

END USER LICENSE AGREEMENT

Last updated May 11, 2020

Windy Lookout is licensed to You (End-User) by Windy Lookout, located at 962 Grand Ave, PROVO, Utah 84604, United States (hereinafter: Licensor), for use only under the terms of this License Agreement.

By downloading the Application from the Apple AppStore or Google Play Store, and any update thereto (as permitted by this License Agreement), You indicate that You agree to be bound by all of the terms and conditions of this License Agreement, and that You accept this License Agreement.

The parties of this License Agreement acknowledge that Apple or Google is not a Party to this License Agreement and is not bound by any provisions or obligations with regard to the Application, such as warranty, liability, maintenance and support thereof. Windy Lookout, not Apple, is solely responsible for the licensed Application and the content thereof.

This License Agreement may not provide for usage rules for the Application that are in conflict with the latest [App Store Terms of Service](#). Windy Lookout acknowledges that it had the opportunity to review said terms and this License Agreement is not conflicting with them.

All rights not expressly granted to You are reserved.

1. THE APPLICATION

Windy Lookout (hereinafter: Application) is a piece of software created to Windy Lookout's main function is to work as an early alert system for recreational users of Utah Lake. Its purpose and goal is 3 fold: Detection, Alert and Safety. Windy Lookout is customized for mobile devices. Windy Lookout analyzes and processes many current wind conditions beyond the perimeter of the lake to give users an early alert should a dangerous wind arise. We process this information in real-time to give users an alert allowing them to make the necessary decisions to stay safe in the minutes before the wind hits.

The Application is not tailored to comply with industry-specific regulations (Health Insurance Portability and Accountability Act (HIPAA), Federal Information Security Management Act (FISMA), etc.), so if your interactions would be subjected to such laws, you may not use this Application. You may not use the Application in a way that would violate the Gramm-Leach-Bliley Act (GLBA).

2. SCOPE OF LICENSE

2.1 You may not share or make the Application available to third parties (unless to the degree allowed by the Apple Terms and Conditions, and with Windy Lookout's prior written consent), sell, rent, lend, lease or otherwise redistribute the Application.

2.2 You may not reverse engineer, translate, disassemble, integrate, decompile, integrate, remove, modify, combine, create derivative works or updates of, adapt, or attempt to derive the source code of the Application, or any part thereof (except with Windy Lookout's prior written consent).

2.3 You may not copy (excluding when expressly authorized by this license and the Usage Rules) or alter the Application or portions thereof. You may create and store copies only on devices that You own or control for backup keeping under the terms of this license, the App Store Terms of Service, and any other terms and conditions that apply to the device or software used. You may not remove any intellectual property notices. You acknowledge that no unauthorized third parties may gain access to these copies at any time.

2.4 Violations of the obligations mentioned above, as well as the attempt of such infringement, may be subject to prosecution and damages.

2.5 Licensor reserves the right to modify the terms and conditions of licensing.

3. TECHNICAL REQUIREMENTS

3.1 Licensor attempts to keep the Application updated so that it complies with modified/new versions of the firmware and new hardware. You are not granted rights to claim such an update.

3.2 Licensor reserves the right to modify the technical specifications as it sees appropriate at any time.

4. MAINTENANCE AND SUPPORT

4.1 The Licensor is solely responsible for providing any maintenance and support services for this licensed Application. You can reach the Licensor at the email address listed in the App Store Overview for this licensed Application.

4.2 Windy Lookout and the End-User acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the licensed Application.

5. USE OF DATA

You acknowledge that Licensor will be able to access and adjust Your downloaded licensed Application content and Your personal information, and that Licensor's use of such material and information is subject to Your legal agreements with Licensor and Licensor's privacy policy: <https://windylookout.com/Home/Privacy>.

6. LIABILITY

6.1 Licensor takes no accountability or responsibility for any damages caused due to a breach of duties according to Section 2 of this Agreement. To avoid data loss, You are required to make use of backup functions of the Application to the extent allowed by applicable third-party terms and conditions of use. You are aware that in case of alterations or manipulations of the Application, You will not have access to licensed Application.

