

TERMS OF USE AND END USER LICENSE AGREEMENT (EULA) FOR USING "MOPEKA CHECK GATEWAY"

Please read carefully the following TERMS OF USE and LICENSE TERMS, BEFORE you install and use our mobile application " MOPEKA CHECK " (hereinafter referred to as "Application" and other services including our online services. By downloading, installing and/or using our software product, including the registration for our services, you declare that you have read and understood the following terms and that you will observe these when using our application. If you do not accept the following terms, you are not permitted to install and use our application. If you no longer agree with the following terms after you have installed the application you are obliged to stop using our applications and to delete them without delay from your device.

1. Scope

The terms of use and license terms are valid exclusively between MOPEKA PRODUCTS LLC, 445 FM 1983, COLORADO CITY, TX 79512 (hereinafter referred to as "MOPEKA" or "us" or "we") and the end users who use the software product on their mobile devices, such as smart phone or tablet PC.

In the scope of application of these terms of use and license terms, no rights and/or obligations are established between us and the provider of your respective download portal (Apple Inc. or Google Inc.).

2. Subject of the Regulation

Our application is designed to interact with our verifiably compatible products.

Your data is recorded and saved with your consent in the application on your mobile device and after a registration within your cloud-based user account.

In addition to these terms of use, additional terms of business apply in the relationship between you and the provider of the download portals you use (Apple Inc. or Google Inc.) and we have no influence on the content of these portals.

3. Data Acquisition and Processing when Using our Application / Consent

With your registration you expressly agree that we are entitled to acquire this data and to process and use it to provide the services and functions of our products.

If you do not want this, disable the acquisition of this data in our application. In this case the functions that depend on this data (e.g. adaptation of our product or provision of information) will not be available.

You also agree to the acquisition, processing and use of technical data and information, such as technical data on using devices, operating system etc. for the purpose of providing updates and support services in connection with our application. We are authorized to store and use this data in depersonalized form to improve our products.

4. Technical Requirements / Devices

Our application can only be used with a mobile device such as a smart phone or tablet PC based on Apple Inc.'s iOS operating system or Google Inc.'s Android operating system. We recommend using the latest operating system version in each case. Also, you are responsible for checking and ensuring that the device you plan to use for our application is adequate for the technical requirements including sufficient processor speed and storage space.

The download to your mobile device is another prerequisite for the use of our application. Use the download portal of your device's manufacturer ("App store") or the download portal of your operating system's manufacturer ("Google Play Store").

The download of our application and the exchange of data between your mobile device and your user account require an internet connection. This connection must be provided by you. Any costs associated with this or with the data transfer are to be borne by you.

We endeavor to adapt our application to changed operating system versions and to new mobile devices and to make our application available on these. Please note that changes to our application, including changes to the available functions may be made together with the updates. The updates are made taking into consideration the provisions for providing updates that are set out by the manufacturer of your device and/or of your operating system. However, no claim exists to such updates.

5. Registration

You have the option within our application of registering to use it and to use the cloud-based services associated with it.

We are entitled to reject a registration if you are not of full age at the time of the registration, if you have already registered for our services or if you have been excluded from using our services because of past breach of these terms of use. In this case, any data that has already been transferred will be deleted immediately. This also applies if any users created under your user account have breached these terms of use. When you set up additional users you are therefore obliged to inform them about these terms of use.

You will receive a user account when you register. The user account is needed to allow you to use all the functions of our application.

After the registration we use the access data specified by you to authenticate the login to your user account. You are obligated to keep your access data secret from third parties. If you fear that third parties may have access to your access data or that your user account is being used without your authorization, you must notify use immediately by sending an e-mail to social@mopeka.com. In this event we will block your user account and send you new access data to activate it. We are entitled to contact you in order to verify your access data.

You have the option of creating several users ("Group) in your user account. Please note that the data of the other users will also be deleted or blocked if your user account is deleted or deactivated. If you have created additional users in your account, notify these users about the consequences of a deletion or deactivation of your user account.

6. Installation and Usage Rights (License) / Restrictions

We grant you the simple, non-exclusive and non-transferrable right to install and use our application on your devices for an unlimited time. These rights are granted subject to your compliance with these provisions.

You are not entitled to in any way rent, lease or lend, to sell or to distribute or otherwise transfer our application or a part thereof and/or the rights of use granted to you without our previous consent. This does not apply if you sell, rent, lease or lend our product to a third party or make our product available to them in some other manner. In this case you are entitled to transfer the rights, which are granted to you according to these provisions, to third parties.

You are entitled to copy our application provided and to the extent that this is required to create a backup copy or if you want to use our application on several devices that you own.

