

IN2WIN TERMS OF USE

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USE OF THIS IN2WIN MOBILE APPLICATION (THE "APPLICATION") CONSTITUTES ACCEPTANCE OF THESE TERMS OF USE ("TERMS") & PRIVACY POLICY IN ACCORDANCE WITH ACCESS TO THE SERVICES OFFERED & PROVIDED ("SERVICES"), AS SUCH MAY BE REVISED BY IN2WIN PROMOTIONS (ABN 44 104 435 509) ("IN2WIN PROMOTIONS") FROM TIME TO TIME, WHICH CONSTITUTE A BINDING AGREEMENT BETWEEN THE USER ("USER") AND IN2WIN PROMOTIONS GOVERNING THE USE OF THE APPLICATION.

THE USER ACCEPTS AND ACKNOWLEDGES THAT THE SERVICES PROVIDED, BEING IN-PART MADEUP OF CONTENT AND COMPETITIONS ("COMPETITIONS") WITHIN AND HOSTED BY AND THROUGH THE APPLICATION, ARE SUBMITTED AND MANAGED BY PARTICIPATING THIRD PARTY COMPETITION/PRIZE PROMOTERS ("PROMOTERS"). AS SUCH AND FURTHER, THE USER ACCEPTS AND ACKNOWLEDGES THAT THE PROMOTERS BEAR ALL RESPONSIBILITY TO ENSURE THAT COMPETITIONS ARE APPROVED (WHERE REQUIRED) BY THE RELEVANT STATE AUTHORITIES. THE USER ACCEPTS, ACKNOWLEDGES, AND RELEASES IN2WIN PROMOTIONS AND MNET MOBILE PTY LTD FROM ALL RESPONSIBILITY OR LIABILITY FOR THE COMPETITIONS THEMSELVES.

THE USER ACCEPTS AND ACKNOWLEDGES THAT IN2WIN PROMOTIONS AND MNET MOBILE PTY LTD, THROUGH THE PROVISION OF THE SERVICES AND HOSTING OF THE APPLICATION, DO NOT OFFER PRIZES AND THE APPLICATION IS SIMPLY AN ENTRY MECHANISM BETWEEN THE USER AND PROMOTERS ENABLING THE USER TO ENTER THE PROMOTERS COMPETITIONS.

BY DOWNLOADING OR INSTALLING THIS APPLICATION THE USER ACKNOWLEDGES AND AGREES TO BE BOUND BY THESE TERMS & PRIVACY POLICY. IF USER DOES NOT AGREE TO THESE TERMS & PRIVACY POLICY THE USER SHOULD UNINSTALL THIS APPLICATION IMMEDIATELY. ONGOING USAGE BY THE USER RESULTS IN ONGOING ACKNOWLEDGEMENT AND AGREEMENT BY THE USER TO BE BOUND BY THESE TERMS AND PRIVACY POLICY.

1. TERMS & CONDITIONS OF USE

- a. **Eligibility** - The Application may only be used by individuals aged eighteen (18) years or older. If the User is thirteen (13) years or older but under the age of eighteen (18) years, User should review these Terms with User's parent or guardian to make sure the User and User's parent or guardian understand them. Additional eligibility criteria may be set out as required by the Promoters. The User must

read, review, make themselves aware of, understand, and abide by the Promoters' eligibility criteria for all Competitions.

- b. **Third Party Software/Hardware Terms and Conditions** - The Application is only available from the Apple iTunes Store and the Google Play Store. The User, in downloading the Application, is further subject to the following (as appropriate):
- i. **Apple Terms and Conditions; In2Win Policies** - These Terms supplement and incorporate the Apple, Inc. ("Apple") Terms and Conditions (located at <http://www.apple.com/legal/internet-services/itunes/au/terms.html>) including, without limitation, the Licensed Application End User License Agreement provided therein ("Apple Terms"); and other In2Win policies ("In2Win Policies"), including the terms of use for the In2Win Website posted at www.In2Win.club ("In2Win Website"). If any of the provisions of the Apple Terms and Conditions or the any applicable In2Win Policies conflict with these Terms, these Terms will control, solely to the extent such terms apply to the Application.
 - ii. **Google terms and Conditions; In2Win Policies** - These Terms supplement and incorporate the Google Inc. ("Google") Terms and Conditions (located at https://play.google.com/intl/en_au/about/play-terms.html) including, without limitation, the License Agreement provided therein ("Google Terms"); and other In2Win policies ("In2Win Policies"), including the terms of use for the In2Win Website. If any of the provisions of the Google Terms and Conditions or the any applicable In2Win Policies conflict with these Terms, these Terms will control, solely to the extent such terms apply to the Application.
- c. **User License** - Subject to these Terms, In2Win Promotions grants the User a personal, non-exclusive, non-transferable, limited and revocable license to use the Application for personal and/or non-commercial use only on an Apple iPhone, or Google Android phone (each a "Device") owned or controlled by User as permitted by the Usage Rules contained in the Apple Terms and Google Terms and in accordance with these Terms ("User License"). Any use of the Application in any other manner, including, without limitation, resale, transfer, modification or distribution of the Application or text, pictures, music, barcodes, video, data, hyperlinks, displays and other content associated with the Application ("Content") is prohibited. This Agreement and User License also governs any updates to, or supplements or replacements for, this Application unless separate terms accompany such updates, supplements or replacements, in which case the separate terms will apply.

