

## **Terms and Conditions of Use for the Fitcar™ Powered by Quaker State® Mobile Application**

Please read these terms and conditions of use carefully before using the Fitcar™ Powered by Quaker State® mobile application (the “App”) and the Fitcar™ Powered by Quaker State® On-board diagnostics (OBD) device. By accessing or using this App or any functionality thereof on any computer, mobile phone, tablet or console or other OBD device (together OBD Devices and each a OBD Device) you confirm that you have read, understood and agreed to be bound by these Terms and Conditions of Use and any applicable laws and/or regulations.

If you do not agree to these Terms and Conditions of Use, please do not access or use the App or any functionality thereof.

### **1. Operator Information [read more]**

1.1 The App and the OBD are provided in the United States by SOPUS Products (referred to herein as “Quaker State”).

### **2. User Restrictions and Access [read more]**

2.1 The App, the OBD and the information or advice contained in the App are intended for motorists only and may not be used by any person who is not legally entitled to drive a motor vehicle. They should not under any circumstances be accessed or used while driving.

2.2 In order to use certain current or future functionalities of this App, you may be required to register or sign in as a Fitcar™ Powered by Quaker State® program customer or to create an account.

2.3 In order for the App, the OBD and some functionalities of the App to function properly, the OBD must be properly installed in your vehicle.

2.3 Be aware that the use of some of the functionalities of this App require access to the Internet.

### **3. Acceptable use for the App [read more]**

3.1 You may:

- (a) access any part of the App; and
- (b) print off one copy of any or all of the pages for your own personal non-commercial use.

3.2 You may not:

- (a) copy (whether by printing off onto paper, storing on disk, downloading or in any other way), distribute (including distributing copies), broadcast, alter or tamper with in any way or otherwise use any material contained in the App (including User Generated Content, unless it is your own User Generated Content that you legally post to the App or associated forum) except as set out under Clause 5 below. These restrictions apply in relation to all or part of the Content;
- (b) remove any copyright, trade mark or other intellectual property notices contained in the original material from any material copied or printed off from the App;
- (c) link to the App;
- (d) use the App (or any part of it) in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these Terms and Conditions of Use, or act fraudulently or maliciously, for example, by hacking into or inserting malicious codes, including viruses, or harmful data, into the App or any operating system;
- (e) use the App in a way which could damage, disable, overburden, impair or compromise any Quaker State systems or security or interfere with other users;

- (f) collect or harvest any information or data from the App or our systems or attempt to decipher any transmissions to or from the servers running any part of the App;
- (g) reproduce, prepare derivative works based upon, license, sell, resell, decompile, reverse engineer or disassemble the App or the OBD except as may be permitted by applicable law;
- (h) cause or launch any programs or scripts for the purpose of scraping, indexing, surveying, or otherwise data mining any portion of the App's or the OBD services and/or features or Quaker State servers;
- (i) change or delete any ownership notices from materials downloaded or printed from the App; or
- (j) circumvent or modify any App security technology or software, without the express written consent of Quaker State.

3.3 If you wish to provide a hypertext or other link to this App, please send an email to [support@quakerstatefitcar.com](mailto:support@quakerstatefitcar.com) with details of:

- (a) the URL(s) of the web page(s) from which you are proposing to link to this App; and
- (b) the URL(s) of the web page(s) on this App to which you are proposing to link.

3.4 Quaker State may, at its sole discretion, agree to or reject any request made in accordance with Clause 3.3 above. Quaker State has no obligation to agree to any such request or to provide any reason for accepting to rejecting any such request.

#### **4. Mobile Services**

4.1 The use of the App is for free but be aware that your carrier's normal rates apply. The App contains services and features that are available to certain mobile Devices. By using the App, you agree that we may communicate with you by electronic means to your mobile Device and that certain information about your use of these services may be shared with us. To opt out, in the Fitcar™ app go to Settings/Manage Fitcar™ Account. If you change or deactivate your mobile phone number, you must immediately update your account information to ensure that we do not send messages intended for you to any person who might acquire your old number.

#### **5. User Generated Content [read more]**

5.1 "User Generated Content" is any content such as communications, information, messages, photographs, music, videos, designs, graphics, website links, data, profiles that you and/or other App users post or otherwise make available on or through the App, except to the extent that such content is owned by or licensed to Quaker State.

5.2 You are solely responsible for your User Generated Content, your interactions with other users of the App and your activity on the App. You agree not to post any content or make any communications which may expose Quaker State or any of the App's users to harm or liability of any type. You agree not to post or submit User Generated Content, or a link to a website, which, is illegal, fraudulent, deceptive, misleading, libelous, infringing, harassing, hateful, threatening, abusive, pornographic, offensive in a sexual, racial, cultural or ethnic consent or is otherwise objectionable.

