

# Terms of Use and End User License Agreement

Last updated: March 2022

## I. INTRODUCTION

These Terms of Use and End User License Agreement (collectively, the “Agreement”) together with all the documents referred to in it constitute a legally binding agreement made between you as a natural person (“you”, “your” or “user”) and AIBY Inc. (“we,” “us” or “our”), concerning your access to and use of the Website, available at <https://aiby.com/> (hereinafter, the “Website”). All the documents that relate to the Website are hereby expressly incorporated herein by reference.

Please read this Agreement carefully before using the Website.

It is important that you read and understand this Agreement as by using the Website you indicate that you have read, understood, agreed and accepted the Agreement. By using the Website you agree to abide by this Agreement.

If you do not agree with (do not accept) this Agreement, or if you do not agree at least with one of the provisions of this Agreement, you are not authorized to, and you may not access and/or use the Website and you must promptly discontinue accessing and/or using the Website.

## II. CHANGES TO THIS AGREEMENT

We reserve the right, at our sole discretion, to make changes or modifications to this Agreement at any time and for any reason. We will keep you informed about any changes by updating this Agreement and you waive any right to receive specific notice of each such change. It is your responsibility to periodically review this Agreement to stay informed of updates. You will be subject to, and will be deemed to be aware of and to have accepted, the changes in any revised Agreement by your continued use of the Website after the date such revised Agreement is posted.

## III. RESTRICTIONS ON WHO CAN USE THE WEBSITE

In order to access and/or use the Website, you must be eighteen (18) years of age or older. All users who are minors in the jurisdiction in which they reside (generally under the age of 18) must have the permission of, and be directly supervised by their parent or guardian to access and/or use the Website, so if you are between the ages of thirteen (13) and seventeen (17) years and you wish to access and/or use the Website, before doing so you must: (a) assure and confirm (if needed) that your parent or guardian have read and agreed (get your parent or guardian’s consent) to this Agreement prior to your access and/or use the Website; (b) have the

power to enter a binding contract with us and not be barred from doing so under any applicable laws.

Parents and guardians must directly supervise any access and/or use of the Website by minors.

**Any person under the age of thirteen (13) years is not permitted to access and/or use the Website.**

You affirm that you are either more than eighteen (18) years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Agreement, and to abide by and comply with this Agreement.

#### **IV. GENERAL TERMS**

The Website is developed for general information purposes and is intended only for your personal non-commercial use. You agree not to use the Website for any illegal, inappropriate or unauthorized purpose or activity.

#### **V. PRIVACY POLICY**

Your privacy is very important to us. Accordingly, we have developed the Privacy Policy in order for you to understand how we process, use and store information including personal data. Access to and(/or) using the Website are subject to the Privacy Policy. By accessing and(/or) using the Website, you are deemed to have accepted the Privacy Policy, and in particular, you are deemed to have acknowledged the ways we process your information as well as appropriate legal grounds for processing described in the Privacy Policy. We reserve the right to amend the Privacy Policy from time to time. If you disagree with any part of the Privacy Policy, you must immediately stop accessing and(/or) using the Website. Please read our [Privacy Policy](#) carefully.

#### **VI. END USER LICENSE AGREEMENT**

By using the Website, you undertake to respect our intellectual rights (intellectual rights related to the Website's source code, graphic design, user interface, look and feel of the Website, content material, copyright and trademarks, hereinafter referred to as the "Intellectual Property Rights") as well as those owned by third parties.

As long as you keep using the Website, we grant you a limited, non-exclusive, non-transferable, non-sublicensable, non-assignable and revocable right to access and use the Website pursuant to this Agreement (the "License").

**You may use our Website solely for your own non-commercial purposes. You are bound to respect the copyrighted material within the Website, you cannot sell pictures available on the Website.**

The source code, design and content, including information, photographs, illustrations, artwork and other graphic materials, sounds, music or video (hereinafter – the “works”) as well as names, logos and trademarks (hereinafter – “means of individualization”) within the Website are protected by copyright laws and other relevant laws and/or international treaties, and belong to us and/or our partners and/or contracted third parties, as the case may be.

These works and means of individualization may not be copied, reproduced, retransmitted, distributed, disseminated, sold, published, broadcasted or circulated whether in whole or in part, unless expressly permitted by us and/or our partners and/or contracted third parties, as the case may be.

