



**TERMS AND CONDITIONS**  
Last Updated August, 2024

THESE TERMS AND CONDITIONS are part of a binding agreement between Vaidio Inc. USA, a Delaware corporation, solely on behalf of itself along with its affiliates and subsidiaries (together, "Vaidio"), and the individual or legal entity accepting the Terms and Conditions (as defined below) ("Customer"), and applies to Customer's use of Vaidio's software licenses and related products and services (the "Products"). Vaidio and Customer may be referred to herein as a "Party" and collectively as the "Parties".

These Terms and Conditions, the Purchase Order(s), and the End User License Agreement governing Customer's use of the Products ("EULA") are collectively referred to as the "Agreement" and form a binding agreement between Vaidio and Customer.

**Article 1 – Products; Term and Renewal; Pricing; DOA**

1.1 **Purchase Order.** Customer shall buy, and Vaidio shall sell to the Customer, the Products by submitting a signed purchase order in a form approved by Vaidio (a "Purchase Order"). CUSTOMER'S SUBMISSION OF A PURCHASE ORDER SHALL REPRESENT CUSTOMER'S ACCEPTANCE OF AND AGREEMENT TO BE BOUND BY THE AGREEMENT. Purchase orders need only be executed by Customer. The provision of a Product by Vaidio shall indicate its acceptance of the applicable Purchase Order. Customer acknowledges that it is solely responsible for the accuracy of all Purchase Orders and other information that it provides Vaidio from time to time. Customer understands and acknowledges that certain taxes, fees, or surcharges associated with a Product may not be quoted in the Purchase Order.

1.2 **Credit Information.** Customer authorizes Vaidio to obtain any credit information necessary to establish Customer's account. Customer authorizes release of such information by any and all third parties to Vaidio and its affiliates. Vaidio reserves the right in its sole discretion to decline new Purchase Orders and require that Customer post appropriate advance payments for new and existing Products. Any required pre-payments must be paid to Vaidio within seven (7) days.

1.3 **Term and Renewal; Termination Notice.** The initial term for each Product sold on a subscription basis shall be set forth in the applicable Purchase Order (the "Initial Term"). The Initial Term shall begin on the date that Vaidio notifies Customer that the Product has been activated ("Product Date"). Unless a Party provides the other Party written notice of termination at least thirty (30) days prior to the expiration of the then-current Term (the "Termination Notice Period"), the term of each Purchase Order shall automatically continue in full force for successive renewal terms that are equivalent to the Initial Term (each a "Renewal Term", with the Initial and the Renewal Term collectively referred to herein as the "Term"); however, in such case Customer shall be obligated to pay Vaidio the early termination charges as set forth in



Article 3.2 of this Agreement. In all such cases, billing for a Product shall continue until the end of the Termination Notice Period.

1.4 Pricing. The prices or rates for all Products shall be set forth in the Purchase Order.

1.5 Product Replacements: In the event that any Product is found to be Dead-on-Arrival (DOA), Vaidio shall use its commercially reasonable and expedient efforts to ship, at Vaidio's sole expense, a replacement product to Customer, and Customer shall return the original product to Vaidio at Vaidio's sole expense. All Products not rejected by Customer within thirty (30) days of receipt shall be deemed accepted.

## Article 2 – Payment; Disputes; Fraud; Taxes and Surcharges

2.1 Billing Commencement; Withholding; Tax Exemption. Customer's obligation to begin paying for the Products according to the frequency set forth in the applicable Purchase Order starts on the Product Date. Vaidio shall bill Customer according to the terms of the Purchase Order in advance for all recurring charges, non-recurring upfront charges, and all applicable taxes, fees and surcharges. Usage-based charges and other non-recurring charges will be invoiced by Vaidio in arrears. All payments made by Customer must be made without deduction or withholding for or on account of any tax. In the event and to the extent that Customer believes it is exempt under applicable law from any tax, Customer shall provide Vaidio an appropriate tax exemption certificate, in a form reasonably acceptable to Vaidio and to the relevant jurisdiction, demonstrating that it maintains tax exempt status from collection of all or part of the taxes. In the event that Customer provides a tax exemption certificate in accordance with the preceding sentence, it shall be effective as of the date of receipt by Vaidio. If Customer has not provided any such certificate, Vaidio shall be entitled to include on any invoice, and Customer shall be obligated to pay any lawfully imposed tax.

