

# Vaiyo Terms of Service

Last Updated: 01/10/2021

PLEASE READ THE FOLLOWING TERMS CAREFULLY.

**BY CLICKING “I ACCEPT,” OR BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING THE SERVICES, PLATFORM, OR WEBSITE,** YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING VAIYO’S PRIVACY POLICY (TOGETHER, THESE “**TERMS**”). If you are not eligible, or do not agree to the Terms, then you do not have our permission to use the Service. YOUR USE OF THE SERVICE, AND VAIYO’S PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BY VAIYO AND BY YOU TO BE BOUND BY THESE TERMS.

## 1. **ACCEPTANCE OF VAIYO PLATFORM TERMS AND CONDITIONS**

These Terms govern your access to the information contained on the Vaiyo website (the “Website”), use of the Vaiyo application program interface(s), and other related websites, networks, applications, and other materials provided or made available by Vaiyo (the “Platform”) that enable you to use the Vaiyo communication platform services offered by Vaiyo (collectively, the “Service”) on one or more website(s), web application(s), or mobile application(s) by you and your users.

“Vaiyo”, “we”, “us”, “our”, and similar means Vaiyo OÜ, and its affiliates.

“You” or “your” means you, the person who has accessed the Website or has downloaded and is using or uses the Platform and Service and is the licensee under these Terms. If you are signing up for the Platform and the Service on behalf of a company (an “Enterprise Customer”), you represent that you are duly authorized to represent such company and accept the Terms on behalf of such company. To the extent that your use of the Platform or Services is subject to an Enterprise Customer agreement, such Enterprise Customer agreement, including any addendum thereto, will prevail over any conflicting provision in these Terms.

In order to use the Website, Platform, and Services, you are required to accept and to agree to be bound by these Terms. If you are an Enterprise Customer, you agree to incorporate these Terms into Your use and ensure that your users adhere to these Terms.

## 2. **ELIGIBILITY AND AUTHORITY**

You must be at least 18 years old to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18 years old; (b) you have not previously been suspended or removed from the Platform or Service; and (c) your registration and your use of the Platform or Service is in compliance with any and all applicable laws and regulations.

### **3. Accounts and Registration**

To access some features of the Platform or Service, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your name, email address, or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You may use your wallet to login to the platform.

3.1 After registering the User Account, the User or the legal person represented by the User as the opportunity to perform transactions on the platform and use Vaiyo Communication Platform.

3.2 The person to whose name the User Account has been registered (User) shall be responsible for the rights and obligations related to the User Account. Among other things, the User shall be a party to the transactions made via the User Account. Wallet information is not stored in Vaiyo account. Users shall use backup function with every wallet they import/create.

3.3 The User Account may reflect:

- Virtual currency wallet's address(es), which are opened on the name of the User;
- Virtual currency amount on the wallet's opened on the name of the User;
- Information about transactions, which are made via virtual currency wallets opened on the name of the User.
- The User's personal data.

#### **Entry into the Terms of Service Agreement**

3.4 To ensure reliable operation of the financial sector and the transparency of the business environment, the Service provider limits the circle of persons with whom it enters into the Terms of Service Agreement.

3.5 The Service Provider shall have the right to decide with whom to enter or not to enter into the Terms of Service Agreement (freedom of contract). The Service Provider shall conclude the Terms of Service Agreement, if entity which intends to become the User meets the Conditions of the Service Provider and submits the Service Provider the data and documents requested by the Service Provider. Before the Service Provider refuses to enter into the Terms of Service Agreement, it shall thoroughly consider all the circumstances.

3.6 The Service Provider shall only refuse to conclude the Terms of Service Agreement with good reason, which first and foremost constitutes an Agreement where entity which intends to become the User or a Connected entity:

- 3.6.1 has intentionally or due to severe negligence submitted the Service Provider incorrect/insufficient data or documents or refuses to submit requested by the Service Provider data or documents;
- 3.6.2 does not submit sufficient data or documents requested by the Service Provider for entity's, it's representative, actual beneficiary or for a partner's identification or data or documents don't meet the requirements of the Service Provider;
- 3.6.3 has debt to the Service Provider or other credit institutions;
- 3.6.4 has caused direct or indirect damage to the Service Provider or a threat of actual damage or has caused damage to the reputation of the Service Provider;
- 3.6.5 does not submit sufficient data or documents related to the entity or to the partners, requested by the Service Provider for the certification of the legality of their funds or there are any other grounds for suspecting them of money laundering (incl. using a front person) or terrorist financing;
- 3.6.6 is personally or its partners are connected, or has been connected, to organized crime, money laundering, terrorist financing or evasion of taxes, also to international sanctions or other national transaction limits (e.g. sanctions of the European Union or the USA) according to the information of acknowledged and reliable sources (e.g. state bodies, international organizations, international or national databases, correspondent banks, and mass media);
- 3.6.7 is personally or its partners are connected, or has been connected, to the traditional income sources of organized crime, incl. illicit traffic of excise goods or narcotic substances, illegal trafficking of arms or persons, mediation of prostitution, unlicensed international transmission of money;
- 3.6.8 comes from a country that has insufficient levels for preventing corruption / money laundering / terrorism financing;
- 3.6.9 is, in the opinion of the Service Provider, personally or its Connected person engaged in the field of activity with a high level of risk of money laundering and terrorist financing (incl. but not limited to providers of services of alternative payment instruments, intermediaries of such payment instruments, internet casinos) or they operate without the required registration or authorization;
- 3.6.10 is according to the Service Provider's estimates related to the territory, area of activity, transaction or person subject to Sanctions or other national transaction limits (e.g. sanctions of the European Union or the USA);