5.3 You confirm that you own or control all rights in any User Generated Content that you post or submit on or through the App. You agree not to submit User Generated Content unless you are the owner or have permission of the owner to post such User Generated Content. You confirm not to post photos or videos of another person or showing another person without that person's permission.

5.4 Your User Generated Content is not confidential or proprietary. You grant, and warrant that you have the right to grant to Quaker State a non-exclusive, non-revocable, worldwide, transferable, royalty-free, perpetual right to use your User Generated Content in any manner of media now or later developed for any purpose, commercial, advertising or otherwise, including the right to translate, display, reproduce,

modify, create derivative work, sub-license, distribute, assign and commercialize without any payment due to you.

- 5.5 Should any part of this App offer you the opportunity to join in or read from a forum, please be aware that any communications posted on the forum represent the views of the individual who posted such communication and are not to be taken as the views of Quaker State.
- 5.6 Do not use this App or any functionality thereof for any commercial purpose.
- 5.7 Do not post any User Generated Content that includes “junk mail”, “chain letters”, “pyramid schemes” or other forms of solicitation. Do not use automated scripts to collect information from this App.
- 5.8 Do not provide any false personal information about yourself. You confirm not to create more than one Quaker State account, create a Quaker State account on behalf of another individual, group or entity, or transfer your profile or account. Do not use or try to use another person's account, username or password.
- 5.9 Quaker State reserves the right to monitor any information transmitted or received through any forum provided, and, at its sole discretion and without prior notice, to review, remove or otherwise block any material posted.
- 5.10 Quaker State has no obligation to prescreen, monitor, edit or remove User Generated Content and assumes no responsibility for User Generated Content, even where it chooses to carry out prescreening, monitoring, editing or removal of User Generated Content.

## **6. Indemnification**

- 6.1 You agree to indemnify, defend and hold harmless Quaker State, its affiliates, officers, directors, employees, agents, licensors and suppliers from and against all claims, losses, liabilities, expenses, damages and costs, including, without limitation, legal costs arising from or relating in any way to your User Generated Content, your use of Content, your use of the App, your use of the OBD, your reliance on any information or advice contained in the App or any violation of these Terms and Conditions of Use, any law or regulation or the rights of any third party.

## **7. Security**

- 7.1 If you choose or are provided with a username, password or any other piece of information as part of the Quaker State security procedures, you must treat such information as confidential and you must not disclose it to any third party nor allow any unauthorized person access to the App under your username and/or password. You are responsible for any actions that take place while using your App account or while using the App via your Device and Quaker State is not responsible for any loss that results from the unauthorized use of your username and/or password, with or without your knowledge.

## **8. Intellectual Property Rights (“IPR”) [read more]**

- 8.1 All intellectual property contained in or on the App (except for User Generated Content) is owned by Quaker State or its licensors. All content in the App (except for User Generated Content) including, but not limited to, text, software, scripts, code, designs, graphics, photos, sounds, music, videos, interactive features and all other content (“**Content**”) is a collective work under applicable copyright laws and is the proprietary property of Quaker State and/or its licensors. Quaker State reserves all of its rights in respect of the IPR contained in the App and in respect of the Content.
- 8.2 In particular, this App contains trademarks including, but not limited to, the mark “Quaker State,” the Quaker State emblem and “Fitcar”. All trademarks included on this App are owned by Quaker State or its licensors. Quaker State reserves all of its rights in respect of the trademarks included on this App.

8.3 Nothing in these Terms and Conditions of Use shall be interpreted as granting to you any license of IPR owned by Quaker State or its licensors.

## **9. Data Protection and Privacy Policy [read more]**

9.1 Personal details and other information relating to you provided to any Quaker State affiliated company through this App will only be used in accordance with our Privacy Policy. Please read this carefully before continuing. By downloading the App you are consenting to use of this information in accordance with our [Privacy Policy](#), which is incorporated into these Terms and Conditions of Use by this reference.

## **10. Disclaimer and Liability [read more]**

10.1 You are responsible for the accuracy of the information that you enter or submit into the App. While Quaker State does its best to ensure that any information provided as part of this App is correct at the time of inclusion on the App, Quaker State cannot guarantee the accuracy of such information.

10.2 Oil change and other service recommendations are based on publicly available information compiled from vehicle manufacturers. While Quaker State will seek to continuously update this information, it may not be entirely up-to-date or complete. Always refer to your vehicle owners' manual or website for your vehicle manufacturers' recommendations.

10.3 To the fullest extent permitted by law, Quaker State disclaims all warranties, express or implied, regarding the operation and use of the App, the OBD and any information or advice contained in the App. You understand and agree that you use the App, the OBD and any information or advice contained in the App at your own risk and that you are solely responsible for your use and for any damage to the Device through which you access the App, loss of data or any other harm of any kind which may result from downloading, accessing or using the App, the OBD or any information or advice contained in the App.