6.2 Licensor takes no accountability and responsibility in case of User safety. The user is ultimate responsible for their own safety. The information provided by the application is meant to inform the user. All safety precautions should be followed when going out on any body of water. Windy Lookout cannot guarantee the the information provided will be 100% accurate.

7. WARRANTY

7.1 Licensor warrants that the Application is free of spyware, trojan horses, viruses, or any other malware at the time of Your download. Licensor warrants that the Application works as described in the user documentation.

7.2 No warranty is provided for the Application that is not executable on the device, that has been unauthorizedly modified, handled inappropriately or culpably, combined or installed with inappropriate hardware or software, used with inappropriate accessories, regardless if by Yourself or by third parties, or if there are any other reasons outside of Windy Lookout's sphere of influence that affect the executability of the Application.

7.3 You are required to inspect the Application immediately after installing it and notify Windy Lookout about issues discovered without delay by e-mail provided in Product Claims.

7.4 If we confirm that the Application is defective, Windy Lookout reserves a choice to remedy the situation either by means of solving the defect or substitute delivery.

7.5 In the event of any failure of the Application to conform to any applicable warranty, You may notify the App-Store-Operator, the App-Store-Operator will have no other warranty obligation whatsoever with respect to the App, and any other losses, claims, damages, liabilities, expenses and costs attributable to any negligence to adhere to any warranty.

7.6 If the user is an entrepreneur, any claim based on faults expires after a statutory period of limitation amounting to twelve (12) months after the Application was made available to the user. The statutory periods of limitation given by law apply for users who are consumers.

8. PRODUCT CLAIMS

Windy Lookout and the End-User acknowledge that Windy Lookout, and not Apple, is responsible for addressing any claims of the End-User or any third party relating to the licensed Application or the End-User's possession and/or use of that licensed Application, including, but not limited to:

(i) product liability claims;

(ii) any claim that the licensed Application fails to conform to any applicable legal or regulatory requirement; and

(iii) claims arising under consumer protection, privacy, or similar legislation, including in connection with Your Licensed Application's use of the HealthKit and HomeKit.

9. LEGAL COMPLIANCE

You represent and warrant that 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 that You are not listed on any U.S. Government list of prohibited or restricted parties.

10. CONTACT INFORMATION

For general inquiries, complaints, questions, or claims concerning the licensed Application, please contact:

Sean Thornton
962 Grand Ave
PROVO, UT 84604
United States
info@windylookout.com

11. TERMINATION

The license is valid until terminated by Windy Lookout or by You. Your rights under this license will terminate automatically and without notice from Windy Lookout if You fail to adhere to any term(s) of this license. Upon License termination, You shall stop all use of the Application, and destroy all copies, full or partial, of the Application.

12. THIRD-PARTY TERMS OF AGREEMENTS AND BENEFICIARY

Windy Lookout represents and warrants that Windy Lookout will comply with applicable third-party terms of agreement when using licensed Application.

In Accordance with Section 9 of the "Instructions for Minimum Terms of Developer's End-User License Agreement," Apple and Apple's subsidiaries shall be third-party beneficiaries of this End User License Agreement and - upon Your acceptance of the terms and conditions of this license agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this End User License Agreement against You as a third-party beneficiary thereof.

13. INTELLECTUAL PROPERTY RIGHTS

Windy Lookout and the End-User acknowledge that, in the event of any third-party claim that the licensed Application or the End-User's possession and use of that licensed Application infringes on the third party's intellectual property rights, Windy Lookout, and not Apple or Google, will be solely responsible for the investigation, defense, settlement and discharge or any such intellectual property infringement claims.

14. APPLICABLE LAW

This license agreement is governed by the laws of the State of Utah excluding its conflicts of law rules.

15. MISCELLANEOUS

15.1 If any of the terms of this agreement should be or become invalid, the validity of the remaining provisions shall not be affected. Invalid terms will be replaced by valid ones formulated in a way that will achieve the primary purpose.

15.2 Collateral agreements, changes and amendments are only valid if laid down in writing. The preceding clause can only be waived in writing.