- 3.6.11 has, according to a decision made by a competent authority or body (e.g. a precept by an agency, a court order) or judging by another event or fact, through its acts or omissions undermined the reputation of persons working in the same area of activity (incl. the Service Provider), or, according to a reasoned opinion of the Service Provider, does not behave in a responsible manner and does not follow the requirement of due diligence and the customs expected of companies working in this area of activity.
- 3.7 Connected person in the meaning of the Terms of Service Agreement is legal person's representative or actual beneficiary also a legal person over 10% of whose shares or votes belong to the person intending to conclude the Terms of Service Agreement or where the person is a member of the supervisory or any other management body or the procurator of such body.
- 3.8 The Service Provider also refuses to enter into the Terms of Service Agreement with other good reason, especially if the conclusion of the Terms of Service Agreement is impeded by a legal hindrance such as restricted active legal capacity and contradictions or absence of the right of representation, and the Service Provider has not been provided the necessary data and documents in order to meet its Know Your Customer principles.

#### **Requirements for documents and data, provided by the User**

- 3.9 The User or their representative shall submit the data and documents requested by the Service Provider for identification of the User.
- 3.10 A natural person shall be identified on the basis of personal identification documents that are in accordance with legislation and accepted by the Service Provider.
- 3.11 A legal person shall be identified on the basis of a valid extract of the register and/or the documents accepted by the Service Provider.
- 3.12 The User or their representative may be identified through a means of communication accepted by the Service Provider or via a means of digital identification.
- 3.13 The User shall present to the Service Provider the original documents or their copies if they are notarized or equally certified.
- 3.14 The Service Provider shall assume that the document presented by the User is authentic, valid and correct.

- 3.15 The Service Provider may require that documents issued abroad be legalized or certified with an apostille, unless prescribed otherwise in a treaty between the Republic of Estonia and relevant country.
- 3.16 If documents are in a foreign language, the Service Provider may require that the documents be translated into the language understandable to the Service Provider. The Service Provider may require that the translation must be notarized or certified by a sworn translator.
- 3.16.1 The User shall bear the costs concerning the formalization, translation, certification of the documents and other related costs and they don't subject to reimbursement by the Service Provider.
- 3.17 The Service Provider may make a copy of the document submitted by the User or retain the original document, if possible.
- 3.18 If the submitted document does not meet the requirements of the Service Provider or the Service Provider has doubts concerning its correctness, the Service Provider shall have the right not to execute the User's order or require the submission of additional documents.

#### **Following the Know Your Customer principles**

- 3.19 The Service Provider shall apply both Estonian and international measures for the prevention of money laundering, terrorist financing, and tax evasion, as well as the measures of the application of Sanctions. Therefore, the Service Provider must have an overview of the User, the persons considered as Connected persons, and also the User's activities (incl. economic activities) and the origin of the assets of the User (Know Your Customer principle).
- 3.20 Based on the abovementioned considerations, the Service Provider shall have the right and obligation to:
- 3.20.1 Check the identification information of the User or the representative of the User on a regular basis and receive additional documents and data (incl. citizenship, tax residence, place of residence, owners of the legal person, actual beneficiaries, founders and members of the management board) from the User;
- 3.20.2 Regularly ask for documents and data regarding the activities of the User, incl. data regarding the Connected persons, turnover, international payments, the proportion of cash transactions and non-cash transactions of the User, as well as data regarding the purpose and essence of transactions and the legal origin of the assets or of the assets used in transactions;

3.20.3 Ask the documents constituting the basis for the transactions from the User (e.g. sales, lease and supply agreements, documents related to the goods etc.), and also data or documents regarding the counterparty, actual beneficiary of the transaction or any other person involved in or related to the transaction;

3.20.4 Monitor how the User uses the Services;

3.20.5 Establish temporary or permanent restrictions on the use of the Services.

3.21 The Service Provider shall have the right not to execute the User's order if the User does not submit data or documents specified in clauses 3.20.1– 3.20.3 of the Terms of Service Agreement to the Service Provider.

3.22 While applying the measures for the prevention of money laundering and terrorist financing the Service Provider shall use risk-based methods and select the suitable and appropriate extent of the measures, proceeding from the nature of the transactions, as well as the assessment regarding the amount of risk that the User or any other person related to the transaction is engaged or may commence money laundering or terrorist financing.

3.23 You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. If you believe that your account is no longer secure or that someone has used your account without your permission, then you must immediately notify us at [info@vaiyo.io](mailto:info@vaiyo.io).

#### **4. Licenses**

4.1. Subject to your compliance with these Terms and Vaiyo's Acceptable Use policy located in our [Acceptable Use Policy](#), Vaiyo grants you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license to (a) access and uses the Website and Service and (b) use the Communication Platform, solely in accordance with the terms and conditions of these Terms.