- d. **In-App Purchases** - In2Win is free app. Users who download the Application to a Device will not be asked to pay for in-app purchases.

- e. **User Information** - Some functionality of the Application, including location based services and functionality, may require the transmission of information provided by the User including user names and passwords, phone numbers, addresses, e-mail addresses, information related to GPS location, age, gender, and other demographic information (“User Information”). If the User uses such Application functionality, the User consents to the transmission of User Information to In2Win Promotions, Promoters, their agents and/or service providers and authorizes In2Win Promotions, its agents and/or service providers to record, process and store such User Information as necessary for the Application functionality and for purposes described in the In2Win Privacy Policy (see, 2 below), or located at the In2Win Website).

At all relevant times, User Information shall be the sole property of In2Win Promotions and its related entities and body corporate. This User Information shall become the sole property of In2Win Promotions, used only for the purposes of the Application. As necessarily required for the purposes of the Application, In2Win Promotions will share, by forwarding relevant and required details, User Information with Promoters.

The User is solely responsible for maintenance of the confidentiality and security of any User Information transmitted from or stored on a Device for purposes of the Application for all usage of the Services and other activities undertaken in the User’s name, whether authorized or unauthorized. The User agrees to immediately notify In2Win Promotions, its related entities and body corporate, of any unauthorised usage associated with the Application or any other breach of security. In2Win Promotions, its related entities and body corporate shall not be responsible for any losses arising out of the loss or theft of User Information transmitted from or stored on a Device or from unauthorized or fraudulent usage associated with the Application. The User acknowledges and accepts as part of the Terms that is their personal responsibility to read and accept the Promoter’s separate Privacy Policy, as appropriate.

- f. **Acceptable Use** - Use by the User of the Application and any Content and User Information transmitted in connection with the Application is limited to the contemplated functionality. The User agrees that his or her use of the Application and any Content must comply with these Terms and the In2Win Policies. In no event may the Application be used in a manner that:

- i. Harasses, abuses, stalks, threatens, defames or otherwise infringe or violate the rights of any other party (including but not limited to rights of publicity or other proprietary rights);
- ii. Is unlawful, fraudulent or deceptive;
- iii. Uses technology or other means to access the Application, In2Win Website, third party competition/prize promoter website, or Content that is not authorised by In2Win Promotions;
- iv. Use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers," to access the Application, In2Win Website, third party competition/prize promoter website, or Content;
- v. Attempts to introduce viruses or any other computer code, files or programs that interrupt, destroy, manipulate, or limit the functionality of any computer software or hardware or telecommunications equipment;
- vi. Attempts to gain unauthorized access to In2Win computer network or user accounts, or third party competition/prize promoter computer network or user accounts;
- vii. Encourages conduct that would constitute a criminal offense, or that gives rise to civil liability;
- viii. Violates these Terms;
- ix. Attempts to damage, disable, overburden, or impair In2Win Promotions servers or networks, or third party competition/prize promoter servers or networks; or
- x. Fails to comply with applicable third party terms (collectively "Acceptable Use").

In2Win Promotions reserves the right, in its sole discretion, to terminate any User License, terminate any User's participation in the Application, including competition/prize entry, remove Content or assert legal action with respect to Content or use of the Application, including competition/prize entry, that In2Win Promotions reasonably believes is or might be in violation of these terms of Acceptable Use or In2Win Policies including the third party competition/prize promoter Terms and Conditions, but In2Win Promotions failure or delay in taking such actions does not constitute a waiver of its rights to enforce these Terms.

