

**LEXUS, A DIVISION OF TOYOTA MOTOR SALES, U.S.A., INC. "LEXUS ENFORM APP SUITE"  
APPLICATION**

**TERMS OF USE/LICENSE AGREEMENT**

PLEASE CAREFULLY READ THIS APPLICATION TERMS OF USE/LICENSE AGREEMENT ("AGREEMENT") BEFORE DOWNLOADING, ACCESSING, ACTIVATING, REGISTERING FOR, OR OTHERWISE USING THE "LEXUS ENFORM APP SUITE" APPLICATION OR ITS RELATED SERVICES OR CONTENT (THE "APPLICATION"). IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, INCLUDING THE INFORMATION COLLECTED, USED, TRANSMITTED OR RETAINED BY THIS APPLICATION, DO NOT DOWNLOAD, ACCESS, ACTIVATE OR REGISTER FOR THE APPLICATION. BY CLICKING ON THE "DOWNLOAD" BUTTON OR USING THE APPLICATION, YOU AGREE TO BE BOUND BY THIS AGREEMENT, AND REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THIS AGREEMENT. THE APPLICATION IS OWNED OR LICENSED AND OPERATED BY LEXUS, A DIVISION OF TOYOTA MOTOR SALES, USA "LEXUS", WITH A BUSINESS ADDRESS AT 19001 SOUTH WESTERN AVENUE, TORRANCE CALIFORNIA 90501, AND/OR ITS THIRD-PARTY PROVIDERS. YOUR ACCESS TO AND USE OF THE APPLICATION IS SUBJECT TO THIS AGREEMENT AND ALL APPLICABLE LAWS.

**A. Description of the Application.** This Application allows you to access and use a variety of third party applications with various information and infotainment services all within one application via the compatible multi-media system in your Lexus vehicle through the available Bluetooth connection to your mobile device. Your in-vehicle multi-media system will be referred to as your Lexus vehicle's "Head Unit" throughout this Agreement.

**B. Scope of License.** You understand and agree that the Application is licensed, not sold, to you for use only as outlined in this Agreement. We reserve all rights not expressly granted to you. Lexus and/or its licensors own, or have the right to license, the Application and all underlying content, information, applications, and intellectual property. This license is limited to a non-transferable license to use the Application on the applicable mobile device that you own or control (e.g., iDevice, iPod touch, Android device), in accordance with this Agreement, and, as applicable, Google Inc.'s ("Google") "Android Market Terms of Service" (<http://www.google.com/mobile/android/market-tos.html>), the Usage Rules set forth in the Apple Inc. ("Apple") "App Store Terms of Service" (<http://www.apple.com/legal/itunes/us/terms.html#APPS>), the terms and conditions of Research in Motion Limited's ("RIM") "Blackberry App World Vendor Guidelines" (<https://appworld.blackberry.com/isyportal/home/guidelines.seam?cid=78460>). This license is between Lexus and you (and not Apple, Google or RIM) and is effective until terminated by Lexus or by you. As between Lexus and Apple, Lexus is responsible for the Application and the content therein, not Apple. This license does not allow you to use the Application on a device that you do not own or control, and you may not distribute or make the Application available over a network where it could be used by multiple devices at the same time. You may not rent, lease, lend, sell, redistribute or sublicense the Application. You may not copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Application, any updates, or any part thereof. As between Lexus and Apple, Lexus is solely responsible for providing any maintenance and support services with respect to the Application; you acknowledge that Apple has no obligation whatsoever to furnish any maintenance or support services with respect to the Application.

**C. Eligibility/Installation/Registration.** The Application is intended for and available to individuals (i) who are of legal age of majority in their jurisdiction of residence (and at least 18 years of age); (ii) who own or have a compatible mobile device; and (iii) who own or have a compatible Lexus vehicle. We do not knowingly collect any information, including personal information, from children under 13. If we learn that we have collected the personal information of a child under 13 we will take steps to delete the information as soon as possible.

1. **Installation.** You may install the Application on your compatible mobile device by following the installation instructions available from the App Store, the Android Market, or Blackberry App World, as applicable.

