

Before reading the articles below, please review the following preliminary terms, which use some of the definitions as specified in Article 1 below.

Entering into this Agreement: This Beta End User License Agreement constitutes a valid and binding agreement between Aylus and You, as a user, for the use of the Aylus Software. You must enter into this Agreement by clicking on the ACCEPT button in order to be able to install and use the Aylus Software. Furthermore, by installing and (continuously) using the Aylus Software, You agree to be bound by the terms of this Agreement and any new versions hereof.

Electronic Signatures and Agreement(s): You acknowledge and agree that by clicking on the ACCEPT button or similar buttons or links as may be designated by Aylus to show Your approval of this Agreement and/or to download and install the Aylus Software, You are entering into a legal binding contract. You hereby agree to the use of electronic communication in order to enter into contracts, place orders and other records and to the electronic delivery of notices, policies and records of transactions initiated or completed through the Aylus Software. Furthermore, You hereby waive any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law.

Beta Testing: You acknowledge that Aylus is conducting beta testing for the Aylus Software and You hereby agree to participate in such testing and to provide feedback, as may be appropriate, to Aylus using the Aylus Mobile Beta Testing Survey that is located on the Aylus Website.

Data Services: You acknowledge and agree that the Aylus Software alone will not enable You to initiate or maintain a Voice Over Internet Protocol (VOIP) or other wireless, wired or internet-based telephone connection and that You are solely responsible for maintaining and adhering to all license terms with respect to data services and mobile telephony service.

No Emergency Calls: By entering into this Agreement You acknowledge and agree that the Aylus Software does not and does not intend to support or carry emergency calls or video related to emergency or life threatening situations. Please also see Article 7 below.

ARTICLE 1. DEFINITIONS

In this Agreement the following capitalized definitions are being used, singular as well as plural.

1.1 Affiliate: any corporation, company or other entity that directly or indirectly controls, is controlled by, or is under common control with, Aylus. For the purpose of this definition, the word "control" shall mean the direct or indirect ownership of more than fifty percent (50%) of the outstanding voting stock of the corporation, company, or other entity.

1.2 Agreement: this Beta End User License Agreement, as may be renewed, modified and/or amended from time to time.

1.3 Documentation: any online or otherwise enclosed documentation provided by Aylus.

1.4 Effective Date: the date on which this Agreement is entered into by clicking on the ACCEPT button as stated above.

1.5 IP Rights: any and all intellectual property rights, including but not limited to copyrights, trademarks, trade secrets and patents, as well as know how contained in or relating to the Aylus Software, the Documentation or the Aylus Website.

1.6 Aylus: Aylus Networks, Inc. a Delaware corporation.

1.7 Aylus Software: the software distributed by Aylus for sharing of media leveraging mobile phones, the internet, and other endpoints and technologies, which is currently in beta form, including without limitation the Aylus UI and Documentation, as well as any future programming fixes, updates and upgrades thereof.

1.8 Aylus Staff: means the directors, officers, employees, agents, and contractors of Aylus and its Affiliates.

1.9 Aylus Website and WAP sites: the website accessible at the following URLs <http://www.aylus.com> and www.talksharenow.com, or a successor address, from which site the Aylus Software can be downloaded.

1.10 UI: the user interface of the Aylus Software.

1.11 You: you, the end user of the Aylus Software, also used in the form "Your" where applicable.

1.12 Internet telephony and data services: Any third party internet telephony and data services developed or distributed by a vendor of telephony and data connection services.

1.13 MediaShare applications and services: The collection of applications available for use via the Aylus Software.

ARTICLE 2. LICENSE AND RESTRICTIONS

2.1 License. Subject to the terms of this Agreement, Aylus hereby grants You a limited, personal, non-commercial (at home or at work), non-exclusive, non-sublicensable, non-assignable license to download, install and use the Aylus Software on Your computer, mobile phone or PDA, for the sole purpose of personally using the MediaShare applications provided by Aylus and any other applications that may be explicitly provided by Aylus.

2.2 No Granting of Rights to Third Parties. You will not sell, assign, rent, lease, distribute, export, import, act as an intermediary or provider, or otherwise grant rights to third parties with regard to the Aylus Software or any part thereof.

2.3 No Modifications. You will not undertake, cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of the Aylus Software or any part thereof.

2.4 Third Parties. You acknowledge and agree that the Aylus Software may incorporate software and other technology owned and controlled by third parties. Aylus emphasizes that it will only incorporate such third party software or technology for the purpose of (a) adding new or additional functionality or (b) improving the technical performance of the Aylus Software. Any such third party software or technology that is incorporated in the Aylus Software falls under the scope of this Agreement. Any and all other third party software or technology that may be distributed together with the Aylus Software will be subject to You explicitly accepting a license agreement with that third party. You acknowledge and agree that You will not enter into a contractual relationship with Aylus or its Affiliates regarding such third party software or technology and You will look solely to the applicable third party and not to Aylus or its Affiliates to enforce any of Your rights.