All rights, title and interest in and to the Website and its content, works and means of individualization as well as its functionalities (1) are the exclusive property of AIBY Inc. and/or our partners and/or contracted third parties, (2) are protected by the applicable international and national legal provisions, and (3) are under no circumstances transferred (assigned) to you in full or in part within the context of the license herewithin.

We will not hesitate to take legal action against any unauthorized use of our trademarks, names or symbols to protect and restore our rights. All rights not expressly granted herein are reserved. Other product and company names displayed on the Website or mentioned herein may also be the trademarks of their respective owners.

## **VII. PROHIBITED BEHAVIOUR**

You agree not to use the Website in any way that:

- is unlawful, illegal or unauthorized;
- is defamatory of any other person;
- is obscene or offensive;
- infringes any copyright, database right or trademark of any other person;
- advocates, promotes or assists any unlawful act such as (by way of example only) copyright infringement or computer misuse.

You shall not modify, translate into other languages, reverse engineer, decompile, disassemble or otherwise create derivative works from the Website or any documentation concerning the Website.

You shall not transfer, lend, rent, lease, distribute the Website, or use it for providing services to a third party, or grant any rights to the Website or any documentation concerning the Website to a third party.

Misuse of any trademarks or any other content displayed on the Website is prohibited.

You shall not copy and/or duplicate and/or distribute and/or publish and/or use any content in the Website, directly or indirectly, by way of a violation of our Intellectual Property Rights.

Moreover, you shall not make any attempts to use the Website or part thereof for malicious intentions.

Also we are not responsible for the way you use the Website.

It is clarified that we may adopt, against a user who violated the present Agreement, any legal measures at our disposal pursuant to the applicable laws.

All disputes arising from the usage of the Website, shall be governed by and construed in accordance with the laws of the United States of America, and shall be submitted to the sole jurisdiction of the competent courts of New York, the United States of America.

## **VIII. AVAILABILITY OF THE WEBSITE, SECURITY AND ACCURACY**

In order to use the Website, you are required to have a compatible electronic device (computer, mobile phone or tablet) and Internet access.

We do not warrant that the Website will be compatible with all hardware and software which you may use.

We make no warranty that your access to the Website will be uninterrupted, timely or error-free.

You acknowledge that the Website is provided via the Internet, therefore, the quality and availability of the Website may be affected by factors outside our reasonable control.

We may add new features to the Website, change, update, upgrade, modify it or anything described in it without noticing you. If the need arises, we may suspend access to the Website, or close it indefinitely.

You also warrant that any information that you submit or send us via the Website is true, accurate and complete.

If you decide not to use the Website for any reason you should stop accessing the Website.

## **IX. CHARGES**

Access to some services and/or additional features within the Apps presented on the Website requires paid subscriptions. The full list of Premium options and pricing is provided on the corresponding App's page on AppStore or Google Play. You will have an opportunity to try Premium options during the free trial period as provided on the signup screen. After the free trial period expires an auto-renewing subscription period will start on a regular basis. **Please mind that you will be charged automatically unless you cancel your subscription at least 24 hours before the end of the free trial period.** When you cancel your subscription you will still have access to basic functions of the App. Premium options are available during the whole free trial period.

**Subscription with a free trial period will automatically renew to a paid subscription.** Any unused portion of a free trial period, if offered, will be forfeited when the user purchases a subscription, where applicable. We reserve the right to modify, terminate or otherwise amend our offered subscription plans at any time.

**Your subscription will be automatically renewed within 24 hours before the current subscription ends.** Auto-renew option can be turned off in your *Apple ID account settings* / *Google Play account settings* at least 24 hours before the end of the current period. Payment will be charged to your Apple ID / Google Play Account at confirmation of purchase. No cancellation of the current subscription is allowed during active subscription period. Subscriptions are managed by you. Learn more about managing subscriptions (and how to cancel them) on [Apple support page](#) / [Google's support page](#). Please note that removing the App from your device does not deactivate your subscription.

## **X. THIRD PARTY WEBSITES AND RESOURCES**

The Website may link you to other sites on the Internet and contracted third parties to provide you certain services. We have no control over and accept no responsibility for the content of any website or mobile application to which a link from the Website exists (unless we are the provider of those linked websites or mobile applications). Such linked websites and mobile applications are provided "as is" for your convenience only with no warranty, express or implied, for the information provided within them.