2.2 Invoicing; Payment Terms; Late Payment. All invoices are due upon receipt, payable in U.S. dollars by company check, ACH, wire transfer, or credit card. Unless different terms are set forth on the applicable Purchase Order, if Customer fails to pay any amount within thirty (30) days of the applicable invoice date, then, in addition to any other remedies available to Vaidio under the Agreement, Vaidio may charge interest on overdue amounts at a rate of one-and-one-half percent (1.5%) per month until the sum is paid in full. Payments will be applied to Customer's account in accordance with Customer's written remittance instructions. If no remittance instructions are provided, payments will be applied to the oldest outstanding balance on Customer's account. Customer will be responsible to Vaidio for any expenses including all collection costs incurred by Vaidio to collect overdue charges. Customer shall pay to Vaidio a fee of twenty-five dollars (US\$25.00) for each returned check or other rejected payment. If Vaidio reinstates any Product that has been suspended, Vaidio may charge Customer a reinstatement fee.

2.3 Back Billing. Vaidio will endeavor to bill Customer for Products on a timely basis.



However, unless proscribed by law, Customer shall be liable for all charges irrespective of any delay in billing. No such delay shall constitute a basis for a claim of waiver, estoppel or other excuse of Customer's obligation to pay for Products provided irrespective of the length of delay. Nothing in the Agreement shall toll the running of any statute of limitations applicable to such obligations.

**2.4 Disputes.** Customer may in good faith dispute an invoice or a portion of an invoice by providing written notice to Vaidio within sixty (60) days from the date of the applicable invoice. To be valid, any dispute must be accompanied by documentation supporting the dispute. If Customer fails to pay the undisputed charges by the applicable due date, Vaidio may, without further notice, exercise its rights set forth in the Agreement. If Vaidio does not receive written notification of a dispute within such sixty (60) day period, Customer shall be deemed to have waived its right to dispute such charges for any reason. Vaidio will attempt to respond to any dispute within thirty (30) days of its receipt of such written dispute with its determination of the validity of the dispute and, if an adjustment to the disputed charges is required, Vaidio shall use its commercially reasonable efforts to make any such changes within sixty (60) days following its determination. Acceptance of late or partial payments shall not waive any of Vaidio's rights. In the event a dispute is resolved against Customer, Customer shall pay the total amount withheld, plus interest as set forth herein from the date the payment was due, within five (5) business days of Vaidio's determination.

**2.5 Obligation to Pay.** Customer expressly acknowledges and agrees that it shall make payment in full to Vaidio for all Products provided by Vaidio to Customer pursuant to the Agreement and properly billed to Customer. It is the express intention of the Parties that Customer and not Vaidio shall bear the risk of any unauthorized or fraudulent use of the Products.

**2.6 Taxes, Fees, Surcharges.** The Products may be subject to a combination of fees and federal, state or local taxes or surcharges. Vaidio may add line items to Customer's invoice for such items that Vaidio is required to collect and remit to governmental entities in connection with the Products.

### **Article 3 – Termination; Suspension of Product; Early Termination**

**3.1 Termination; Suspension of Products.** Vaidio may terminate any and all Products or suspend Products without any liability to Customer at any time if Customer (a) if Customer fails to timely pay any amounts when due; (b) Customer fails to perform or comply with any obligation under the Agreement; (c) Customer or anyone using the Products fails to comply with or violates the EULA (as defined herein); (d) Customer files for bankruptcy or insolvency or a trustee or receiver is appointed over all or some of Customer's assets, or (e) Vaidio determines that Customer has resold or otherwise transferred the Products or associated software in violation of the Agreement (each a "Termination for Breach").



**3.2 Early Termination.** In the event Vaidio Terminates for Breach or Customer elects to terminate any Product following its execution of an applicable Purchase Order but prior to the expiration of the Term without cause, except as otherwise detailed, Customer shall pay, in addition to any amounts owed to Vaidio through the effective date of such termination, an early termination fee equal to (a) fifty percent (50%) of the pro-rated charges remaining in the Term plus (b) any previously-waived non-recurring charges and/or any promotional credits provided to Customer in connection with its purchase of the terminated Products (the “Early Termination Fee”). Customer acknowledges and agrees that the Early Termination Fee is a genuine estimate of the loss and damage likely to be suffered by Vaidio and is not a penalty. Any applicable Early Termination Fee shall be paid by Customer within thirty (30) days of the date of the applicable invoice including the Early Termination Fee.