2.5 New Versions of the Aylus Software. Aylus, in its sole discretion, reserves the right to add additional features or functions, or to provide programming fixes, updates and upgrades, to the Aylus Software. You acknowledge and agree that Aylus has no obligation to make available to You any subsequent versions of the Aylus Software. You also agree that You may have to enter into a renewed version of this Agreement, in the event You want to download, install or use a new version of the Aylus Software, including without limitation any production version of the Aylus Software currently offered in a beta version. Furthermore, You acknowledge and agree that Aylus, in its sole discretion, may modify or discontinue or suspend Your ability to use any version of the Aylus Software, or terminate any license hereunder, at any time, with immediate effect and without recourse to the courts. Aylus also may suspend or terminate any license hereunder and disable any Aylus Software You may already have accessed or installed without prior notice at any time with immediate effect and without recourse to the courts. Aylus will not accept, and hereby disclaims, any liability in relation to the direct or indirect damages caused by (1) the release and/or the absence of release of new versions of the Aylus Software and (2) by the suspension or termination of this Agreement by Aylus and/or by You.

2.6 Paid Services. This Agreement applies to downloading, installing and using the Aylus Software. The use of any paid services which may be offered by Aylus or its Affiliates is subject to the additional Terms of Service that may be published from time to time on the Aylus Website.

2.7 No Distribution/Incorporation of Aylus Software. You are not allowed to distribute the Aylus Software under this Agreement. You shall not incorporate the Aylus Software in any product designed, developed, marketed, shared, sold or licensed by You or any third party, whether or not for any consideration.

2.8 Any other Exceptions. If You are interested in doing anything else with the Aylus Software or Documentation other than is expressly permitted under this Agreement, You will have to obtain Aylus' previous written consent and explicitly agree upon any further (commercial) terms.

ARTICLE 3. PERMISSION TO UTILIZE YOUR COMPUTER, YOUR MOBILE PHONE AND YOUR SOFTWARE

3.1 Permission to Utilize Your Computer, Your Mobile Phone and Your Software. In order to receive the benefits provided by the Aylus Software and for the limited purpose of facilitating the mobile wireless communication between You and Your Mediashare services, Your Internet telephony and data services, You hereby grant permission to Aylus to use the Aylus Software to (i) utilize Your mobile phone or other device to which You have downloaded the Aylus Software, and (ii) utilize Your Internet telephony and data services.

3.2 Protection of Your Computer and Mobile Phone Data. You understand that Aylus will use its reasonable efforts to protect the privacy and integrity of data, software and other resources stored on Your computer, Your mobile phone or other device to which You have downloaded the Aylus Software; however, You acknowledge and agree that Aylus cannot and does not give any warranties in this respect.

ARTICLE 4. AYLUS' CONFIDENTIAL INFORMATION

4.1 Aylus's Confidential Information. You agree to take all reasonable steps at all times to protect and maintain as strictly confidential and not to use or disclose without Aylus' permission any confidential information regarding Aylus, its Affiliates, the Aylus Software and the IP Rights.

4.2 Your Confidential Information and Your Privacy. Aylus is committed to respecting Your privacy and the confidentiality of Your personal data. The "Privacy Policy" that is published on the Aylus Website applies to the use of Your personal data, the traffic data as well as the content contained in Your communication(s).

ARTICLE 5. BETA TESTING

5.1 Evaluation. In exchange for the license granted herein, You agree that You will not receive any additional consideration or compensation, nor shall You retain any proprietary claim, as a result of Your evaluation of the Aylus Software or for Your completion of the Aylus Mobile Beta Testing Survey. **YOU ACKNOWLEDGE THAT THE AYLUS SOFTWARE MAY CONTAIN VARIOUS DISABLEMENT AND OR TIME-OUT FEATURES THAT MAY BE ACTIVATED BY AYLUS AT ANY TIME.**

ARTICLE 6. IP RIGHTS

6.1 Exclusive Ownership. You acknowledge and agree that any and all IP Rights to or arising from the Aylus Software are and shall remain the exclusive property of Aylus and/or its licensors. Nothing in this Agreement intends to transfer any such IP Rights to, or to vest any such IP Rights in, You. You are only entitled to the limited use of the IP Rights granted to You in this Agreement. You will not take any action to jeopardize, limit or interfere with the IP Rights. You acknowledge and agree that any unauthorized use of the IP Rights is a violation of this Agreement as well as a violation of intellectual property laws, which may include without limitation copyright laws and trademark laws.