You are not entitled to remove or circumvent any existing protection mechanism for our application which protects it against unauthorized use, unless this is necessary to obtain trouble-free use. Copyright notices, serial number and other features used to identify our application must also not be removed or modified. The same applies to a suppressing the screen display of corresponding features.

It is not permitted to modify our application and/or parts thereof outside of the existing configuration settings. In particular it is not permitted to decompile, reverse engineer, disassemble or compile these.

If we supplement or replace our application, the provisions apply to the same extent to the use of the subsequently provided application.

7. Ownership Rights

All intellectual ownership rights including copyright and industrial property rights to our application and any accompanying material are exclusively reserved by MOPEKA. We reserve the rights that are not explicitly transferred to you with these provisions.

In relation to use you retain all ownership rights to your data which is stored in our application and/or our cloud-based services.

8. Liability for Material and Legal Defects

Technical data, specification and performance information in public statements, especially in advertising material are not quality specifications. The functionality of our application is based on the description which can be viewed within the application and/or on the download portal of the manufacturer of your device ("App store") or the download portal of the manufacturer of your operating system ("Google Play Store") and the supplementary agreements made hereto.

We give you our assurance that our application is free of viruses, trojans, spyware and other malware at the time that it is provided on the download portal of the manufacturer of your device ("App store") or the download portal of your operating system's manufacturer ("Google Play Store").

If you are using our application as entrepreneur, you are obliged to check this immediately after installation for any defects and to notify us at least in text form within a period of 14 days after becoming aware of the defect. In the event of delayed notification of obvious defects, we reserve the right to refuse remedial action.

Should our application prove to be defective we will eliminate the defect by delivering an application that is free of defects. Delivery is effected through the provision of our application on the download portal of the manufacturer of your device ("App store") or on the download portal of the manufacturer of your operating system ("Google Play Store").

Claims to remedial action are excluded to the extent that the defect is attributable to our application having been modified outside of the system's configuration options and/or operated on devices that are unsuitable for our application.

If you are an entrepreneur the claims for remedial action become time-barred after twelve months unless the defect was maliciously concealed. If you use our application as a consumer, the statutory provisions apply as regards the limitation period for claims based on defects.

9. Other Liability

We are liable for willful intent and gross negligence. For slight negligence we are liable only for breach of a material contractual obligation (cardinal obligation), the fulfillment of which enables the proper execution in the first place, and where the customer may regularly rely on compliance with the obligation, as well as for fatalities, physical injuries and damage to health.

Liability in case of slight negligence is limited to the amount of the foreseeable, calculable, typical damage.

In any case, we are not liable for loss of data and/or programs if the damage is due to the fact that you neglected to make backup copies and to hereby ensure that the lost data could be restored with reasonable effort.

According to the current state of the art, it cannot be ensured that data communication via the internet will be trouble-free and/or available at all times. To this extent we are not liable for the constant and uninterrupted availability of our services.

10. Validity period / cancellation

The terms of use and license provisions are valid for an unlimited period. If you or we should terminate this agreement, you are obligated to remove our application from all the devices on which you used it.

We are entitled to modify all or part of these terms of use and license provisions with effect for the future in order to adapt these provisions to changes in the general statutory conditions.

11. Export Law Control

Our application may contain technologies and software that are subject to corresponding export control regulations in United States of America and/or in countries in which our application is to be used. You declare that you will comply with the export control regulations

that are valid in your country. You also confirm and declare that you are not domiciled in a country that is subject to an embargo of the US government or that has been designated by the US government as a "terrorist supporting" country or that is included in the US government list of countries with export prohibitions and export restrictions.

12. Data protection

You can find out about our handling of your data in the data protection declaration within our application.

13. Contact

For questions, complaints and asserting claims in connection with our application, please contact: MOPEKA PRODUCTS LLC, 445 FM 1983, COLORADO CITY, TX 79512; email social@mopeka.com.

14. Applicable law, place of jurisdiction, other

These terms of use and license provisions are subject to Texas, USA, law. The United Nations Convention on the International Sale of Goods is excluded. Mandatory regulations of the country in which you have your regular domicile are unaffected.

If you had your domicile or common place of residence in USA at the time of the download and had either moved these and these were unknown at the time of the legal action was filed, the place of jurisdiction for all disputes shall be the courts at our company's place of business in Texas.

Amendments and supplements to this contract must be in writing. Subsidiary agreements shall not form part of this contract.

You agree that the communication between you and us shall be conducted through your user account and within our application by means of notifications and/or e-mails.

If individual provisions of this contract shall be or become fully or partially invalid or impracticable, the validity of the remaining provisions of this contract shall not be affected by this. The same shall apply in the event that the contract contains a loophole.