4.2. You will not sell, transfer, assign, rent, lease, or sublicense Vaiyo's Platform, or the Service to anyone. Except as expressly authorized by Vaiyo, and except and solely to the extent such a restriction is impermissible under applicable law, you may not: (a) reproduce, distribute, publicly display, or publicly perform the Platform or Service; (b) make modifications to the Website, Platform or Service; or (c) interfere with or circumvent any feature of the Website, Platform or Service, including any security or access control mechanism. If you are prohibited under applicable law from using the Website, Platform or Service, you may not use it. In addition, you may not nor allow any third party to copy, reverse engineer, decompile or disassemble Vaiyo's code, the Platform, or the Service, or build alternative methods to access the Service other than as provided through the Platform. Nor may you obscure or cover any graphical

element of the Service or otherwise interfere with the operation of the Website, Platform, or Service.

- 4.3. To the extent any features available through the Service are provided by other third parties, Vaiyo will make commercially reasonable efforts to communicate any policies, requirements, or guidelines of those third parties to you. You agree to follow those policies, requirements, or guidelines. By using any of these features, you agree that Vaiyo may transfer your information to the applicable third party service solely to the extent necessary to perform the Service. Vaiyo does not control and, to the fullest extent permitted by law, is not responsible for any third party services and content.
- 4.4. You hereby grant Vaiyo a limited, non-exclusive, non-transferable, non-sublicensable license to display your trade names, trademarks, service marks, logos, domain names and the like for the purpose of promoting or advertising that your use of the Platform and the Service.
- 4.5. If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Website, Platform or Service ("Feedback"), then you hereby grant Vaiyo an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Website, Platform or Service and create other products and services.

## **5. Use of services**

- 5.1. The Service includes branding for Vaiyo. You agree not to remove, obscure, or alter any branding contained in the Service or any notice of any Vaiyo Marks. You may not display Vaiyo Marks on Your Product (or otherwise) other than (a) through the display of the Service in accordance with the Platform and Vaiyo's branding guidelines and (b) solely for the purpose of disclosing that Your Product has implemented the Service in a manner that does not suggest any further relationship or endorsement of Your Product by Vaiyo.
- 5.2. Other than through the configuration options provided by Vaiyo, you may not, nor allow any third party to alter, change or modify any user interface, feature or functionality of the Service without the express written consent of Vaiyo.
- 5.3. Notwithstanding the foregoing paragraphs of this Section 5, Vaiyo licenses certain components of the Platform (e.g. the Banuba Face AR) under a permissive software license. In these cases, you agree not to use any Vaiyo Marks, including those originally built into the code we provide, in any modified version of that code unless (a) it follows the branding guidelines or (b) you have entered into a separate written trademark license agreement with Vaiyo.
- 5.4. Vaiyo may update files on our servers that will automatically change the functionality of the Platform or Service, and you consent to those updates.

- 5.5. Vaiyo reserves the right to place volume limitations on access to the Platform or Service. Vaiyo reserves the right to cap concurrent video chat sessions conducted via platform in its discretion.

## **6. User Content**

- 6.1 Certain features of the Service may permit you or your users to upload content to or via the Service, including messages, photos, video, audio, images, folders, data, text, and other types of works ("User Content") and to display, transmit, record, and store User Content on or via the Service. You will retain any copyright and other proprietary rights that you may hold in the User Content that you upload to the Service. You warrant and represent to Vaiyo and its affiliates that you have fully and explicitly disclosed, with simple and easy-to-read words, how and why you and the Service collect User Content and what kind of User Content will be collected when your users interact with the Service, and that you and/or your users have obtained all the necessary and explicit consent and authorization from your users and/or any third party (as applicable and necessary), before using the Service (including the recording and/or storage features), for Vaiyo to provide the Service for you or your users.
- 6.2 By providing User Content to or via the Service, you grant Vaiyo a worldwide, non-exclusive, irrevocable, royalty-free, fully paid, transferable right and license (with the right to sublicense) to copy, reproduce, use, host, store, transfer, publicly display, publicly perform, transmit, reproduce, modify for the purpose of formatting for display, and distribute your User Content, in whole or in part, in any media formats and through any media channels now known or hereafter developed.
- 6.3 Vaiyo disclaims any and all liability in connection with User Content. You are solely responsible for your User Content and the consequences of providing User Content via the Service. By providing User Content via the Service, you affirm, represent, and warrant that:
- (a) you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize Vaiyo to use and distribute your User Content as necessary to exercise the licenses granted by you in this Section, in the manner contemplated by Vaiyo the Service, and these Terms;
  - (b) your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any legitimate right of your users or any third party, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, any other intellectual property/proprietary right, right to give and withdraw consent, or any other data protection right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Vaiyo to violate any law or regulation; and



(c) your User Content could not be deemed by a reasonable person to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate.

- 6.4. We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. Vaiyo may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Service you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against Vaiyo with respect to User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, Vaiyo does not permit copyright-infringing activities on the Service.
- 6.5 We do not control and does not have any obligation to monitor: (a) User Content; (b) any content made available by third parties; or (c) the use of the Service by its users. You acknowledge and agree that Vaiyo reserves the right to, and may at any time monitor any and all information transmitted or received through the Service for operational and other purposes. If at any time Vaiyo chooses to monitor the content, Vaiyo still assumes no responsibility or liability for content or any loss or damage incurred as a result of the use of content. During monitoring, information may be examined, recorded, copied, and used in accordance with our Privacy Policy.

