; (ii) have the authority to bind that Organization to these Terms; and (iii) agree to be bound by these Terms on behalf of that Organization.

4. Your Account **You are responsible for your log-in credentials and for keeping your information accurate. You are responsible for any activity resulting from the use of your log-in credentials on the Service. Your Log-In Credentials.** To use the Service, you will need to have log-in information, including a name and phone number. Your account is personal to you, and you may not share your account information with, or allow access to your account by any third party. You will be responsible for all activity that occurs under your log-in credentials. You agree to tell us immediately of any breach in the secrecy of your log-in information. If you think that your account information has been or may have been compromised or that your account has been accessed by a third party, you must notify us immediately by email to support@Factl.com. Any information you provide to Factl upon registering for the Service and when using the Service will be true, accurate, current, and complete.

5. Communications **Factl may communicate with you by email, text or posting notice on the Service.** We will only contact as described in the Privacy Policy. You agree to receive email from us at the email address you provided to us for customer service-related purposes.

6. Factl's Content Ownership and Use **Except for your content and third-party content, Factl owns or has rights to all of the content we make available through the Service, but you may use it as you use the Service. You cannot use our logo without our written permission. Factl Content.** The contents of the Service, excluding Your Content (which is further described below), include designs, text, graphics, images, video, information, logos, button icons, software, audio files, computer code, and other Factl content (collectively, "**Factl Content**"). For the avoidance of doubt, Factl Content does not include Your Content. All Factl Content is the property of Factl or its licensors and is protected under copyright, trademark, and other laws. **License to You.** We authorize you, subject to these Terms, to access and use the Service, including the Factl Content, solely for your personal use of the Service, at our discretion. Any other use is not allowed. We may revoke this license at any time without notice and with or without cause. The App shall be used only on a single, compatible device that you own or control; you may not make the App available over a network where it could be used by multiple devices at the same time. You may not rent, lease, lend, redistribute or sublicense the Service. Unauthorized use of the Factl Content may violate copyright, trademark, and applicable communications regulations and statutes and is strictly prohibited. You must keep all copyright, trademarks, service marks, and other proprietary notices contained in the original Factl Content on any copy you make of the Factl Content. **Factl Marks.** Factl and our logos are or may be trademarks of Factl (the "**Factl Marks**"). Without our prior written permission, you agree not to display or use in any manner the Factl Marks.

7. Your Content, Third-Party Content, and Intellectual Property Rights **From our perspective, you own all of the content you post using the Service, but we**

may need to use and modify your content in order to provide the Service. It is very important that you have permission to use other people's content so please make sure that you are allowed to post your content. Factl Does Not Own Your Content. The Service provides you with the ability to create, post, or share content ("**Your Content**"), which content may include items such as photographs and messages. Factl claims no ownership of or control over Your Content. You retain all copyright, patent, and trademark rights to any of Your Content. You are responsible for protecting those rights. You are also solely responsible for Your Content and for obtaining the necessary rights to post Your Content to or through the Service, including the right to use the image and likeness of any identifiable person included in a photograph you post. **Use of Your Content.** Because we do not own Your Content, we need a license to use Your Content so that we may provide the Service. As such, you grant us a worldwide, nonexclusive, sublicensable, royalty-free, transferable license to use, modify, remove, publish, transmit, or display Your Content as needed to provide the Service and share Your Content with the other users you designate to receive such content. Except as needed to provide the Service, we will not use Your Content. We will only share Your Content with other users you identify, but we do not assume any liability for any misdirection of any communication made through the Service. Factl reserves the right to refuse to accept, post, display, or transmit any content in its sole discretion. By posting Your Content with another user of the Service, you grant that user a non-exclusive license to access and use Your Content as permitted by these Terms and the functionality of the Service. **You Acquire No Ownership of Others' Content.** The Service contains content from users. Except as provided within these Terms and except for Your Content, you may not copy, modify, translate, publish, broadcast, transmit, distribute, perform, display, or sell any content appearing on or through the Service. You understand and agree that you will not obtain, as a result of your use of the Service, any right, title, or interest in or to such content delivered via the Service or in any intellectual property rights (including, without limitation, any copyrights, patents, trademarks, trade secrets, or other rights) in the content. **You Must Have Rights to the Content You Post.** You represent and warrant that: (i) you own Your Content or otherwise have the right to grant the license set forth in these Terms,

(ii) the posting and use of Your Content on or through the Service does not violate the privacy rights, publicity rights, copyrights, contract rights, intellectual property rights, or any other rights of any person, and (iii) the posting of Your Content does not violate any laws, rules or regulations. You agree to pay for all royalties, fees, and any other monies owing any person by reason of content you post on or through the Service.