#### **Article 4 – Disclaimer of Warranties; Limitation of Liabilities; Indemnification**

**4.1 Disclaimer of Warranties.** EXCEPT FOR THE WARRANTIES EXPLICITLY SET FORTH IN THE VAIDIO EULA, VAIDIO MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING OR RELATING TO THE PRODUCTS, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER IN CONNECTION WITH THE PRODUCTS, INCLUDING UPDATES OR SUPPORT. WITHOUT LIMITING THE FOREGOING, VAIDIO HEREBY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR TITLE. VAIDIO DOES NOT WARRANT THAT THE PRODUCTS WILL MEET CUSTOMER’S REQUIREMENTS, THAT THE PRODUCTS PROVIDE 100% ACCURACY, THAT THE PRODUCTS PROVIDE FAIL-SAFE PROTECTION FROM ANY HARM, OR THAT THE PRODUCTS’ OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER IS RESPONSIBLE FOR

TAKING ALL NECESSARY PRECAUTIONS TO PROTECT ITS DATA AND SYSTEMS FROM LOSS OR DAMAGE. VAIDIO MAKES NO REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, THAT THE PRODUCTS WILL PREVENT ANY LOSS, DAMAGE OR INJURY TO ANY PERSON OR PROPERTY, WHETHER BY REASON OF BURGLARY, THEFT, HOLD-UP, FIRE OR ANY OTHER CAUSE, OR THAT THE PRODUCTS WILL IN ALL CASES PROVIDE THE PROTECTION FOR WHICH THEY ARE INSTALLED OR INTENDED. CUSTOMER ASSUMES ALL RISK FOR LOSS OR DAMAGE TO CUSTOMER’S PREMISES, CONTENTS, BUSINESS INTERRUPTION, OR PERSONS ON OR AROUND ITS PREMISES.

**4.2 No Consequential Damages.** NEITHER VAIDIO, NOR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, OR REPRESENTATIVES OF ANY OF THEM, SHALL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, THAT MAY ARISE OUT OF OR IN CONNECTION WITH CUSTOMER’S USE OF THE PRODUCTS, EVEN IF THE OTHER PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OR COSTS OCCURRING AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE. EXCEPT FOR



BREACHES OF THE AGREEMENT BY VAIDIO OR VAIDIO COMMITTING GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, CUSTOMER, REPRESENTING ALL MEMBERS OF CUSTOMER'S ORGANIZATION WHO USE THE PRODUCTS, HEREBY RELEASES VAIDIO AND ALL ITS OFFICERS, AGENTS, EMPLOYEES, SUBSIDIARIES, AND BUSINESS AFFILIATES FROM ANY AND ALL CLAIMS OF ANY COUNTRY, FEDERAL, STATE AND LOCAL LAWS OF VIOLATIONS DO TO THE USE OF FACE RECOGNITION AND RELATED ANALYTICS, OR DUE TO THE VIOLATION OF BIOMETRIC PRIVACY LAWS DIRECTLY CAUSED BY CUSTOMER. YOU HEREBY CONSENT NOT TO FILE ANY ACTION AT LAW OR IN EQUITY AGAINST VAIDIO AND ALL ITS OFFICERS, AGENTS, EMPLOYEES, SUBSIDIARIES, AND BUSINESS AFFILIATES.

4.3 Cap on Liability. IN NO EVENT WILL THE COLLECTIVE LIABILITY OF VAIDIO OR CUSTOMER, OR THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS AND REPRESENTATIVES, TO THE OTHER PARTY FOR ANY AND ALL DAMAGES, INJURIES, AND LOSSES ARISING FROM ANY AND ALL CLAIMS AND CAUSES OF ACTION ARISING OUT OF, BASED ON, RESULTING FROM, OR IN ANY WAY RELATED TO THIS AGREEMENT, EXCEED THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER FOR THE USE OF THE PRODUCTS UNDER THIS AGREEMENT DURING THE 24-MONTH PERIOD PRECEDING THE DATE OF THE CLAIM. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT WILL NOT ENLARGE OR

EXTEND THE LIMITATION OF MONEY DAMAGES WHICH WILL BE THE CLAIMANT'S SOLE AND EXCLUSIVE REMEDY.