## **7. Virtual currency wallet service terms and making transactions**

- 7.1 At the User's request the Service Provider shall create virtual currency wallet on the name of the User (hereinafter – the User Wallet).
- 7.2 The User has a right to create the User Wallet only for a virtual currency. By the virtual currency is meant a value represented in the digital form, which is digitally transferable, preservable or tradable and which natural persons or legal persons accept as a payment instrument, but that is not the legal tender of any country or funds for the purposes of Article 4(25) of Directive (EU) 2015/2366 of the European Parliament and of the Council on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, pp 35–127) or a payment transaction for the purposes of points (k) and (l) of Article 3 of the same Directive. The Platform provides the Services related only to following virtual currencies:
- 7.3 If the User has the User Wallet, the User has a right to make transactions via this User Wallet, including:

- 7.3.1 send virtual currency from the User Wallet, to another virtual currency wallet(s), specified by the User;
- 7.3.2 receive virtual currency to the User Wallet from another virtual currency wallet(s);
- 7.4 The User has a right to make transactions with the User Wallet in accordance with terms and conditions specified in the Terms of Service Agreement.
- 7.5 Transactions performed and service fees paid are reflected in the User Account's statement, which is available to the User in an electronic form via the User Account or in another way previously agreed upon.
- 7.6 The User's order for sending virtual currency from the User Wallet shall contain at least following:
  - 7.6.1 virtual currency wallet address, where virtual currency shall be transferred from the User Wallet;
  - 7.6.2 amount of virtual currency, which shall be transferred from the User Wallet;
- 7.7 The User Wallet may be closed only if there's no virtual currency, which may be send from the User Wallet.
- 7.8 The User shall certify their right to use the Service in a manner acceptable to the Service Provider.
- 7.9 The Service Provider shall refuse to provide the Service if there is a doubt that the person wishing to use the Service is entitled thereto. In such an event, the Service Provider shall not bear any liability for the damage caused by refusal to provide the Service.
- 7.10 The User can only give the Service Provider such orders that are allowed for by the conditions of the Services provided. The orders shall be unambiguous and executable. The Service Provider shall not bear any liability for forwarding errors, ambiguities or mistakes in the orders. In the case of ambiguities, the Service Provider shall have the right to demand additional information or documents from the User and, until the receipt thereof and information contained therein is checked, to postpone the execution of the order.
- 7.11 The User or their representative shall give the order by hand, electronically signed/confirmed or through another means of identification or security element accepted by the Service Provider.

- 7.12 The Service Provider may demand signature of the document in the Service Provider's office or, if it proves impossible, notarization of the signature.
- 7.13 The User shall ensure a sufficient amount of money to the Service Provider for the execution of the order given to the Service Provider. In the event that there is not a sufficient amount on the Service Provider disposal and unless agreed otherwise the Service Provider have a right to not perform the execution of orders.
- 7.14 An order that the Service Provider has taken to execute shall not be cancelled, amended and/or changed unless otherwise stated in the Service Conditions.
- 7.15 If the Service Provider has doubts regarding the legality of the order, it may demand additional confirmation at the expense of the User in the form and/or the manner accepted by the Service Provider prior to the execution of the order.
- 7.16 Upon the execution of an incorrect or insufficient order, the Service Provider may execute the order proceeding from the practice and principles of sound management or refuse to execute the order. The Service Provider shall not bear liability for the execution or non-execution of the order in the aforementioned case.
- 7.17 The Service Provider may refuse to execute or apply restrictions to the order if this is necessary due to the requirements (e.g., measures for combatting money laundering and the financing of terrorism) set by the correspondent bank, the agency of the country, or if the payment is directly or indirectly connected with a person sanctioned or restricted by a foreign country or the transaction is contrary to the restriction imposed by the Sanctions.
- 7.18 The Service Provider may refuse to execute the order if the User is intoxicated by alcohol or drugs or the Service Provider has doubts for any other reason that the User is not able to understand the meaning and consequences of their actions.
- 7.19 The Service Provider shall execute the User's orders within the reasonable period.
- 7.20 The Service Provider shall not bear any liability for the deadlines or rules established by the User or a Third Person or the damage caused by the User or the Third Person.
- 7.21 The Service Provider may partially or fully transfer the performance of its obligation to Third Persons provided that it arises from the essence of the

obligation or is more expedient for the purpose of performance of the obligation in consideration of the User's interests.

- 7.22 For the purposes of ensuring security, the Service Provider may give orders to the User (e.g. to change the account's password or another security feature) and the User shall comply with the orders immediately. The User shall be liable for all damage resulting from the noncompliance of such orders.

## **8. Ownership; Proprietary Rights**

The Website, Platform, and Service is owned and operated by Vaiyo. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements ("Materials") provided by Vaiyo are protected by intellectual property and other laws. All Materials are the property of Vaiyo or its third party licensors.

You acknowledge that the Website, Platform and the Service are protected by copyrights, trademarks, service marks, international treaties, and/or other proprietary rights and laws of the Estonia. and other countries and that all ownership and intellectual property rights in the Website, Platform and the Service, including without limitation the trademarks VAIYO and all related trade names, service marks, logos, domain names and the like ("Vaiyo Marks") do and shall, as between you and Vaiyo, belong exclusively to Vaiyo OÜ. Except as expressly provided herein, these Terms grant you no right, title, license, or interest in any intellectual property owned or licensed by Vaiyo, including (but not limited to) the Website, Platform, the Service, Materials, or the Vaiyo Marks.