2. Registration. In order to use the Application, you will need to register at [www.lexusdrivers.com](http://www.lexusdrivers.com). You cannot use the Application on your mobile device without registering at [www.lexusdrivers.com](http://www.lexusdrivers.com). Once you register, you will be able to use the Application for a one (1) year complimentary period. Prior to the end of the one (1) year complimentary period, you will be provided with a notice via the email address you have provided to us regarding the amount and frequency of any fees that you will be charged for your continued use of the Application via your Lexus vehicle's Head Unit. If you desire to continue using the Application via your Lexus vehicle's Head Unit, you will need to agree to those fees and provide a credit card to be charged for such fees. (Pandora will be made available to you in a complimentary manner even after the expiration of the one (1) year complimentary period.) If you do not desire to continue using the Application via your Lexus vehicle's Head Unit, you may cancel your registration. You have the right to cancel your registration at any time.
3. Use of applications within the Application. In order to use any of the applications within the Application, you will need to register/have an account with the applicable application provider, and agree to any terms and conditions of that application provider. Any use of any of the applications within the Application are subject to this Agreement and the terms and conditions, and privacy policies of the applicable application provider. Lexus has no control over these third party applications, and is not responsible or liable for the availability, security, content or resources provided through any of the third party applications within the Application, and the inclusion of any third party application does not imply a referral by Lexus to, or an endorsement by Lexus of, the third party application provider or any products or services of the third party, or other materials on or available from such third party application. Please refer to the Terms and Conditions of the third party applications for specific security, content and resource detail. You may access the Bing Terms of Use at <http://explore.live.com/microsoft-service-agreement?ref=none&mkt=en-us>. The Lexus Parties (as defined below) are not liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with your use of such content, information, products, goods or services available on or through any such third party application, and you agree to hold the Lexus Parties (as defined below) harmless from any and all content, information, products, goods or services received from, or provided to, any of the third party applications.
4. Unauthorized Use. You are responsible for your (and any authorized third parties) use of the Application in compliance with this Agreement. You acknowledge and agree that any use of the Application occurring through your installed Application shall be deemed to be your actions and that the Lexus Parties (as defined below) may rely upon such actions. You are solely responsible for protecting the security of the installed Application on your mobile device.
5. Uninstalling the Application. To uninstall the Application from your mobile device, follow the directions within the instruction guide for your mobile device. If you uninstall the Application from your mobile device, you will not be able to use the Application via your Lexus vehicle's Head Unit. You may also de-register via the [www.lexusdrivers.com](http://www.lexusdrivers.com) website; if you de-register, you will not be able to use the Application via your Lexus vehicle's Head Unit.
6. Updates to the Application. The Application may be updated by your dealer when your vehicle is being serviced, or it may be updated remotely by Lexus from time to time. The Application may be updated for certain reasons, including, without limitation, to increase Application functionality, to patch or improve Application stability, new versions, and the like (collectively, "Updates"). By installing and registering for the Application, you agree to such automatically requested and received remote Updates, and that such Updates are subject to this Agreement.

#### **D. Privacy/Information Collection, Use, Transmission and Storage.**

1. Information Collected via the Application. When you register for use of the Application via [www.lexusdrivers.com](http://www.lexusdrivers.com), you will need to provide your name, email address, and vehicle identification number ("VIN"). You may also provide your mobile telephone number, which, if provided, will enable you to use OpenTable® from the Lexus vehicle's Head Unit in your compatible Lexus vehicle. If you provide your mobile telephone number, you hereby agree to receive text and other messages via your mobile device, if you have opted in to receive such messages. This information is collected to

complete the Application registration process, to create your account, to ensure that your vehicle is compatible for use of the Application via the Lexus vehicle's Head Unit, and to start your one (1) year complimentary trial of the Application. Further details regarding collection and use of your personal information (and any targeting advertising) are provided in the Lexus Enform App Suite Application Privacy Policy, which can be found at [www.lexusdrivers.com](http://www.lexusdrivers.com), and which may be updated from time to time.

