

Declaration

Legally binding delivered by You, the Participant, towards OMV Downstream GmbH and its Affiliates (“**OMV**”)

WHEREAS, OMV plans to conduct user testing of the eMotion App 2.0 and will share with You certain confidential business, technical and commercial information including, but not limited to, prototypes, screen images, app structures, and related materials for the purpose of soliciting feedback and evaluating the new app version (the “**Purpose**”);

NOW, THEREFORE, in consideration of the conditions set forth below, You agree as follows:

1. OMV intends to share with You certain Confidential Information. “**Confidential Information**” means all confidential information relating to the Purpose which OMV or a third party directly or indirectly discloses or makes available to You. This includes certain business, technical and/or commercial information of a confidential and/or proprietary nature, which may be in any form (including, without limitation, in writing, orally, electronically or by display) and including, but not limited to ideas, know-how, concepts, methods, proposals, clickable prototypes, screen images, app models, documentation, discussions, business plans, and feedback collection forms etc. You shall (i) keep the Confidential Information secret and confidential; (ii) not use or exploit the Confidential Information in any way except for the Purpose, and (iii) shall not sell, trade, publish, reproduce, or otherwise disclose Confidential Information to any person, company or corporation, without OMV’s prior written consent, except as provided in paragraph 2 below.
2. The confidentiality obligations do not apply to any information which: (i) was already lawfully known to You as of the date of disclosure hereunder and is not subject to any confidentiality obligation on its part; (ii) is already in possession of the public or becomes available to the public other than through Your act or omission; (iii) is required to be disclosed pursuant to a court order or under applicable law or by a governmental order, decree, regulation, or rule (provided that You shall limit such disclosure to such part of the Confidential Information as must be disclosed and that You shall duly give written notice to OMV prior to such disclosure); (iv) is acquired independently from a third party in respect of which You has ascertained that it has the unrestricted right to disseminate such information at the time it is acquired by it, (v) You independently developed without reference to Confidential Information.
3. Specific disclosures made hereunder shall not be deemed to be subject to any of the above exceptions merely because they are embraced by general disclosures in the public knowledge or literature or in Your possession, and any combination or features disclosed hereunder shall not be deemed subject to those exceptions merely because individual features are in the public knowledge or literature or in Your possession, but only if the combination itself is publicly available or lawfully known to You without a binder of secrecy.
4. You shall use or permit the use of Confidential Information solely to the extent necessary for the Purposes. This Declaration does not convey any license or other right for You to use the Confidential Information (including any right of prior use), nor does this Declaration create an obligation of OMV to provide any such rights to You.
5. You agree that all feedback, comments, suggestions, and ideas provided by You during the testing session, orally or via provided forms may be freely used by OMV without any further obligation to You and that OMV shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into any OMV products or services any suggestions, enhancement requests, recommendations or other feedback provided by You.
6. OMV makes no representations or warranty, express or implied, in relation to its Confidential Information, including but not limited to any warranty as to the accuracy, timeliness or completeness of its Confidential Information, or implied warranty of merchantability or fitness of the Confidential Information for any purpose.
7. You shall be responsible for ensuring that all persons, whether employees or third parties, to whom You disclose Confidential Information under this Declaration comply with its terms.

8. OMV will process personal data (e.g., contact details, feedback data) in accordance with applicable data protection laws and OMV Test Community's Privacy Policy (see [Datenschutzhinweis für die "OMV Test Community" | OMV.at](#)).
9. This Declaration shall equally apply to the favor of all Affiliates of OMV. "Affiliate" means any entity in which OMV holds a direct or indirect majority interest or which are controlled by, controlling or under common control with OMV, whereas "Control" means the power to direct or cause the direction of the management and of policies of an entity, whether through the ownership of voting share, by contract or otherwise
10. In case of any violation of any obligations arising from this Declaration, You shall be liable for all damages OMV may incur.
11. The obligations under this Declaration shall expire (i) 1 (one) year from the submission of the Declaration or (ii) when explicitly discharged by OMV, whichever occurs sooner.
12. The Confidential Information disclosed shall remain the property of OMV. If requested by OMV at any time by notice, You shall:
 - a) destroy or return to OMV or permanently erase (including, to the extent legally and technically practicable, from its computer(s) and communications systems and devices or from systems and data storage services provided by third parties) all documents and materials (and any copies) containing, reflecting, incorporating or based on any Confidential Information; and
 - b) certify in writing to OMV that You has complied with the requirements of the above subclause.The provisions of this Declaration shall continue to apply to any documents and materials retained by You.
13. If any provision of this Declaration is held invalid or unenforceable, it shall not affect the validity or enforceability of any of its other provisions. You agree to subsequently accept a valid and enforceable provision which comes closest to the legal and commercial intent of the invalid clause.
14. This Declaration shall be governed by and interpreted in accordance with the laws of Austria excluding its law on conflict of laws. The competent Court for Vienna, First District, shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this Declaration.