## **9. FEES**

- 9.1. Certain features of the Service may require you to pay fees. Before you pay any fees, you will have an opportunity to review and accept the fees that you will be charged.
- 9.2. Vaiyo reserves the right to determine pricing for the Service. Vaiyo will make reasonable efforts to keep pricing information published on the Website up to date. We may increase or add new fees for any existing Service or Service feature by giving you advance notice of changes before they apply. Vaiyo, at its sole discretion, may make promotional offers with different features and different pricing to any of Vaiyo's customers. These promotional offers, unless made to you, will not apply to your offer or these Terms.
- 9.3. To the extent the Service or any portion thereof are made available for any fee, you agree to pay all applicable fees (including any minimum subscription fees) as set forth in the pricing section of our Website. You authorize Vaiyo to charge all sums for the orders that you make and any level of Service you select as described in these Terms or published by Vaiyo, including all applicable taxes, to the payment method specified in your account. We may specify the manner in which you will pay any fees, and any such payment shall be subject to our general accounts receivable policies from time to time in effect. If you pay any

fees with a credit card, Vaiyo may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase.

- 9.4. All fees payable by you are exclusive of local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes) ("Additional Charges"), and you agree to bear and be responsible for the payment of all such Additional Charges, excluding taxes based upon Vaiyo's net income.
- 9.5. All amounts payable by you under this Agreement will be made without setoff or counterclaim and without deduction or withholding. If any deduction or withholding is required by applicable law, you shall notify us and shall pay such additional amounts to us as necessary to ensure that the net amount that we receive, after such deduction and withholding, equals the amount we would have received if no such deduction or withholding had been required.
- 9.6. Should you have any dispute as to fees associated with your account, please contact us at support@vaiyo.io within 8 days of the date of the activity that generated such dispute, and we will attempt to resolve the matter. Any and all refunds issued to resolve such a dispute shall be issued as credits to your account, but in no event shall there be any cash refunds. Disputes older than 8 days shall not be entitled to any refunds or credits.

## **10. Subscription and Auto-Renewals**

Vaiyo may allow you to subscribe to a plan ("Subscription Plan") for which you will be periodically billed the amounts indicated to you at the time of your subscription, as may be updated from time to time by Vaiyo, on a forward-going basis, upon notice to you and your acceptance thereof (the "Subscription Fee"). When you subscribe to a Subscription Plan, the Subscription Plan will be billed on a periodic basis. You hereby authorize Vaiyo to charge you on a going-forward basis and until cancellation of either the Subscription Plan or your account. The "Subscription Billing Date" is the day of the month when you sign up to your Subscription Plan. Your account will be charged automatically on the Subscription Billing Date all applicable fees and taxes for the next subscription period.

BY PURCHASING A SUBSCRIPTION, YOU AGREE THAT YOUR SUBSCRIPTION WILL AUTOMATICALLY RENEW FOR SUCCESSIVE PERIODS UNLESS YOU CANCEL YOUR SUBSCRIPTION.

YOU MAY CANCEL YOUR SUBSCRIPTION PLAN AT ANY TIME, IN WHICH CASE YOUR SUBSCRIPTION WILL EXPIRE AT THE END OF THAT SUBSCRIPTION PERIOD (AND UPON WHICH EXPIRATION YOUR SUBSCRIPTION WILL NO LONGER BE RENEWED OR CHARGED). YOU MAY CANCEL YOUR SUBSCRIPTION PLAN by emailing: support@vaiyo.io. You must cancel your Subscription Plan at least 24 hours before it renews in order to avoid billing of the next periodic Subscription Fee to your account.

## **11. Rewards and Promotions**

Vaiyo may include an opportunity for you to earn (including by completing actions or activities), reward points through various programs. Any rewards points will be governed by the terms of that program. In addition, Vaiyo, at its sole discretion, may make promotional offers with different features to any of Vaiyo's users. These promotional offers, unless made to you, will not apply to your offer or these Terms.

## **12. ARCHIVING AND STORAGE OF RECORDED COMMUNICATIONS**

You acknowledge and understand that there are local, and international laws governing the electronic recording of communications and that Vaiyo will not be liable for any illegal use by you of the Service. You should carefully review your own circumstances when deciding whether to use the recording features of the Service and it is your responsibility to determine if the electronic recordings are legal under applicable federal and state laws. You agree to comply, and require that your users comply, with all applicable laws, whether local or international, relating to the privacy of communication for all parties to a conversation, including, when required, advising all participants in a recorded video chat that the video chat is being recorded. In addition, you acknowledge that the storage and maintenance of recorded communications is not guaranteed by Vaiyo and agree that Vaiyo will not have any liability whatsoever for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that you may incur with respect to the loss or deletion of recorded communications.

## **13. ACCEPTABLE USE POLICY; Compliance obligations**

Your use of the Website, Platform, and Service is subject to Vaiyo's Acceptable Use Policy located in our (["Acceptable Use Policy"](#)) page, including all compliance obligations listed therein. You are solely responsible for all content, services and advertising available through Your Product, and Your Product's compliance with the Acceptable Use Policy.

Vaiyo reserves the right to investigate and take appropriate legal action against anyone who, in Vaiyo's sole discretion, violates these Terms, including without limitation, removing the offending content from the Service, suspending or terminating the access of such violators and reporting you to the law enforcement authorities. If you are unsure whether Your Product or use of the Website, Platform, or Services complies with the Acceptable Use Policy, please email us at [support@vaiyo.io](mailto:support@vaiyo.io) so we can discuss whether your proposed use is acceptable.

## **14. Privacy; Data transfers**

**14.1. Privacy.** The Vaiyo Data Processing Addendum is incorporated by this reference into, and made a part of, these Terms.