- g. **Access to the Application and Service** - To obtain access to the Application and Service, the User will be required to register, either by connecting your Facebook account in accordance with the clause below or by creating an account using an email address and password (collectively, the Password). The User agrees to:
 - i. Provide current, complete, true and accurate information;
 - ii. Maintain and update his or her information as required to keep it current, complete and accurate; and

- iii. Provide additional information about themselves as may be requested and required by In2Win Promotions and Promoters from time to time.

In2Win Promotions reserves the right to require the User to periodically change their Password.

The User acknowledges and agrees:

- i. That he or she is and shall be responsible for maintaining the confidentiality and security of their Password, and for restricting access to their device and their Password;
 - ii. Not to share, transfer, lease, assign or sublicense any Password without In2Win Promotions prior written consent;
 - iii. Not to circumvent the password restrictions on the device or Website, nor allow others to do so on his or her behalf;
 - iv. Not to use anyone other User's password;
 - v. To notify In2Win Promotions immediately upon discovery or suspicion of compromise of the confidentiality of any Password;
 - vi. That he or she is and shall be solely liable and responsible for all activities that occur under their Password; and
 - vii. That In2Win Promotions shall not be responsible for the User's failure to comply with this clause or any loss or damage arising out of, or related to, the use of the User's Password by the User or anyone other than In2Win Promotions.
- h. **Connecting with In2Win via Email or Facebook** - When the User connects to the Application using his or her email address or Facebook credentials these Connection Terms apply.

If the User connects using Facebook, he or she authorises In2Win Promotions to collect the User's authentication information, such as his or her username, encrypted access credentials, and other information that may be available on or through the User's Facebook account, including his or her name, profile picture, country, hometown, e-mail address, date of birth, gender, friends' names and profile pictures and networks. In2Win Promotions may store this information so that it can be used for the purposes set out in the In2Win Privacy Policy (as amended from time to time) and below.

In2Win Promotions may use the information collected, including the User's personal information, to:

- i. Provide, personalise, and improve your experience with the Application and products and services made available through the Application, for example by providing access to Services provided by Promoters;

- ii. Ensure technical functioning of the Application and products and services made available through the Application, develop new products and services, and analyse your use of the Application, including your interaction with applications, advertising, products and services that are made available, linked to or offered in the Application;
 - iii. Communicate with you for Application-related purposes, including promotional e-mails or messages;
 - iv. Enable and promote the Application, including features and content of the Application and products and services made available through the Application.
- i. **Updates and New Releases** - In2Win Promotions may make available updates (“Update”, “Updates”) for the Application that may incorporate:
 - i. Corrections of any substantial defects;
 - ii. Fixes of any minor bugs; and
 - iii. At the sole discretion of In2Win Promotions, enhancements to the Application.

The User may accept and use any Update that In2Win Promotions makes available by downloading or accessing the Updates.

In2Win Promotions is responsible for maintenance and support but only to the extent required by any applicable laws. Apple and Google Inc. are not responsible for any maintenance and support in connection with the Application.

- j. **Indemnification** - At In2Win Promotions’ request, the User agrees to defend, indemnify, and hold harmless In2Win Promotions, Mnet Mobile Pty Ltd and its parent and other affiliated companies, and their employees, contractors, officers, and directors from any and all claims, suits, damages, costs, lawsuits, fines, penalties, liabilities, expenses (including solicitor’s fees and legal costs) that arise from the User’s use or misuse of the Application, violation of these Terms or violation of any rights of a third party. In2Win Promotions reserves the right to assume the exclusive defence and control of any matter otherwise subject to indemnification by the User, in which event the User will cooperate in asserting any available defenses. In the event of any third party claim that the Application or User’s possession and use of the Application infringes that third party’s intellectual property right, In2Win Promotions, not Apple and not Google, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

- k. **No Warranties** - IN2WIN PROMOTIONS IS PROVIDING THE APPLICATION TO THE USER "AS IS" AND THE USER IS USING THE APPLICATION AT HIS OR HER OWN RISK. TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAW, IN2WIN PROMOTIONS DISCLAIMS ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OR CONDITIONS THAT THE APPLICATION IS MERCHANTABLE, OF SATISFACTORY QUALITY, RELIABLE, ACCURATE, FIT FOR A PARTICULAR PURPOSE OR NEED, NON- INFRINGING OR FREE OF DEFECTS OR ERRORS OR ABLE TO OPERATE ON AN UNINTERRUPTED BASIS, OR THAT THE USE OF THE APPLICATION BY THE USER IS IN COMPLIANCE WITH LAWS APPLICABLE TO THE USER OR THAT USER INFORMATION TRANSMITTED IN CONNECTION WITH THE APPLICATION WILL BE SUCCESSFULLY, ACCURATELY OR SECURELY TRANSMITTED.