2. Information Storage. Depending on the type of head unit you have in your Lexus vehicle, certain information may be stored for ease of use of the Application via the Lexus vehicle's Head Unit (e.g., search history, location history in certain applications, previous and saved destinations (entered via your use of the GPS functionality of the Lexus vehicle's Head Unit), map locations within certain applications, and device numbers that are called via the Lexus vehicle's Head Unit's Bluetooth connection).
3. Third Party Applications. You acknowledge that you have registered with the providers of any of the third party applications that you use within the Application, and that you have agreed to such third party applications' applicable terms of use and privacy policies. You acknowledge that any collection, use, and sharing of your information by any of the applicable third party application providers, any targeted advertising practices conducted by such third party application providers, and your use of the third party applications accessible and/or found within the Application, shall be subject to that third party application provider's terms and conditions and privacy policy, as applicable. For your benefit and to enhance the efficiency of the Application, the third party applications within the Application may collect, use and share the same information while you are using the Application (e.g., if you change your zip code in the Bing® application that information will be automatically used by the MovieTickets.com application accessible via the Lexus vehicle's Head Unit such that the same zip code will be used for any searches in the MovieTickets.com application).
4. Mobile Device & SIM Card Data. You acknowledge that data on your mobile device may automatically be stored on your SIM card, the mobile device itself, and/or your carrier's network. Your data may remain on the mobile device even if your SIM card is removed; the data left on your mobile device will be accessible to others who use your mobile device, and may be deleted, altered, or transferred to your carrier's network servers. The use of your data will be subject to your carrier's terms and conditions, and privacy policy, and Lexus is not responsible or liable therefor.
5. Vehicle Travel Information. You acknowledge that when your Lexus Enform App Suite Application is active in your vehicle and the traffic feature is available, it will automatically collect and transmit, through GPS technology, your vehicle's current location (longitude and latitude), travel direction and speed ("Vehicle Travel Information") to Lexus, including its Third Party Service Providers, in five minute increments. The Vehicle Travel Information is used by Lexus's Third Party Service Provider to provide real time traffic information to you. The Location Data contains no personally identifiable information and cannot be tracked to you or your Vehicle Identification Number ("VIN").
6. User Voice Commands. You acknowledge and understand that Lexus, including its Third Party Service Providers, may record and retain user voice commands once you've initiated contact with your Lexus Enform App Suite Application. Your personally identifiable information will not be associated with such voice command recordings. Therefore, for yourself, your car's occupants and anyone using the Lexus Enform App Suite application in your vehicle, you consent to all such recording and retention of voice commands and release Lexus and third-party beneficiaries from claims, liabilities and losses that may result from any such recorded voice commands.
7. Voice Recognition. You acknowledge and understand that Lexus, including its Third Party Service Providers, may utilize voice recognition software once you've initiated contact with your Lexus Enform App Suite Application. Lexus, including its Third Party Service Providers, may retain these voice recognition readings once you've initiated contact with your Lexus Enform App Suite Application for the purpose of improving this feature. Your personally identifiable information will not be associated with such voice recognition readings. Therefore, for yourself, your car's occupants and

anyone using the Lexus Enform App Suite application in your vehicle, you consent to all such voice recognition software use and the retention of voice recognition readings and release Lexus and third-party beneficiaries from claims, liabilities and losses that may result from any such recorded voice recognition readings.

#### **E. Account.**

1. **Account Activation and Information.** You will be required to register and activate an account on [www.lexusdriver.com](http://www.lexusdriver.com) in order to use the Application via your Lexus vehicle's Head Unit. If you register on the [www.lexusdrivers.com](http://www.lexusdrivers.com) website, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the [www.lexusdrivers.com](http://www.lexusdrivers.com) website, and (b) as permitted, maintain and promptly update such information to keep it true, accurate, current and complete. If you provide any information to Lexus that is false, inaccurate, outdated or incomplete, or if Lexus has reasonable grounds to suspect that such information is false, inaccurate, outdated or incomplete, Lexus has the right to suspend or terminate your account and to prohibit any and all current or future use of the Application (or any portion thereof) by you.
2. **Account Password.** If you register an account for use of the Application, you will create a password while completing the registration process. You are responsible for maintaining the confidentiality of the password and account and other account or service codes issued to you, and are fully responsible for all activities that occur under your password or account. You agree not to use the account or password of another registered user without permission or to disclose your password to any third party. You agree to immediately notify Lexus of any unauthorized use of your password or account or any other breach of security. The Lexus Parties (defined below) cannot and will not be liable for any loss or damage arising from your failure to comply with this section.
3. **Account Management.** You may access, review and revise your information, add secondary users, see account status, and otherwise update your account at any time by logging into your account via the [www.lexusdrivers.com](http://www.lexusdrivers.com) website.