**14.2. Data Transfers for Users Located in the European Economic Area.** If you or your users are located in the European Economic Area, you agree that all international data transfers will be made pursuant to the Standard Contractual Clauses, as updated, amended, replaced or superseded from time to time by the European Commission, the approved version of which in force at present is that set out in

the European Commission's Decision 2004/915/EC of 27 December 2004, available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004D0915>.

By agreeing to these Terms, you and Vaiyo conclude the Standard Contractual Clauses as included in the Data Processing Addendum.

## 15. **SECURITY**

- 15.1. You must be reachable during reasonable business hours for security questions or concerns through the contact information that you provided upon requesting your credentials to the Platform. You will ensure that all networks, computer and operating systems, software and other systems used to operate our Communication Platform employ security measures to prevent unauthorized access to or use of any user data and the Service. You must promptly report any security deficiencies in or intrusions to your systems to Vaiyo at [info@vaiyo.io](mailto:info@vaiyo.io).
- 15.2. You understand that the operation of the Service, including your (or your users') content, may be unencrypted and involve (i) transmissions over various networks; (ii) changes to conform and adapt to technical requirements of connecting networks or devices and (iii) transmission to Vaiyo's third party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to operate and maintain the Service. Accordingly, you acknowledge that you bear sole responsibility for adequate security, protection and backup of your content. Vaiyo will have no liability for any unauthorized access or use of any content, or any corruption, deletion, destruction or loss of any content. Except otherwise agreed to in a Enterprise Customer agreement, you further acknowledge and agree that Vaiyo may preserve content and may also disclose content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (i) comply with legal process, applicable laws or government requests; (ii) enforce these Terms; (iii) respond to claims that any content violates the rights of third parties; or (iv) protect the rights, property, or personal safety of Vaiyo, its users and the public.
- 15.3. In addition to our rights to terminate or suspend the Service as described in Section 17 below, you acknowledge that: (i) your access to and use of the Service may be suspended for the duration of any unanticipated or unscheduled downtime or unavailability of any portion or all of the Services for any reason, including as a result of power outages, system failures or other interruptions; and (ii) we shall also be entitled, without any liability to you, to suspend access to any portion or all of the Service at any time, on a Service-wide basis: (a) for scheduled downtime to permit us to conduct maintenance or make modifications to any Service; (b) in the event of a denial of service attack or other attack on the Service or other event that we determine, in our sole discretion, may create a risk to the applicable Service, to you or to any of our other customers if the Service were not suspended; or (c) in the event that we determine that any Service is prohibited by applicable law or we otherwise determine that it is necessary or prudent to do so for legal or regulatory reasons (collectively, "Service Suspensions").

## 16. REPRESENTATIONS AND WARRANTIES

You represent and warrant that: (a) you have the right to use, reproduce, transmit, copy, publicly display, publicly perform, and distribute any content or data on our Platform or that is used or incorporated with the Service, and that neither You nor any related content violate the rights of any third party (e.g. copyright, patent, trademark, or other proprietary right of any person or entity), or any applicable regulation or law, including but not limited to any export, re-export, or import laws and the laws of any country in which You are present, content or service is made available; (b) you have all necessary rights and authorizations to agree to these Terms and to use the Platform and the Service as contemplated by these Terms; and (c) your agreement and compliance with these Terms and use of the Platform and the Service will not violate any law, regulation or contractual obligation.

## 17. TERM and termination

17.1. These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Website or Service, and ending when terminated as described in this Section. You may terminate the Service at any time, for any or no reason, by deleting your account, unsubscribing from the Service, and disabling Your Product's access of the Platform and use of the Service. Refunds for Services will not be provided unless you have prepaid for Services, in which case you may be eligible for a refund for unused, prepaid amounts within 8 days. If you purchased an irrevocable, non-refundable package, no refunds will be provided.

17.2. We reserve the right to suspend or terminate your right and license to access or use any or all of the Website, Platform and Service or terminate these Terms in their entirety (and, accordingly, your right to use the Service) at any time, for any or no reason, by providing you 30 days' advance notice. If Vaiyo determines that providing advance notice would negatively impact Vaiyo's ability to provide the Service, Vaiyo may suspend your right and license to access or use any or all of the Platform and Service or terminate these Terms in their entirety (and, accordingly, cease providing all Services to you), with no notice.

17.3. In addition, we may suspend your right and license to access and use the Platform and the Service or terminate these Terms in their entirety (and, accordingly, your right to use the Service), for cause effective as set forth below:

- Immediately upon notice if: (i) Vaiyo determines that Your use of Platform is harmful to or inconsistent with Vaiyo's reputation and goodwill; (ii) if you violate, or we have reason to believe that you have violated, any provision of the Acceptable Use Policy; (iii) there is an unusual spike or increase in your use of the Service for which there is reason to believe such traffic or use is fraudulent or negatively impacting the operating capability of the Service; (iv) we determine, in our sole discretion, that our provision of any of the Service to you is prohibited by applicable law, or has become impractical or unfeasible for any legal or regulatory reason; or (v) subject to applicable law, upon your liquidation, commencement of dissolution proceedings, disposal of your assets,



failure to continue your business, assignment for the benefit of creditors, or if you become the subject of a voluntary or involuntary bankruptcy or similar proceeding;

- Immediately and without notice if you are in default of any payment obligation with respect to any of the Service or if any payment mechanism you have provided to us is invalid or charges are refused for such payment mechanism; or
- Five (5) days following our notice to you of a breach of any other provision of these Terms and failure, as determined by us, in our sole discretion, to cure such breach within such 5-day period.