You acknowledge sole responsibility for and assume all risk arising from your use of any third-party websites or resources.

If you have any queries, concerns or complaints about such third party websites or mobile applications (including, but not limited to, queries, concerns or complaints relating to products, orders for products, faulty products and refunds) you must direct them to the operator of that third party website or mobile application.

## **XI. DISCLAIMER OF WARRANTIES**

YOU AGREE THAT YOUR USE OF THE WEBSITE SHALL BE AT YOUR SOLE RISK. THE SERVICES AND ALL THE MATERIALS, INFORMATION, SOFTWARE, CONTENT INTEGRATED IN THE WEBSITE ARE PROVIDED "AS IS" AND "AS AVAILABLE". WE DO NOT MAKE ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH REGARD TO THE MERCHANTABILITY, TECHNICAL COMPATIBILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY SERVICE, PRODUCT, CONTENT OR MATERIAL PROVIDED PURSUANT TO THIS AGREEMENT. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED ON OR THROUGH THE WEBSITE OR ITS SERVICES WILL BE AVAILABLE, UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICES OR THE SERVERS THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

## **XII. LIMITATION OF LIABILITY**

IN NO EVENT SHALL WE BE LIABLE FOR DAMAGES OF ANY TYPE, WHETHER DIRECT OR INDIRECT, ARISING OUT OF OR IN ANY WAY RELATED TO THE WEBSITE AND SERVICES PROVIDED BY THE WEBSITE. WE SHALL NOT BE LIABLE UNDER ANY

CIRCUMSTANCES FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOSS OF PROFIT OR REVENUES, EVEN IF WE HAVE BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WE SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO PRODUCTS, SERVICES AND/OR INFORMATION OFFERED OR PROVIDED BY ANY THIRD-PARTIES AND ACCESSED THROUGH THE WEBSITE OR BY ANY OTHER MEANS. YOU ALSO SPECIFICALLY ACKNOWLEDGE THAT WE ARE NOT LIABLE FOR COSTS OR DAMAGES ARISING OUT OF PRIVATE OR GOVERNMENTAL LEGAL ACTIONS RELATED TO YOUR USE OF THE WEBSITE AND ITS SERVICES IN ANY COUNTRY.

### **XIII. LEGAL COMPLIANCE**

You must 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.

### **XIV. GOVERNING LAW AND CLAIMS**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, USA.

We make no representations that the Website is appropriate or available for use in other locations. Those who access or use the Website from other jurisdictions do so at their own volition and are responsible for compliance with local law.

If you choose to access or use the Website from or in locations outside of the United States, you are responsible for:

- a) ensuring that what you are doing in that country is legal; and
- b) the consequences and compliance by you with all applicable laws, regulations, bylaws, codes of practice, licenses, registrations, permits and authorizations.

Any claims shall be exclusively decided by courts of competent jurisdiction in New York, the State of New York, USA and applicable Federal law shall govern, without regard to choice of law principles.

If you ever wish to seek any relief from us, you agree to waive the ability to pursue class action.

If any controversy, allegation, or claim (including any non-contractual claim) arises out of or relates to the Website and the Services provided by the Website or this Agreement, then you and we agree to send a written notice to each other providing a reasonable description of the dispute, along with a proposed resolution of it. The notice shall be sent based on the most recent contact information. For a period of sixty (60) days from the date of receipt of notice from the other party, you and us will engage in a dialogue in order to attempt to resolve the dispute, though nothing will require either you or us to resolve the dispute on terms which either you or us, in each of our sole discretion, are uncomfortable with.

## **XV. TERMINATION**

We reserve the right to terminate this Agreement at any time at our sole discretion for any reason.

Upon any termination, (a) the rights and licenses granted to you herein shall terminate; (b) you must cease all access and/or use of the Website.

## **XVI. SEVERABILITY**

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, that provision shall be more narrowly construed so that it becomes legal, valid and enforceable or, if this is not possible, deleted. The other terms of this Agreement shall continue to apply with full force and effect.

You shall not assign or transfer or purport to assign or transfer the contract between you and us to any other person.

## **XVII. CONTACT INFORMATION**

We reserve the right to respond to your requests, questions, commentaries or suggestions. For these purposes you can use the form available within the "Contact us" section on the Website or reach us at [askme@aiby.com](mailto:askme@aiby.com).