**F. Restrictions on Use of this Application.** As a condition of using this Application, you agree that you may not and will not:

1. copy, download, distribute, modify, publish, sell, license, use, reuse, or create derivative works of the Application or any of the content or other material within the Application, including without limitation, the Lexus name, logos, and any other trademark of the Lexus Parties (as defined below), or those of any of the applications within the Application, except solely to use the Application in accordance with its instructions;
2. access or use this Application in any way that could or is intended to damage or impair the operation of this Application, or any content of or material displayed in this Application, or any server or network underlying this Application, or interferes with anyone else's use and enjoyment of this Application;
3. access or attempt to access any data, information, system, or servers on which this Application is hosted or modify or alter this Application in any way;
4. use the Application for any commercial or unlawful purpose, or in violation of any third party rights;
5. use the Application in violation of any applicable traffic regulations and driver distraction laws, rules and regulations; or
6. violate the terms of this Agreement or any of the third party applications' applicable terms of use and privacy policies.

Lexus reserves the right to suspend or terminate your participation in the Application if you are found to be in violation of this Agreement.

**G. Fees and Data/Message Costs.** Lexus does not charge for use of the Application for the first (1) year of use after registration. However, standard data (and text, if applicable) rates apply for data (and messages, if applicable) sent from and received by your mobile device as determined by your wireless provider and you are solely responsible for such charges and any other charges from your wireless provider. Please contact your wireless provider for complete pricing details. Prior to the end of the first (1) year complimentary period, you will be provided with a notice via the email address you have provided to us regarding the amount and frequency of any fees that you will be charged for your continued use of the Application via your Lexus vehicle's Head Unit (however, if Pandora is offered through the Application, it will always be provided in a complimentary manner). If you desire to continue using the Application via your Lexus vehicle's Head Unit, you will need to agree to those fees and provide a credit card to be charged for such fees. If you do not desire to continue using the Application via your Lexus vehicle's Head Unit, you may cancel your registration. You have the right to cancel your registration at any time.

**H. No Warranty.** YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE APPLICATION IS SOLELY AT YOUR OWN RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR MOBILE DEVICE, YOUR LEXUS VEHICLE'S HEAD UNIT, OR ANY OTHER EQUIPMENT OR LOSS OF DATA THAT MAY RESULT FROM YOUR USE OF THE APPLICATION. **THE APPLICATION AND ITS CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY OF ANY KIND, EXPRESSED, IMPLIED OR STATUTORY. WE SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.** LEXUS MAKES NO WARRANTIES THAT THE APPLICATION OR ANY MATERIAL OBTAINED THROUGH IT, AS DESCRIBED HEREIN, WILL MEET YOUR REQUIREMENTS, OR THAT THE APPLICATION WILL BE UNINTERRUPTED, TIMELY, SECURE, NON-INFRINGEMENT OR ERROR FREE. YOU UNDERSTAND AND AGREE THAT YOU ARE RESPONSIBLE FOR ANY AND ALL CHARGES, COSTS AND/OR EXPENSES FOR USE OF THE APPLICATION. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE APPLICATION SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. YOU MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. WE ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS IN THE CONTENT OF THE APPLICATION. WE DO NOT MAKE ANY WARRANTY OR REPRESENTATION THAT YOUR USE OF THE MATERIAL DISPLAYED ON, OR OBTAINED THROUGH, THE APPLICATION IS NON-INFRINGEMENT OF ANY RIGHTS OF ANY THIRD PARTY. ANY DECISION OR ACTION TAKEN BY YOU ON THE BASIS OF INFORMATION OR CONTENT PROVIDED VIA THE APPLICATION IS AT YOUR SOLE DISCRETION AND RISK. THE LEXUS PARTIES (AS DEFINED BELOW) ARE NOT RESPONSIBLE OR LIABLE FOR ANY SUCH DECISION, OR FOR THE ACCURACY, COMPLETENESS, USEFULNESS, OR AVAILABILITY OF ANY CONTENT OR INFORMATION DISPLAYED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE APPLICATION.

IN THE EVENT OF ANY FAILURE OF THE APPLICATION TO CONFORM TO ANY APPLICABLE WARRANTY, IF DOWNLOADED FROM THE APPLE APP STORE, THE END-USER MAY NOTIFY APPLE, AND APPLE WILL REFUND THE PURCHASE PRICE (IF ANY) FOR THE APPLICATION TO THAT END-USER, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APPLE WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE APPLICATION, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS, OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY WILL BE LEXUS'S RESPONSIBILITY (IF NOT EFFECTIVELY DISCLAIMED).

TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

**I. Limitation of Liability.**

EXCEPT IN JURISDICTIONS WHERE SUCH PROVISIONS ARE RESTRICTED, YOU AGREE THAT THE LEXUS PARTIES' ENTIRE LIABILITY TO YOU OR ANY THIRD PERSON, AND YOUR OR ANY THIRD PERSON'S EXCLUSIVE REMEDY, IN LAW, IN EQUITY, OR OTHERWISE, WITH RESPECT TO THE APPLICATION AND/OR FOR ANY BREACH OF THIS AGREEMENT IS SOLELY LIMITED TO THE

AMOUNT FIFTY CENTS (\$.50). EXCEPT IN JURISDICTIONS WHERE SUCH PROVISIONS ARE RESTRICTED, THE LEXUS PARTIES AND THEIR LICENSORS AND CONTRACTORS (INCLUDING ANY THIRD PARTIES PROVIDING ALL OR PART OF SERVICES RELATED TO THE APPLICATION) SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES EVEN IF THE LEXUS PARTIES AND THEIR LICENSORS AND CONTRACTORS (INCLUDING ANY THIRD PARTIES PROVIDING ALL OR PART OF SERVICES RELATED TO THE APPLICATION) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT THAT A STATE DOES NOT PERMIT THE EXCLUSION OR LIMITATION OF LIABILITY AS SET FORTH HEREIN OUR LIABILITY IS LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW IN SUCH STATES.

YOU UNDERSTAND THAT THE UPLOADING OF INFORMATION TO YOUR MOBILE DEVICE AND/OR YOUR LEXUS VEHICLE'S HEAD UNIT IN CONNECTION WITH THIS APPLICATION IS AT YOUR OWN RISK AND THAT LEXUS IS NOT RESPONSIBLE FOR UNAUTHORIZED ACCESS TO OR USE OF ANY PERSONAL OR OTHER INFORMATION. ALL INFORMATION UPLOADED TO THE APPLICATION MAY BE STORED ON YOUR MOBILE DEVICE (AND/OR YOUR LEXUS VEHICLE'S HEAD UNIT AS DESCRIBED HEREIN) AND YOU UNDERSTAND THAT THE SECURITY AND SAFETY OF YOUR MOBILE DEVICE AND YOUR LEXUS VEHICLE'S HEAD UNIT IS YOUR SOLE RESPONSIBILITY.

**J. Release.** YOU HEREBY RELEASE AND DISCHARGE EACH OF THE LEXUS PARTIES AND THEIR LICENSORS AND CONTRACTORS (INCLUDING ANY THIRD PARTIES PROVIDING ALL OR PART OF SERVICES RELATED TO THE APPLICATION) FROM AND AGAINST ANY CLAIMS, DAMAGES, EXPENSES AND LIABILITY ARISING FROM OR RELATED TO ANY INJURIES, DAMAGES OR LOSSES TO ANY PERSON (INCLUDING DEATH) OR PROPERTY OF ANY KIND RESULTING IN WHOLE OR PART, DIRECTLY OR INDIRECTLY, FROM YOUR USE OF THE APPLICATION.

**K. Indemnity.** You agree to indemnify and hold harmless Lexus and its parent, subsidiaries and affiliates, their respective distributors, dealers, dealer associations and advertising and promotions agencies, together with their respective employees, agents, directors, officers and shareholders (collectively, the "Lexus Parties") from any loss, liability, claim, or demand, including reasonable attorneys' fees, arising out of or related to your acts and omissions, your use of the Application, your breach of this Agreement, and/or your breach or alleged violation of the patent, copyright, trademark, proprietary or other rights of third parties.

**L. Availability/Interruption.** The Application is available through your mobile device when it is within the operating range of a wireless carrier and through your Lexus vehicle's compatible Head Unit when the vehicle is turned on. The Application is subject to transmission limitation or interruption. Lexus does not guarantee that the Application (or any portion thereof) will be available at all times and/or in all areas. You acknowledge and agree that Lexus is not responsible for performance degradation, interruption or delays. You acknowledge that Lexus shall not be liable to you if the Application in a given location is not available. If the Application is not available within your intended location, you agree that your sole remedy shall be to cease using the Application and cancel your registration.