17.4. Upon our suspension of your use of any Service, in whole or in part, for any reason: (i) fees will continue to accrue for any Service that is still in use by you, notwithstanding the suspension; (ii) you remain liable for all fees, charges and any other obligations you have incurred through the date of suspension with respect to the Service; and (iii) all of your rights with respect to the Service shall be terminated during the period of the suspension.

17.5. Upon any termination of these Terms or your access to the Service, for any reason: (i) you remain liable for all fees, charges and any other obligations you have incurred through the date of termination with respect to the Services; (ii) all rights and licenses granted by Vaiyo to you herein shall terminate, (iii) you shall immediately remove all copies of the Platform from all computers, hard drives, networks, and other storage media, (iv) all of your content on the Service (if any) may be permanently deleted by Vaiyo.

17.6. Notwithstanding anything to the contrary in these Terms, the following provisions shall survive and remain in full force and effect following any termination of the parties' obligations under these Terms: Sections 3, 4, 5, 6, 7, 13, 15, 16, 17, 18, 21, 22, 23, 24, and 25.

## 18. DMCA

The Digital Millennium Copyright Act of 1998 (the "DMCA") provides recourse for copyright owners who believe that material appearing on the Internet infringes their rights under U.S. copyright law. Vaiyo will promptly process and investigate notices of alleged infringement and will take appropriate actions under the DMCA and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to Vaiyo at [info@vaiyo.io](mailto:info@vaiyo.io) (subject line: "DMCA Takedown Request"). You may also contact us by mail at:

**Attention:**

DMCA c/o Office Manager at Vaiyo OÜ  
Väike-Paala tn 2, Lasnamäe linnaosa, Tallinn, Harju maakond, 11415, Estonia  
Notice: To be effective, the notification must be in writing and contain the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- a description of the copyrighted work or other intellectual property that you

claim has been infringed;

- a description of where the material that you claim is infringing is located on the Service, with enough detail that we may find it;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law;
- a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.
- your physical or electronic signature;
- identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- a statement that you have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content; and
- your name, address, telephone number, and e-mail address, a statement that you consent to the jurisdiction of the federal court located within the Northern District of California and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by Vaiyo, Vaiyo will send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at Vaiyo's sole discretion.

**Repeat Infringer Policy:** In accordance with the DMCA and other applicable law, Vaiyo has adopted a policy of terminating, in appropriate circumstances and at Vaiyo's sole discretion, the access to the Service of Platform users who are deemed to be repeat infringers. Vaiyo may also at its sole discretion limit access to the Service and/or terminate the access of any Platform users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

## **19. EXPORT COMPLIANCE**

Vaiyo's platform may be subject to [Export Control Regulation \(EU\) 2021/821](#) that enters into force on 9 September 2021 following its adoption on 20 May 2021.

You warrant that you are (1) not located in Cuba, Iran, North Korea, Sudan, or Syria, and (2) not a denied party as specified in the regulations listed above.

You agree to comply with all applicable export and re-export control laws and regulations, mentioned in Export Control Regulation (EU) 2021/821. Specifically, you covenant that you shall not — directly or indirectly — sell, export, re-export, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received from Vaiyo under these Terms to any destination, entity, or person prohibited by the laws or regulations of the

EU or United States, without obtaining prior authorization from the competent government authorities as required by those laws and regulations.

Furthermore, you agree to indemnify, to the fullest extent permitted by law, Vaiyo from and against any fines or penalties that may arise as a result of your breach of this provision. This export control clause shall survive termination or cancellation of these Terms.

## **20. Modifications**

We reserve the right to change, modify, or update the Website and Platform at any time, to impose additional restrictions or limitations on the Service (including, without limitation, the maximum period of time that data or other content will be retained by the Service and the maximum storage space that will be allotted on Vaiyo's servers on your behalf), or to change, modify or update the fees charged for all or a portion of the Service. You agree that Vaiyo has no responsibility or liability for the deletion or failure to store any data or other content maintained or transmitted by the Service. Vaiyo may decide what features to include in the Service and whether to make them optional or mandatory. You further acknowledge that Vaiyo reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

We also reserve the right to change, modify or update the Terms at any time. If we revise the Terms, we will post the revised Terms on our Website, and you consent to receiving notice of any changes through such posting. If required by law, Vaiyo will also provide you notice of changes as provided in Section 25.2. If you do not agree to the revisions, you must cease to use the Platform. Your continued use of the Platform or use components of the Service on Your Product after the posting of the revised Terms means that you have accepted the new Terms; provided that material modifications are effective upon your acceptance of the revised Terms. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

## **21. NO VAIYO WARRANTIES**

VAIYO DOES NOT REPRESENT OR WARRANT THAT THE WEBSITE, PLATFORM OR THE SERVICE COMPLIES WITH ANY LEGAL REQUIREMENTS, IS FREE OF INACCURACIES, ERRORS, BUGS, OR INTERRUPTIONS (INCLUDING WITHOUT LIMITATION SERVICE SUSPENSIONS), OR IS RELIABLE, ACCURATE, COMPLETE, OR OTHERWISE VALID. THE WEBSITE, PLATFORM AND THE SERVICE ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITH NO WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND AND VAIYO EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LEGALITY, AVAILABILITY, SECURITY, TITLE AND/OR NON-INFRINGEMENT. YOUR USE OF THE WEBSITE, PLATFORM AND THE SERVICE ARE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM THEIR USE, INCLUDING, BUT NOT LIMITED TO, ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OR CORRUPTION OF DATA.