8. Copyright Policy **Tell us if you think a user has violated your copyright using the Service, or if you think someone incorrectly reported that you violated his or her copyright.** The Digital Millennium Copyright Act of 1998 (the "DMCA") provides a remedy for copyright owners who believe that material appearing on the Internet infringes their rights under U.S. copyright law. If you believe in good faith that materials posted on the Service infringe your copyright, you may send Factl a "Notification of Claimed Infringement" requesting that the material be removed, or access to it blocked. The notice must comply with the DMCA and include the following information: (i) a physical or electronic signature of a person authorized to act on behalf of the owner of the works that have been allegedly infringed; (ii) identification of the copyrighted work alleged to have been infringed (or if multiple copyrighted works located on the Service are covered by a single notification, a representative list of such works); (iii) identification of the specific material alleged to be infringing or the subject of infringing activity, and information reasonably sufficient to allow Factl to locate the material on the Service; (iv) your name, address, telephone number, and email address (if available); (v) a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (vi) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. If you believe in good faith that a notice of copyright infringement has been wrongly filed against you, the DMCA permits you to send Factl a counter-notice. Notices and counter-notices with respect to the Service should be sent via email to: support@Factl.com

9. Suggestions and Submissions **We appreciate your comments, but if you send us good ideas, we can use them without compensating you.** We appreciate hearing from our users and welcome your comments regarding the Service. Please be advised, however, that if you send us good ideas, suggestions, inventions, or materials, we shall: (i) own rights to such ideas; (ii) not be subject to any obligation of confidentiality and shall not be liable for any use or disclosure of any such ideas; and (iii) be entitled to unrestricted use of such ideas for any purpose whatsoever, without compensation to you or any other person.

10. User Content Disclaimers, Limitations, and Prohibitions **You are responsible for your actions when using and relying on the Service or content available on the Service.** We do not represent or guarantee the truthfulness, accuracy, lawfulness, or reliability of content posted by users ("**User Content**"). You accept that any reliance on or use of material posted by other users will be at your own risk. By using the Service you accept the risk that you might be exposed to content that is objectionable or otherwise inappropriate. Factl does not endorse any, nor is it responsible for, User Content on the Service. **Do not do anything abusive or illegal with the Service, try to break it, or steal our hard work.** You agree to use the Service only for its intended purpose and in compliance with all applicable laws. You may not: (i) attempt to interfere with, harm, reverse engineer, derive the source code of, create derivative works of, steal from, or gain unauthorized access to the Service, user accounts, or the technology and equipment supporting the Service; (ii) frame or link to the Service without permission; (iii) use data mining, robots, or other data gathering devices on or through the Service; (iv) post incomplete, false, or misleading information, impersonate another person, or misrepresent your affiliation with a person or entity; (v) disclose personal information about another person or harass, abuse, or post objectionable material; (vi) sell, transfer, or assign any of your rights to use the Service to a third party without our express written consent; (vii) post advertising or marketing links or content, except as specifically allowed by these Terms; (viii) use the Service in an illegal way or to commit an illegal act in relation to the Service or that otherwise results in fines, penalties, and other liability to

Factl or others; or (ix) access the Service from a jurisdiction where it is illegal or unauthorized.

11. What Happens if You Violate These Terms **If you don't follow these rules, we may stop your use of the Service.** Even though we are not looking to do it, we reserve the right to suspend or terminate your account and prevent access to the Service for any reason, at our discretion. We may review and remove any content, including Your Content and User Content, at any time for any reason, including if we decide such content: violates these Terms; violates applicable laws, rules, or regulations; is abusive, disruptive, offensive or illegal; or violates the rights of, or harms or threatens the safety of, users of the Service. You are responsible for any claims, fees, and other liability incurred by us or others caused by or arising out of your breach of these Terms and your use of the Service.