4.4 Indemnification. CUSTOMER AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND VAIDIO, ITS OFFICERS, DIRECTORS, EMPLOYEES, CUSTOMERS, AGENTS AND SUCCESSORS, FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED IN CONNECTION WITH ANY ACTION ARISING OUT OF OR RELATING TO CUSTOMER'S USE OF THE PRODUCTS, OR THE PERFORMANCE OR FAILURE OF PERFORMANCE OF THE PRODUCTS, INCLUDING (A) CUSTOMER'S RESALE OR DISTRIBUTION OF ANY SERVICE OR ASSOCIATED SOFTWARE TO ANY END USER VIA ANY METHOD, WHETHER PERMITTED OR PROHIBITED BY THE AGREEMENT; (B) CUSTOMER'S ILLEGAL USE OF OR ANY MISUSE OF ANY SERVICE OR ASSOCIATED SOFTWARE IN VIOLATION OF THE AGREEMENT, LAWS, RULES, REGULATIONS (INCLUDING ANY AND ALL SUCH ILLEGAL USE OR MISUSE BY CUSTOMER'S END USERS, EMPLOYEES, AGENTS OR CONTRACTORS); AND (C) ANY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CUSTOMER, ITS END USERS, EMPLOYEES, AGENTS OR CONTRACTORS.

## Article 5 – EULA

5.1 EULA. Customer shall comply with, and will ensure that all users of the Products comply with Vaidio's End User License Agreement ("EULA"). Vaidio may suspend or cancel the Products if Customer or its end users or anyone else using the Products provided to Customer violates the EULA. Customer acknowledges that Vaidio may amend the EULA from time to time



without notice, and that Customer is responsible for compliance with the then-current version of the EULA.

5.2 **Auditing Rights and Required Records.** Upon Vaidio's written request, Customer shall certify in a signed writing that Customer's use of the Product is in full compliance with the terms of the Agreement. Vaidio may, upon prior reasonable notice of at least ten (10) days, inspect and audit Customer's records and use of the Products to confirm Customer's compliance with this Agreement. All such inspections and audits will be conducted during regular business hours and in a manner that does not unreasonably interfere with Customer's business activities. Customer is responsible for such audit costs only in the event the audit reveals that Customer's use is not in accordance with the Agreement and for unpaid fees.

## Article 6 – General Provisions

6.1 **Notices.** All notices and other communications under the Agreement shall be in writing and shall be deemed to have been delivered in the absence of evidence of earlier delivery: (a) on the delivery date, if delivered by hand; (b) the next business day after being deposited for delivery with a recognized overnight courier; or (c) three business days after deposit in U.S. domestic regular mail. Notices sent to Customer must be sent to Customer at the address set forth on the applicable Purchase Order and any notice to Vaidio must be sent to Vaidio Inc. USA, 263 Tresser Blvd Fl 9, Stamford, CT 06901 USA. Either party may, by similar notice given, change the address to which future notices or other communications shall be sent.

6.2 **Force Majeure.** Vaidio shall not be liable for any failure to perform caused by circumstances beyond its reasonable control which would otherwise make such performance commercially impractical including, but not limited to, acts of God, fire, flood, acts of war, pandemics, government action, accident, labor difficulties or shortage, inability to obtain materials, equipment or transportation (each, a "Force Majeure Event"). If a Force Majeure Event lasts longer than five (5) business days, the parties will meet to determine if performance under the Agreement can resume as agreed. If the parties cannot agree, then Vaidio may terminate the applicable Purchase Order or this Agreement.

6.3 **Independent Contractor; No Third Parties.** The Parties agree that they are independent contractors and that the Agreement and relations between the Parties hereby established do not constitute a joint venture, agency or contract of employment between them, or similar relationship. Neither Party has the right or obligation to create an obligation of responsibility on behalf of the other. No provision of the Agreement shall be enforceable by any third party.

6.4 **Assignment.** Customer may not assign or otherwise transfer any of its rights under the Agreement without the prior written consent of Vaidio. Vaidio may assign or transfer any of its rights under the Agreement to any parent, subsidiary, or affiliated company or to a successor company pursuant to a reorganization or merger of its business or to any successor pursuant to any sale of all or substantially all of its assets without the prior written consent of Customer.



**6.5 Disputes; Binding Arbitration; Class Action Waiver.** This Section 7.5 applies to any dispute except it does not include a dispute relating to the enforcement or validity of either Party's intellectual property rights. The term "Dispute" means any dispute, action, or other controversy between you and Vaidio concerning the Agreement, whether in contract, warranty, tort, statute, regulation, ordinance, or any other legal or equitable basis. The term Dispute will be given the broadest possible meaning allowable under law.