**M. Termination.** This Agreement is effective until terminated by you or us. We may terminate this Agreement for any or no reason, and with or without notice to you. Your rights under this Agreement will terminate automatically without notice from us if you fail to comply with any term of this Agreement. Upon termination of this Agreement, you shall cease all use of the Application.

**N. Changes to this Agreement and/or the Application.** We may change, modify, or update this Agreement and/or the Application, including the Application features, from time to time. If applicable, you will be notified that a new version of the Application is available and you will be asked if you wish to upgrade to a new version of the Application. If you use the Application after the upgrade in the Application or change(s) to this Agreement, you agree to such change(s) and its applicability to you. Unless explicitly stated otherwise, any new features or services that augment or enhance the Application in the future shall be considered part of the Application and subject to this Agreement. We reserve the right at any time and from time to time to interrupt, restrict, modify, suspend, discontinue, temporarily or permanently, the Application (or any portion thereof), with or without notice to you, and you agree that Lexus shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Application.

**O. Abuse.** You agree to immediately notify us if you suspect fraudulent or abusive activity. If you so notify us, or we otherwise suspect fraudulent or abusive activity, you agree to cooperate with us in any fraud investigation and to use any fraud prevention measures we prescribe. Your failure to cooperate or to use such measures will result in your liability for all fraudulent usage or abusive activity associated with your Equipment (as defined below).

**P. Disputes/Arbitration.** PLEASE READ THIS PROVISION CAREFULLY. IT INCLUDES AN **AGREEMENT TO MANDATORY ARBITRATION**, WHICH MEANS THAT YOU AGREE TO SUBMIT ANY DISPUTE RELATED TO YOUR USE OF THE APPLICATION TO BINDING INDIVIDUAL ARBITRATION RATHER THAN PROCEED IN COURT. IF YOU WANT TO **OPT-OUT** OF THIS MANDATORY ARBITRATION AGREEMENT, THIS PROVISION DESCRIBES THE PROCEDURES YOU MUST FOLLOW TO DO SO. THIS PROVISION ALSO INCLUDES A **CLASS ACTION WAIVER**, WHICH MEANS THAT YOU AGREE TO PROCEED WITH ANY DISPUTE INDIVIDUALLY AND NOT AS PART OF A CLASS ACTION. THIS AGREEMENT ALSO INCLUDES A **JURY WAIVER**.

It is Lexus's goal that the Application meet your expectations and that you are satisfied. However, there may be instances when you have a problem or dispute that needs special attention. In those instances, Lexus is committed to working with you to reach a reasonable resolution that satisfies you; however, we can only do this if we know about and understand your issue. Therefore, for any problem or dispute that you may have with Lexus, you acknowledge and agree that you will first give Lexus an opportunity to resolve your problem or dispute. This includes you first sending a written description of your problem or dispute to Lexus, a division of Toyota Motor Sales, USA, Inc., 19001 S. Western Ave., WC 11, Torrance, CA 90509. You then agree to negotiate with Lexus in good faith about your problem or dispute. This should lead to resolution, but if for some reason your problem or dispute is not resolved satisfactorily within sixty (60) days after Lexus's receipt of your written description of it, you agree to the further dispute resolution provisions below.

You agree that the sole and exclusive forum and remedy for any and all disputes and claims that cannot be resolved informally and that relate in any way to or arise out of your use of the Application and these Terms shall be final and binding arbitration, except to the extent that you have in any manner infringed upon or violated or threatened to infringe upon or violate the Lexus Parties' or any third party patent, copyright, trademark, trade secret, privacy or publicity rights, in which case you acknowledge that arbitration is not an adequate remedy at law and that injunctive or other appropriate relief may be sought by the Lexus Parties and/or the applicable third party(ies). You and we acknowledge that the Agreement affects interstate commerce and that the Federal Arbitration Act and federal arbitration law apply to arbitrations under the Agreement (despite any other choice of law provision).