6.2 Feedback. Feedback consists of any of Your suggestions, comments or other feedback whether it is required or provided on a voluntary basis, relating to the Aylus Software ("Feedback"). If you provide Aylus with any Feedback, as required or on a voluntary basis, as part of the Beta Test for the Aylus Software, You

agree that: (a) Aylus may freely use, disclose, reproduce, license, distribute and other commercialize the Feedback in any Aylus product, specifications, or other documentation; (b) You also grant third parties, without charge, only those patent rights necessary to enable their products to use or interface with any specific parts of a Aylus product that incorporate the Feedback; and (c) You will not give Aylus any Feedback (1) that You have reason to believe is subject to any patent, copyright, or other intellectual property claim or right of any third party; or (2) that is subject to license terms that seek to require any Aylus product incorporating or derived from any Feedback, or other Aylus intellectual property, to be licensed to or otherwise shared with any third party.

6.3 No Removal of Notices. You agree that You will not remove, obscure, make illegible or alter any notices or indications of the IP Rights and/or Aylus' rights and ownership thereof, whether such notice or indications are affixed on, contained in or otherwise connected to such materials.

ARTICLE 7. COMMUNICATION AND YOUR USE OF THE AYLUS SOFTWARE

7.1 Communication. Installing Aylus Software is designed to enable You to use MediaShare services with supported telephony and data services. Aylus will maintain and update from time to time on the Aylus Website a list of supported devices and data services.

7.2 Disruptions, Delays and Interruptions. Aylus cannot guarantee that You will always be able to communicate or otherwise utilize the MediaShare services, nor can Aylus guarantee that You can communicate without disruptions, delays or other communication-related flaws. Aylus will not be liable and hereby disclaims all liability for any such disruptions, delays or other omissions in any communication experienced when using Aylus Software.

7.3 No Control. You acknowledge and understand that Aylus does not control, or have any knowledge of, the content of any communication(s) spread by the use of the Aylus Software. The content of the communication is entirely the responsibility of the person from whom such content originated. You, therefore, may be exposed to content that is offensive, indecent or otherwise objectionable. Aylus will not be liable and hereby disclaims all liability for any type of communication spread by means of the Aylus Software.

7.4 No Emergency Services. You expressly agree and understand that the Aylus Software is not intended to support or carry emergency calls to any type of hospital, law enforcement agency, medical care unit or any other kind of emergency service. Aylus, its Affiliates or Aylus Staff are in no way liable and hereby disclaim all liability for such emergency calls.

7.5 Lawful Purposes. You acknowledge and agree to use the Aylus Software solely for lawful purposes. In this respect You may not, without limitation (a) intercept or monitor, damage or modify any communication which is not intended for You, (b) use any type of spider, virus, worm, trojan-horse, time bomb or any other codes or instructions that are designed to distort, delete, damage or disassemble the Aylus Software or the communication, or (c) send any unsolicited commercial communication not permitted by applicable law.

ARTICLE 8. TERM AND (CONSEQUENCES OF) TERMINATION

8.1 Term. This Agreement will be effective as of the Effective Date and will remain effective until terminated by either Aylus or You as set forth below.

8.2 Termination by Aylus. Aylus may terminate this Agreement with immediate effect at any time, with or without cause and without recourse to courts, by providing notice to You and/or by preventing Your access to the Aylus Software, as set forth in Article 2.5 above.

8.3 Termination by You. You may terminate this Agreement with immediate effect at any time, with or without cause and without recourse to the courts, provided that You meet with the conditions as set forth in Article 8.4 below.

8.4 Consequences of Termination. Upon termination of this Agreement, You (a) acknowledge and agree that all licenses and rights to use the Aylus Software shall terminate, and (b) will cease any and all use of the

Aylus Software, and (c) will remove the Aylus Software from all hard drives, networks, mobile phone and other storage media and destroy all copies of the Aylus Software in Your possession or under Your control.

8.5 No Liability. Aylus will not be liable in relation to, and hereby disclaims all liability for, any direct, indirect, incidental, special or consequential damage caused by the termination of this Agreement.

ARTICLE 9. YOUR REPRESENTATION AND WARRANTIES; INDEMNIFICATION OF AYLUS

9.1 Representations. You represent and warrant that You are authorized to enter into this Agreement and comply with its terms. Furthermore, You represent and warrant that You will at any and all times comply with Your obligations hereunder, as well as any and all laws, regulations and policies that may apply to the use of the Aylus Software.

9.2 Indemnification. You agree to indemnify, defend and hold Aylus, its Affiliates and the Aylus Staff harmless from and against any and all liability and costs, including reasonable attorneys' fees incurred by said parties, in connection with or arising out of Your (a) violation or breach of any term of this Agreement or any applicable law, regulation, policy or guideline, whether or not referenced herein, or (b) violation of any rights of any third party, or (c) use or misuse of the Aylus Software, or (d) communication spread by means of the Aylus Software.