In the event of any failure of the Application to conform to any applicable warranty, User may notify Apple or Google (as appropriate), and, if applicable, Apple or Google (as appropriate) will refund the purchase price (if any) for the Application to the User and, to the maximum extent permitted by applicable law, Apple or Google (as appropriate) will have no other warranty obligation whatsoever with respect to the Application,.

- l. **No Liability** - TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAW, IN NO EVENT SHALL IN2WIN PROMOTIONS, MNET MOBILE PTY LTD AND ITS PARENT AND OTHER AFFILIATED COMPANIES (A) BE LIABLE TO THE USER WITH RESPECT TO USE OF THE APPLICATION; AND (B) BE LIABLE TO THE USER FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOSS, THEFT OR CORRUPTION OF USER INFORMATION, THE INABILITY TO USE THE APPLICATION OR DEVICE FAILURE OR MALFUNCTION. THE USER'S SOLE REMEDY IS TO CEASE USE OF THE APPLICATION. TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAW, IN NO EVENT (BUT SUBJECT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW) SHALL THE AGGREGATE LIABILITY OF IN2WIN PROMOTIONS, MNET MOBILE PTY LTD AND ITS PARENT OR OTHER AFFILIATED COMPANIES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE USE OF OR INABILITY TO USE THE APPLICATION EXCEED ANY COMPENSATION THE USER PAYS, IF ANY, TO IN2WIN PROMOTIONS FOR ACCESS TO OR USE OF THE APPLICATION

DURING THE SIX MONTHS PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.

Certain legislation, including the *Competition and Consumer Act 2010* (Cth), may imply warranties or conditions or impose obligations upon In2Win Promotions which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. These Terms must be read subject to these statutory provisions. If these statutory provisions apply, to the extent to which In2Win Promotions are able to do so, the liability of In2Win Promotions, Mnet Mobile Pty Ltd and its affiliates under those provisions will be limited, at its option to, in the case of services, the supplying of the services again.

- m. **Marks, Application and Content** - In2Win Promotions, In2Win, the In2Win logo, and other In2Win Promotions trademarks, service marks, graphics and logos used in connection with the Application are trademarks or registered trademarks of In2Win Promotions (collectively "In2Win Marks").

Other trademarks, service marks, graphics and logos used in connection with the Application are the trademarks of their respective owners (collectively "Third Party Marks"). The In2Win Marks and Third Party Marks may not be copied, imitated or used, in whole or in part, without the prior written permission of In2Win Promotions or the applicable trademark holder. The Application and the Content are protected by copyright, trademark, patent, trade secret, international treaties, laws and other proprietary rights, and also may have security components that protect digital information only as authorised by In2Win Promotions or the owner of the Content.

- n. **Governing Law and Jurisdiction** - These Terms are governed by the laws of New South Wales, without regard to conflict of laws rules. The United Nations Convention on Contracts for the International Sale of Goods shall have no applicability. The User irrevocably consents to the exclusive jurisdiction of the courts of New South Wales for purposes of any legal action arising out of or related to the use of the Application or these Terms.
- o. **Third Party Beneficiary** - Apple, and Apple's subsidiaries, Google, and Google subsidiaries, and Promoters are third party beneficiaries of these Terms. Upon User's acceptance of these Terms, Apple, Google, and Promoters will have the right (and will be deemed to have accepted the right) to enforce these Terms against User as a third party beneficiary thereof.
- p. **Changes** - In2Win Promotions reserves the right to change or modify these Terms or any other In2Win Promotions policies related to use of the Application at any time and at its sole discretion by posting

revisions on the In2Win Promotions Website. Continued use of the Application following the posting of these changes or modifications will constitute acceptance of such changes or modifications.

- q. **Severability** - If any provision of these Terms shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.
- r. **Unenforceability** - If for any reason a court of competent jurisdiction finds any provision or portion of these Terms of Use to be unenforceable, the remainder of these Terms of Use will continue in full force and effect.
- s. **Waiver** - If In2Win Promotions elects not to exercise or enforce any right that it has against the User at a particular time, this does not prevent In2Win Promotions from later seeking to exercise or enforce that right.
- t. **Assignment** - The User must not assign, sub-license or otherwise transfer any of his or her rights and obligations in these Terms of Use to any other person.
- u. **Entire agreement** - These Terms of Use and any documents incorporated by reference, constitute the entire agreement between the parties regarding the matters set out above and supersede any prior representations, understandings or arrangements made between the parties, whether orally or in writing.