

## Terms of Use

Welcome to the 9:11 Moment of Reflection App (the “Application”), owned and operated by Goodby Silverstein & Partners, Inc. (“GSP,” “we,” “us” or “our”). We maintain and make available the Application and the accompanying website, [www.911momentofreflection.com](http://www.911momentofreflection.com) (the “Website”), for your personal, non-commercial use only. By accessing and using the Application, you acknowledge and agree to abide by these Terms of Use (the “Agreement”), the terms of service of any applicable platform provider, including but not limited to Apple Inc. (each, a “Platform Provider”), as well as all applicable laws, rules and regulations. If you do not agree to the terms of the Agreement, you may not use the Application. The Agreement is subject to change by us at any time, effective when posted on and/or within the Application. Your continued use of the Application after such notice will constitute acceptance by you of such changes.

**Overview.** After downloading the Application to your Apple iOS or android product(s), you can use the Application to view an elegant animation daily @ 9:11 am and pm, offering the opportunity for contemplative reflection, and providing inspirational quotes for meditative guidance.

**Maintenance and Support.** No Platform Provider is responsible to provide maintenance and support services for the Application.

### Terms and Conditions.

- Your failure to comply with the Agreement may result in suspension or termination of your access to the Application, without notice, in addition to our other remedies.
- We also reserve the right to discontinue the Application, or change the content or formatting of the Application, at any time without notice to you, and to require the immediate cessation of any specific use of the Application.
- We grant you a non-exclusive and non-transferable, revocable license to download and install one (1) copy of the Application to your mobile device, and to access and use the Application, solely for your own personal use, subject to the terms of this Agreement and to the terms of service of any applicable Platform Provider.
- You may not use the Application for any commercial purposes, including without limitation to sell a product or service; to increase traffic to your website for commercial reasons, such as advertising sales; to take the results from the Application and reformat and display them, or use any robot, spider, other device or manual process to monitor or copy any content from the Application. In addition, you may not: (i) copy, modify or distribute the Application for any purpose; (ii) transfer, sublicense, lease, lend, rent or otherwise distribute the Application to any third party; (iii) decompile, reverse-engineer, disassemble, or create derivative works of the Application; (iv) make the functionality of the Application available to multiple users through any means; or (v) use the Application in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with the Agreement.
- We and/or our licensors are the exclusive owners of all copy, software, graphics, designs and all copyrights, trademarks, service marks, trade names, logos and other intellectual property or proprietary rights contained on or used in connection with the Application. All rights not granted under this Agreement are reserved by us and/or our licensors.
- 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.
- You will comply with all applicable third party terms and conditions when using the Application, including but not limited to those of any wireless data service provider. We provide the Application "as is" and shall not be held liable for your use of the Application, or any other information, content or material contained therein. TO THE FULLEST EXTENT ALLOWED BY LAW, WE DISCLAIM ALL WARRANTIES WITH REGARD TO THE APPLICATION, INCLUDING WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE APPLICATION OR ANY MATERIALS OR CONTENT CONTAINED THEREIN WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED OR THAT THE APPLICATION IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.
  - YOU UNDERSTAND AND AGREE THAT YOU DOWNLOAD OR OTHERWISE OBTAIN THE MATERIAL AND/OR DATA THROUGH THE USE OF THE APPLICATION AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR MOBILE PHONE OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL OR DATA. Under no circumstances shall we or our affiliates, our licensors or Platform Providers be liable to you on account of your use or misuse of or reliance on the Application.

**Limitation of Liability.** UNDER NO CIRCUMSTANCES WILL GSP, ANY PLATFORM PROVIDER OR THEIR RESPECTIVE SUBSIDIARIES OR AFFILIATES, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS OR ANY OF THEIR RESPECTIVE SUCESSORS OR ASSIGNS (COLLECTIVELY, THE “GSP PARTIES”) BE LIABLE TO YOU FOR ANY DAMAGES WHATSOEVER WITH RESPECT TO YOUR USE OF THE APPLICATION, INCLUDING WITHOUT LIMITATION ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF THE SAME. If any part of these warranty disclaimers or limitations of liability is found to be invalid or unenforceable for any reason or if we are otherwise found to be liable to you in any manner, then our aggregate liability for all claims under such circumstances for liabilities shall not exceed ten dollars (\$10.00 USD).