ARTICLE 10. DISCLAIMER OF WARRANTIES

10.1 No Warranties. THE AYLUS SOFTWARE IS PROVIDED "AS IS", WITH NO WARRANTIES WHATSOEVER AND AYLUS DOES NOT MAKE ANY WARRANTIES, CLAIMS OR REPRESENTATIONS WITH RESPECT TO THE AYLUS SOFTWARE EITHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR USE OR A PARTICULAR PURPOSE. AYLUS FURTHER DOES NOT REPRESENT OR WARRANT THAT THE AYLUS SOFTWARE WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE AND ERROR/BUG-FREE OR WILL OPERATE WITHOUT PACKET LOSS, NOR DOES AYLUS WARRANT ANY CONNECTION TO OR TRANSMISSION FROM ANY WIRELESS NETWORK OR THE INTERNET, OR ANY QUALITY OF CALLS OR MEDIASHARE MADE THROUGH THE AYLUS SOFTWARE.

10.2 Your Own Risk. You acknowledge that the Aylus Software is a beta product and has not been tested in the public market and may contain bugs or defects. You further acknowledge and agree that the entire risk arising out of the use or performance of the Aylus Software remains with You, to the maximum extent permitted by law. You shall have the sole responsibility for adequate protection and back-up of any data used, created, received, or transmitted in connection with the testing of the Aylus Software.

10.3 Jurisdiction's Limitations. As some jurisdictions do not allow some of the exclusions or limitations as set forth above, some of these exclusions or limitations may not apply to You.

ARTICLE 11. LIMITATION OF LIABILITY

11.1 No Liability. YOU ACKNOWLEDGE AND AGREE THAT AYLUS, ITS AFFILIATES AND THE AYLUS STAFF WILL HAVE NO LIABILITY IN CONNECTION WITH OR ARISING FROM YOUR USE OF THE AYLUS SOFTWARE. IN NO EVENT SHALL AYLUS, ITS AFFILIATES OR THE AYLUS STAFF BE LIABLE, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER FORM OF LIABILITY, FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOSS OF DATA, INTERRUPTION, COMPUTER FAILURE OR PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE AYLUS SOFTWARE, WHETHER OR NOT FORESEEABLE, EVEN IF AYLUS, ITS AFFILIATES OR THE AYLUS STAFF HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2 Remedy. YOUR ONLY RIGHT OR REMEDY WITH RESPECT TO ANY PROBLEMS OR DISSATISFACTION WITH THE AYLUS SOFTWARE IS TO DEINSTALL AND CEASE USE OF SUCH AYLUS SOFTWARE.

11.3 Jurisdiction's Limitations. As some jurisdictions do not allow some of the exclusions or limitations as set forth above, some of these exclusions or limitations may not apply to You.

ARTICLE 12. GENERAL PROVISIONS

12.1 Survival. Articles 2.2, 2.3, 2.7, 4, 6, 8.4, 8.5, 9, 10, 11 and 12 shall survive termination or expiration of this Agreement.

12.2 New Versions of the Agreement. Aylus reserves the right to modify this Agreement at any time by providing such revised Agreement to You or by publishing the revised Agreement on the Aylus Website. Your continued use of the Aylus Software shall constitute Your acceptance to be bound by the terms and conditions of the revised Agreement.

12.3 Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between You and Aylus with respect to the subject matter hereof and will supersede and replace all prior understandings and agreements, in whatever form, regarding the subject matter.

12.4 Partial Invalidity. Should any term or provision hereof be deemed invalid, void or enforceable either in its entirety or in a particular application, the remainder of this Agreement shall nonetheless remain in full force and effect.

12.5 No Waiver. The failure of Aylus at any time or times to require performance of any provisions hereof shall in no manner affect its right at a later time to enforce the same unless the same is explicitly waived in writing and signed by Aylus.

12.6 No Assignment by You. You are not allowed to assign this Agreement or any rights hereunder.

12.7 Assignment by Aylus. Aylus is allowed to at its sole discretion assign this Agreement or any rights hereunder to any third party, without giving prior notice.

12.8 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, U.S.A. without giving effect to the conflict of laws provisions thereof, regardless of Your actual state or country of residence.

12.9 Competent Court. Any legal proceedings arising out of or relating to this Agreement will be subject to the exclusive jurisdiction of the courts of the Commonwealth of Massachusetts, U.S.A..

YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND THE RIGHTS, OBLIGATIONS, TERMS AND CONDITIONS SET FORTH HEREIN. BY CLICKING ON THE ACCEPT BUTTON AND/OR CONTINUING TO INSTALL THE AYLUS SOFTWARE, YOU EXPRESSLY CONSENT TO BE BOUND BY THE FOREGOING TERMS AND CONDITIONS AND GRANT TO AYLUS THE RIGHTS SET FORTH HEREIN.

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