## **22. LIMITATION OF LIABILITY**

VAIYO WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR OTHERWISE), STATUTE OR ANY OTHER LEGAL THEORY (i) FOR ANY LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH USE OF THE WEBSITE, PLATFORM OR THE SERVICE, ANY SERVICE SUSPENSION, OR ANY OTHER PECUNIARY LOSS, WHETHER OR NOT VAIYO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (ii) FOR ANY AMOUNT IN EXCESS OF 100.00 EURO OR, IF GREATER, THE FEES PAID BY YOU TO VAIYO IN THE SIX (6) MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTION 21 AND THIS SECTION 22 MAY NOT APPLY TO YOU.

## **23. INDEMNITY AND WAIVER**

You agree to indemnify, defend, and hold Vaiyo OÜ and its affiliates, officers, directors, agents, service providers, partners, and employees harmless from any claim, demand or allegation made by any third party, and all related losses, damages, liabilities, costs and expenses (including attorneys' fees), that it is any way related to:

- your use of the Website, Platform or the Service;
- use of the Service by your users;
- any claims for copyright infringement, defamation, invasion of privacy or right of publicity arising out of or in connection with any unauthorized use of the Service and your content on the Service; and
- your breach of any representation, warranty or covenant included in these Terms.

The foregoing indemnity provision shall be in addition to and not in lieu of any other indemnification obligations set forth in these Terms.

## **24. Dispute Resolution**

24.1. Any disputes between the Service Provider and the User shall be subject to resolution by way of negotiations.

24.2 the case that the Parties fail to reach an immediate agreement on the spot, the complaint shall be filed in writing or in another agreed manner.

24.3 The complaint shall refer to the circumstances and the document on the basis of which the complaint is filed. If the User refers to a document in the complaint that is not freely accessible to the Service Provider, the document shall be enclosed with the complaint.

- 24.4 The Service Provider shall review the complaint and give notification of its decision in the manner agreed on (e.g., orally, in writing, electronically) within 15 (fifteen) days after receiving the complaint at the latest. If the complaint cannot be replied to within the aforementioned time due to its complexity or the necessity to clarify additional circumstances, the person who filed the complaint will be notified of it as well as of the term during which the complaint will be replied to.
- 24.5 If the Parties fail to reach an agreement, the User shall be entitled to have recourse to extrajudicial institutions indicated in the Procedure for Handling User's Complaints in order to have the dispute settled and/or request an impartial second opinion.
- 24.6 Any court action between the Parties shall be resolved in the Harju County Court in Estonia which has exclusive jurisdiction for resolving disputes arising under the Agreement.
- 24.7 The Transaction Relations between the Parties shall be governed by the laws in force in Estonia unless agreed otherwise by the Parties.
- 24.8 Supervision over the Service Provider shall be exercised by the Consumer Protection and Technical Regulatory Authority, address: Endla 10A, 10122 Tallinn, Estonia, telephone:+3726672000, fax:+3726672001, e-mail:info@ttja.ee, website: <https://www.ttja.ee>.

## **25. Miscellaneous**

- 25.1. General. These Terms govern your use of the Website, Platform and the Service and constitute the entire agreement between you and Vaiyo regarding the subject matter hereof. These Terms supersede any prior agreements between you and Vaiyo relating to your use of the Website, Platform and the Service (including, but not limited to, any prior versions of these Terms). The failure of Vaiyo to exercise or enforce any right or provision of these Terms does not constitute a waiver of that right or provision, and a waiver of any default is not a waiver of any other default. If a court of competent jurisdiction finds any provision of these Terms to be invalid, the provision shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the parties' original intentions as reflected in the provision, and so that the other provisions of the Terms remain in full force and effect. All headings in the Terms are for convenience only and have no legal or contractual effect. The Terms are personal to you and may not be assigned or transferred for any reason whatsoever (including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control involving you) without Vaiyo's prior written consent and any action or conduct in violation of the foregoing shall be void and without effect. Vaiyo expressly reserves and shall have the right to assign the Terms and to delegate any of its obligations hereunder.
- 25.2. Notices. We may send you any notices, including those regarding changes to these Terms, to the email address you provided when you requested your access or through any other reasonable means. Any notices to Vaiyo must be sent to: Vaiyo OÜ, Väike-Paala tn 2, Lasnamäe linnaosa, Tallinn, Harju maakond, 11415,

Estonia via first class or air mail or overnight courier and are deemed given upon receipt.

- 25.3. **Governing Law.** These Terms shall be governed by the laws of the Estonia, without giving effect to principles of conflict of laws. You hereby consent to the exclusive jurisdiction and venue of the state courts sitting in Harju County Court to resolve any disputes arising under these Terms.
- 25.4. **Additional Terms.** Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the “Additional Terms”). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.
- 25.5. **Consent to Electronic Communications.** By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.
- 25.6. **No Support.** These Terms do not entitle you to any support for the Website, Platform or the Service, unless you make separate arrangements with Vaiyo and pay all fees associated with such support (if any). Any such support provided by Vaiyo shall be subject to the Terms as modified by the associated support agreement.