**Indemnity.** You agree to indemnify and hold GSP Parties harmless from any claim or demand, and any damages, costs, or expenses arising in connection with your use of the Application, including reasonable attorneys’ fees and costs made by any other party, due to or arising out of your breach of this Agreement or the documents it incorporates by reference, or your violation of any law or the right of another party, or any loss, damage or injury that may be sustained by you or by others or property in connection with the Application, including but not limited to those injuries and damages caused by the negligence of GSP Parties.

**Platform Providers.** Platform Providers are not party to this Agreement. Platform Providers have no obligation whatsoever to furnish any maintenance and support services with respect to the Application. In the event of any failure of the Application to conform the warranties herein, you may notify the applicable Platform Provider, and such Platform Provider may refund any purchases made through the Application (if applicable). To the maximum extent permitted by applicable law, Platform Providers will have no other warranty obligation whatsoever with respect to the Application. You acknowledge that Platform Providers are not responsible for addressing any claims relating to the Application or your possession and/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; and (iii) claims arising under consumer protection or similar legislation. We, not the Platform Providers, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim. Platform Providers are third party beneficiaries of this Agreement, and Platform Providers 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.

**Contact Information.** This Application was developed by or for GSP.

**Privacy.** The Application is intended for use by persons aged thirteen (13) and older. We have no interest in collecting personally identifiable information from children under the age of thirteen (13). Additionally, the privacy of your personal information is very important to us. No personal information will be collected from you or stored in connection with your use of the Application.

**Governing Law; Venue.** This Agreement and its validity, construction and performance will be governed in all respects by the laws of, and exclusively in or nearest to, the state and federal courts of the County of San Francisco, California without regard to its choice of law provisions. You irrevocably agree to accept the exclusive personal jurisdiction and waive any objections to the venue of such courts. Any claims asserted by you in connection with the Application must be asserted in writing to GSP within one (1) year of the date such claim first arose, or such claim is forever waived by you. Each claim shall be adjudicated individually, and you agree not to combine your claim with the claim of any third party.

**Arbitration:** YOU HEREBY WAIVE ALL RIGHTS TO TRIAL IN ANY ACTION OR PROCEEDING INSTITUTED IN CONNECTION WITH THE APPLICATION OR THIS AGREEMENT. ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THE APPLICATION OR THIS AGREEMENT SHALL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION. ANY SUCH CONTROVERSY OR CLAIM SHALL BE ARBITRATED ON AN INDIVIDUAL BASIS, AND SHALL NOT BE CONSOLIDATED IN ANY ARBITRATION WITH ANY CLAIM OR CONTROVERSY OF ANY OTHER PARTY. THE ARBITRATION SHALL BE CONDUCTED IN THE COUNTY OF SAN FRANCISCO IN THE STATE OF CALIFORNIA.

**Waiver; Remedies:** The failure of GSP to partially or fully exercise any rights or the waiver of GSP of any breach of this Agreement by you shall not prevent a subsequent exercise of such rights by GSP or be deemed a waiver by GSP of any subsequent breach by you of the same or any other term of this Agreement. The rights and remedies of GSP under this Agreement and any other applicable agreement between you and GSP shall be cumulative, and the exercise of any such right or remedy shall not limit GSP's right to exercise any other right or remedy.

**Changes:** All information posted within the Application is subject to change without notice. In addition, this Agreement may be changed at any time without prior notice. GSP will make such changes by posting them in the Application. You should check the Application for such changes frequently. Your continued access and use of the Application after such changes conclusively demonstrates your acceptance of those changes.

**Severability:** If any part of this Agreement shall be held or declared to be invalid or unenforceable for any reason by any court of competent jurisdiction, such provision shall be

ineffective but shall not affect any other part of this Agreement, and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

**This Agreement was last updated on September 4, 2015.**