**6.5.1 Notice of Dispute.** In the event of a dispute, Customer or Vaidio must give the other Party a Notice of Dispute, which is a written statement of the name, address and contact information of the party giving it, the facts giving rise to the dispute, and the relief requested. Customer must send any Notice of Dispute by U.S. Mail to Vaidio, ATTN: Legal, 263 Tresser Blvd., Fl 9, Stamford, CT 06901, USA. Vaidio will send any Notice of Dispute to Customer by U.S. Mail or to Customer's e-mail address. Customer and Vaidio will attempt to resolve any dispute through informal negotiation within sixty (60) days from the date the Notice of Dispute is sent. After such timer period, Customer or Vaidio may commence arbitration.

**6.5.2 Binding arbitration.** If Customer and Vaidio do not resolve any dispute by informal negotiation or in small claims court, any other effort to resolve the dispute will be conducted exclusively by binding arbitration. Customer hereby gives up the right to litigate (or participate in as a party or class member) all disputes in court before a judge or jury. Instead, all disputes will be resolved before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the Federal Arbitration Act. Any court with jurisdiction over the parties may enforce the arbitrator's award.

**6.5.3 Class action waiver.** Any proceedings to resolve or litigate any dispute in any forum will be conducted solely on an individual basis. Neither Customer nor Vaidio will seek to have any dispute heard as a class action, private attorney general action, or in any other proceeding in which either party acts or proposes to act in a representative capacity. No arbitration or proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.

**6.5.4 Arbitration procedure, costs, fees and incentives.** Any arbitration will be conducted by the American Arbitration Association (the "AAA") under its Commercial Arbitration Rules and in many cases its Supplementary Procedures for Consumer Related Disputes.

**6.5.5 Claims or disputes.** Claims or disputes must be filed within one year of the date on which the event giving rise to such claim or dispute could first be filed. To the extent permitted by law, any claim or dispute under this agreement to which this Article 7.5 applies must be filed within one year in small claims court or in arbitration. If such a claim or dispute is not filed within one year, it is permanently barred.



**6.6 Governing Law.** The Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Connecticut, USA, and the federal laws of the United States of America applicable therein, without regard to choice of law principles. The Parties agree that the exclusive venue for any and all controversies or claims arising out of or in connection with the Agreement shall be in Stamford, Connecticut, USA. EACH PARTY HEREBY VOLUNTARILY AND IRREVOCABLY WAIVES ALL DEFENSES OF LACK OF PERSONAL JURISDICTION AND FORUM NON-CONVENIENS. EACH PARTY VOLUNTARILY AND IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION OR OTHER PROCEEDING BROUGHT IN CONNECTION WITH THE AGREEMENT. ANY ACTIONS OR LAWSUITS SHALL BE CONDUCTED SOLELY ON AN INDIVIDUAL BASIS AND THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO BRING ANY ACTION, LAWSUIT OR PROCEEDING AS A CLASS OR COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR IN ANY OTHER

**PROCEEDING IN WHICH ANY PARTY ACTS OR PROPOSES TO ACT IN A REPRESENTATIVE CAPACITY.**

**6.7 Entire Agreement.** The Agreement represents the complete and final agreement which supersedes any and all other agreements, whether written or oral, including but not limited to any advertising, brochures, proposals, offers, negotiations, representations, or understandings regarding the subject matter hereof. This Agreement may be modified only in writing signed by both Parties. The Agreement and its provisions stated herein shall modify and replace all previously entered agreement(s) between Vaidio and Customer and shall be applicable to all Products either subsequently or previously provided by Vaidio tto Customer. No provision of the terms herein may be waived unless agreed to in writing signed by the Party to be bound by the waiver.

**6.8 Severability.** If any term, clause, provision, covenant or condition contained in the Agreement is found to be illegal or unenforceable as to all or some parts of a dispute, all other terms, clauses, provisions, covenants or conditions of the Agreement shall remain in force and effect, and the term, clause, provision, covenant or condition held illegal or unenforceable shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law.

**6.9 Survival.** The Terms and Conditions regarding confidentiality, indemnification, warranties, payment and all others that by their context are intended to survive the expiration or termination of the Agreement will survive and continue in force and effect.

**6.10 Waiver.** Failure by either Party to insist upon strict and complete performance of any or all Terms and Conditions shall not constitute or be construed as a waiver of that Party's right to enforce such provision or any other provision.