Arbitration under this Agreement shall be conducted by JAMS. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures (pursuant to JAMS' Streamlined Arbitration Rules and Procedures). Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. **You and we agree to pay our own fees, costs, and expenses, including those for any attorneys, experts, and witnesses.** An arbitrator may award on an individual basis any relief that would be available in a court, including injunctive or declaratory relief and attorneys' fees. In addition, for claims under \$75,000 as to which you provided notice and negotiated in good faith with Lexus as required above before initiating arbitration, if the arbitrator finds that you are the prevailing party in the arbitration, you will be entitled to a recovery of reasonable attorneys' fees and costs. Except for claims determined to be frivolous, Lexus agrees not to seek an award of attorneys' fees in arbitration even if an award is otherwise available under applicable law. As a limited exception to the agreement to arbitrate, you and we agree that you may take claims to small claims court, if your claims qualify for hearing by such court.

**YOU HAVE A RIGHT TO OPT-OUT OF THIS ARBITRATION AGREEMENT.** If you do not agree to this mandatory arbitration provision with regard to your use of the Application, then prior to downloading, registering for and using the Application, you may opt-out of this part of the Agreement by calling the Lexus Customer Assistance Center at 1-800-255-43987 or sending written notification to the following address: Lexus, a division of Toyota Motor Sales, USA, Inc., 19001 S. Western Ave., Dept. WC 11, Torrance, CA 90509.

To the fullest extent permitted by applicable law, NO ARBITRATION OR OTHER CLAIM UNDER THIS AGREEMENT SHALL BE JOINED TO ANY OTHER ARBITRATION OR CLAIM, INCLUDING ANY ARBITRATION OR CLAIM INVOLVING ANY OTHER CURRENT OR FORMER USER OF THE APPLICATION, AND NO CLASS ARBITRATION PROCEEDINGS SHALL BE PERMITTED. In the event that this **CLASS ACTION WAIVER** is deemed unenforceable, then any putative class action may only proceed in a court of competent jurisdiction and not in arbitration.

WE BOTH AGREE THAT, WHETHER ANY CLAIM IS IN ARBITRATION OR IN COURT, YOU AND LEXUS BOTH WAIVE ANY RIGHT TO A JURY TRIAL INVOLVING ANY CLAIMS OR DISPUTES BETWEEN US.

In no event shall any claim, action or proceeding by you related in any way to the Application or this Agreement be instituted more than three (3) years after the cause of action arose.

**Q. Miscellaneous.** For the purpose of this Agreement, "Equipment" shall mean any hardware, software or networks associated with bringing you the Application, including, but not limited to, your mobile device and your Lexus vehicle's Head Unit. Assignment: You may not assign this Agreement without Lexus's prior written consent. Entire Agreement: This Agreement represents the entire agreement between you and us, which may only be amended as described in this Agreement. If any part of this Agreement is found invalid, the balance of the Agreement remains enforceable. Governing Laws: THIS AGREEMENT IS SUBJECT TO THE LAWS (EXCLUDING CONFLICTS OF LAWS PROVISIONS) OF THE UNITED STATES OF AMERICA AND THE STATE OF CALIFORNIA, U.S.A. Export Control Laws: You acknowledge that the laws and regulations of the United States and other countries may restrict the export and re-export of the Application. You agree that you will not export or re-export the Application in any form or to any recipient whether inside or outside the United States in violation of applicable United States and foreign law. Your Representations and Warranties. By downloading the Application, you 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. Responsibility. You acknowledge that Apple is not responsible for addressing any claims relating to the Application or your possession or use of the Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Application fails to conform to any applicable legal or regulatory requirement; or (iii) claims arising under consumer protection or similar legislation. In the event of any third party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, as between Apple and Lexus, Lexus will be solely responsible for the investigation, defense, settlement and discharge of any such claim. Third-Party Beneficiaries. You acknowledge and agree that, as applicable, Apple and Apple's subsidiaries, Google and Google's subsidiaries, and RIM and RIM's subsidiaries, are third party beneficiaries of this Agreement and that, upon your acceptance of the terms and conditions of this Agreement, Apple, Google, and RIM, as applicable, will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third-party beneficiary thereof. Additional Provisions: The Application is void where prohibited by law. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms. The failure to enforce any term of this Agreement on one occasion shall not prevent enforcement on any other occasion or the enforcement of any other term. Headings and captions shall not be considered included for purposes of interpretation or application hereof, but are for convenience only.

**R. Contact Us.** If you have any questions, complaints or claims about the Application, or if you are having any technical difficulties with the Application itself, please email or call the Lexus Customer Assistance Center at 1-800-255-3987.

Last Updated: December 1, 2011