12. Factl's Liability **We are not liable for the actions of users when they use the Service. We may also change the Service at any time and are not liable for how this may affect you. We do not guarantee the quality or accuracy of any content you view using the Service or other websites. Changes to the Service.** We may change, suspend, or discontinue any aspect of the Service at any time, including the availability of the Service or any feature, without notice or liability. **User Disputes.** We are not responsible for any disputes or disagreements between you and any person you interact with using the Service. You assume all risk associated with your dealing with others and agree to resolve disputes directly with the other person. You release Factl from all claims, demands, and damages in disputes among users of the Service. You also agree not to involve us in such disputes. Use caution and common sense when using the Service. **Content Accuracy.** We make no representations about accuracy, reliability, completeness, or timeliness of any contents or portions of the Service. Similarly, we make no representations about accuracy, reliability, completeness, or timeliness of any data from a third-party service provider or the quality or nature of third-party products or services obtained through the Service. Use the

Service at your own risk. **Third-Party Websites.** The Service may include links to third party websites and applications. You are responsible for deciding whether you want to access or use them. We are not responsible for and do not endorse any features, content, advertising, products, or other materials on other websites or applications. You assume all risk and we disclaim all liability arising from your use of them. We make no promises and disclaim all liability of specific results from the use of the Service. **Released Parties Defined. "Released Parties"** include Factl and its affiliates, officers, employees, agents, partners, and licensors.

a. **DISCLAIMER OF WARRANTIES You use the Service at your own risk. We make no warranties or guarantees.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT: (A) YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK, AND THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND THE RELEASED PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT; (B) THE RELEASED PARTIES MAKE NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY GOODS OR SERVICE AVAILABLE ON THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SERVICE WILL BE CORRECTED; AND (C) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF ANY SUCH MATERIAL.

b. **LIMITATION OF LIABILITY AND INDEMNIFICATION We are not liable for anything that happens to you that somehow may be connected to your use of the Service. If you use the Service in a way that causes us to be included in litigation, you agree to pay all legal fees and costs for the Released Parties.** TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL

Factl OR ITS SUPPLIERS OR LICENSORS BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE SERVICE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF Factl HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. IN NO EVENT SHALL Factl's TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF ONE HUNDRED DOLLARS (\$100.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATION OF CERTAIN TYPES OF DAMAGES OR LIABILITIES, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU, BUT IN SUCH A CASE THE FOREGOING SHALL BE APPLIED TO THE GREATEST EXTENT ENFORCEABLE UNDER APPLICABLE LAW. You agree to defend, indemnify, and hold harmless the Released Parties from and against any claims, actions, or demands, including without limitation reasonable legal and accounting fees, arising out of or in any way connected to (a) your access, use, or misuse of the Service or Factl Content, or (b) your violation of these Terms. We shall provide notice to you promptly of any such claim, suit, or proceeding.

13. General Terms These Terms constitute the entire agreement between you and Factl concerning your use of the Service. Our failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision. If any provision of these Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and

the other provisions of these Terms remain in full force and effect. The section titles and annotations in these Terms are for convenience only and have no legal or contractual effect.

14. Arbitration, Class Waiver, and Waiver of Jury Trial We are located in Illinois, so all disputes must be resolved there. We will use binding arbitration to resolve any problems, and you cannot join a class action lawsuit or obtain a jury trial for any disputes you have with us related to your use of the Service. These Terms and the relationship between you and Factl shall be governed by the laws of the state of Illinois without regard to its conflict of law provisions. You and Factl agree to submit to the personal and exclusive arbitration of any disputes relating to your use of the Service under the rules of the American Arbitration Association. Any such arbitration, to the extent necessary, shall be conducted in Chicago, Illinois. You understand that you cannot and agree not to sue Factl in any other forum. You also acknowledge and understand that, with respect to any dispute with the Released Parties arising out of or relating to your use of the Service or these Terms:

- YOU ARE GIVING UP YOUR RIGHT TO HAVE A TRIAL BY JURY;
- YOU ARE GIVING UP YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT INVOLVING ANY SUCH DISPUTE; AND
- YOU MUST FILE ANY CLAIM WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE OR IT IS FOREVER BARRED.

Contact Information. You can contact Factl LLC. at support@Factl.com

NOTICE REGARDING APPLE. You acknowledge that these Terms are between you and Factl only, not with Apple, and Apple is not responsible for the App or the content thereof. Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App. In the event of any failure of the App to conform to any applicable warranty, then you may notify Apple and Apple will refund the purchase price for the

relevant App to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation whatsoever with respect to the App. Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and/or use of the App, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, and discharge of any third party claim that the App or your possession and use of the App infringes that third party's intellectual property rights. You agree to comply with any applicable third party terms when using the App. Apple, and Apple's subsidiaries, are third party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary of these Terms. You hereby represent and warrant that (i) 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 "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. If Factl provides a translation of the English language version of these Terms, the translation is provided solely for convenience, and the English version shall prevail.