10.4 To the fullest extent permitted by law, Quaker State shall under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with any products accessed via the App, your use of this App, your use of the OBD or for your reliance on any information or advice contained in the App for:

- (a) loss of actual or anticipated profit, sales, savings, use, business, business opportunity or revenue;
- (b) losses caused by business interruption;
- (c) loss of goodwill or reputation;
- (d) loss or corruption of data, information or software; or
- (e) any indirect, special or consequential cost, expense, loss or damage suffered by you in connection with your use of the App or any materials posted on it, even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by you and/or Quaker State.

10.5 Further, Quaker State shall not be liable to you or any third party in respect of the refusal to provide fuel or services, fraud, negligence, act, default or omission or wilful misconduct of:

- (a) independent contractors engaged by Quaker State, or their employees, contractors or agents; and
- (b) any Quaker State branded service center or its employees, contractors or agents (including any refusal to provide services and/or products).

## **11. External websites and applications**

11.1 The App may include links to external websites or applications. When you follow such links the external website or application may appear as a full screen (in which case you will need to use the

Device button to return to this App) or in some cases it may appear within the frame of this App (in which case you will be able to return to this App by using the navigation buttons within the frame or this App). These links are provided in order to help you find relevant websites, applications, services and/or products which may be of interest to you quickly and easily. It is your responsibility to decide whether any services and/or products available through any of these websites or applications are suitable for your purposes. Quaker State is not responsible for the owners or operators of these applications or websites or for any goods or services they supply or for the content of their websites or applications and does not give or enter into any conditions, warranties or other terms or representations in relation to any of these or accept any liability in relation to any of these (including any liability arising out of any claim that the content of any external website or application to which this App includes a link infringes the intellectual property rights of any third party).

## **12. Changes to/operation of the App [read more]**

- 12.1 Quaker State may change the format and content of all or any part of this App at any time, including but not limited to removal of features or functionalities in the App.
- 12.2 Quaker State may suspend the operation of this App, or of certain of its features or functionalities, for support or maintenance work, in order to update the content or for any other reason.
- 12.3 Updates to the App may be issued from time to time through the Apple iTunes store or Google Play. Depending on the update, you may not be able to use all or part of the App until you have downloaded the latest version of the App and accepted any new terms.

## **13. Transfer of Rights**

- 13.1 Quaker State may transfer its rights and obligations under these Terms and Conditions of Use to any successor in interest or affiliate of Quaker State. Any such transfer will not affect your rights or the obligations of Quaker State under these Terms and Conditions of Use.

## **14. Complaints Procedure**

- 14.1 If you have a question or complaint about this App, the OBD and/or their functionalities or features, please contact [support@quakerstatefitcar.com](mailto:support@quakerstatefitcar.com).

## **15. Severance**

- 15.1 Each of the Clauses or sub-clauses of these Terms and Conditions of Use operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining Clauses or sub-clauses will remain in full force and effect.

## **16. Termination [read more]**

- 16.1 Quaker State reserves the right in its sole discretion to terminate your account and/or access to this App, the OBD and/or any functionalities thereof, delete your profile and any of your User Generated Content and/or restrict your use of all or any part of the App at any time, for any or no reason, without notice and without liability to you or anyone else. Quaker State also reserves the right to prevent access to the App, the OBD or any of their functionalities or features.
- 16.2 After any line of action subject to Clause 16.1, you are not allowed to create a new account to circumvent the termination, deletion or restriction.

- 16.3 You understand and agree that some of your User Generated Content may continue to appear on or through the App or may persist in backup copies for a reasonable period of time even after your account and/or access to the App is terminated.
- 16.4 These Terms and Conditions of Use remain in effect after your account and/or access to the App, the OBD and/or their functionalities or features is terminated.

**17. Changes to these Terms and Conditions of Use**

Quaker State may change these Terms and Conditions of Use at any time without notice, effective upon posting the amended Terms and Conditions of Use to the App. In the event that the Terms and Conditions of Use are amended, you will be asked to accept those revised Terms and Conditions of Use when you next use the App. Any use of the App, the OBD and/or any information or advice contained in the App thereafter will be on the basis of those revised Terms and Conditions of Use.

**18. Jurisdiction**

These Terms and Conditions of Use are governed by and to be interpreted in accordance with the laws and regulations of the State of Texas and in the event of any dispute arising in relation to these terms and conditions or any dispute arising in relation to the App and/or the OBD the federal and/or state courts in Harris County, Texas will have non-exclusive jurisdiction over such dispute.

[I accept these Terms and Conditions]