

# **TERMS OF SERVICE**

**Effective Date: December 14, 2020**

**Last Updated Date: December 14, 2020**

These terms of service (“**Terms**”) apply to visitors and registered users (“**You/Your**”) of the Agora web site, application, and virtual reality program (the “**Service**”) and are legally binding terms. Please read these Terms carefully before registering for, or using, the Agora web site and Service. These Terms are the only terms that govern the provision of the Service by Agora to You. These Terms encompass the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. By accessing the Service, You represent and warrant that You have read, understand, and agree (1) to be bound by the following Terms which also set forth Your conditions of use as a registered user of the Service; (2) that You have the right, authority, and capacity to abide by these Terms; (3) that You agree to comply with all applicable laws and regulations concerning Your access and use of the Service; and (4) that You have entered into a binding agreement with Agora. If You do not want to comply with these Terms, you must not access the web site or the Service.

## **ACCESS TO THE SERVICE**

1. You must be at least 13 years old, or at least the minimum legal age in the jurisdiction from which You are using the Service, in order to access or use the Service. If you are at least 13 but are under the age of 18, You may only use the Platform with Your parent’s or guardian’s consent and Your parent or guardian must provide consent after having read this Terms of Service. In such a case you represent and warrant and covenant that both You and Your parent or guardian have read and consent to these Terms (including all the conditions, limitations, disclaimers, and waivers provided herein). You further acknowledge and agree that by using the Platform You are accepting a benefit that You cannot return or disgorge and that we are relying on Your representations regarding Your ability to accept and perform these Terms, and You therefore waive any right You may have under applicable law to void, rescind, or otherwise avoid these Terms. If You are a parent or guardian consenting to these Terms on behalf of a child between the ages of 13 and 18, You additionally agree to guarantee and be fully responsible for that person’s performance hereunder, including all financial obligations or liability he or she may incur, and all disclaimers and waivers of applicable legal protections provided herein, and You agree to take all actions (including executing such additional documents or agreements) necessary to effect and perfect the foregoing. In all other cases, You represent that you are 18 years or older and fully competent to enter into these Terms, and You hereby agree and acknowledge that You have read, understood, and agree to be bound by these Terms without modification.

2. You cannot access or use the Service for any illegal or unauthorized purpose. International users shall comply with all local laws regarding privacy, online conduct and acceptable content.
3. You must not transmit any worms or viruses or any code of a destructive nature.
4. You must not violate any laws in Your jurisdiction (including but not limited to copyright laws).
5. Use of the Service requires one or more compatible devices, internet access (fees may apply), and certain software (fees may apply), and may require obtaining updates or upgrades from time to time. Because use of the Service involves hardware, software, and Internet access, Your ability to use the Service may be affected by the performance of these factors. High speed Internet access is recommended. You acknowledge and agree that meeting such system requirements, which may be changed from time to time, are Your responsibility.
6. The Service may only be accessed in accordance with the provision of these Terms. Any violation of the intellectual property in the Service, or these Terms may be enforced by Agora, or the owner to the fullest extent allowed by law.
7. If Agora's performance of its obligations under this Agreement is prevented or delayed by any act or omission from You, Agora shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by You, in each case, to the extent arising directly or indirectly from such prevention or delay.
8. You acknowledge and agree that Agora may stop (permanently or temporarily) providing the Service (or any features within the Service) to You or to users generally at Agora's sole discretion, without prior notice to You. You may stop using the Service at any time. You do not need to specifically inform Agora when You stop using the Service. You acknowledge and agree that if Agora disables access to Your account, You may be prevented from accessing the Service, Your account details or any files or other materials which are contained in Your account.
9. You agree not to access (or attempt to access) the Service by any means other than through the interface that is provided by Agora, unless You have been specifically allowed to do so in a separate agreement. You agree that You will not engage in any activity that interferes with or disrupts the Service, and that You are solely responsible for (and that Agora bears no responsibility to You or to any third party for) any breach of Your obligations under these Terms and for the consequences (including any loss or damage which Agora may suffer) of any such breach.
10. Without prior approval and express written permission from Agora, You may not engage in any use which alters in any way the visual presentation or appearance of the Service.

## **USE AND LIMITATIONS TO USE**

1. In order to use the Service, You are required to register. In order to register, You must complete the specified registration process by providing us with current, complete, and accurate information as requested by the applicable online registration form. You will be asked to choose a password and a user name.
2. You shall maintain the confidentiality of Your password and account.
3. You are entirely responsible for any and all activities that occur under Your account.
4. You agree to notify us immediately of any unauthorized use of Your account.
5. You agree to take all measures necessary to safeguard Your account.
6. Agora is not liable for any loss that You may incur as a result of someone else using Your password or account, either with or without Your knowledge.
7. You may stop using the Service and cancel Your account at any time.
8. Except to the extent required for the limited purpose of reviewing material on the Service, electronic reproduction, adaptation, distribution, performance, or display is prohibited.
9. You shall not use any automatic or manual conduct, device, process, software, program, algorithm, methodology or routine, including but not limited to a "robot," "spider" or other similar process or functionality to interfere or attempt to interfere with, or impose an unreasonable burden or load on, the operation of the Platform.
10. You shall not use the Service in a manner that violates applicable law, including but not limited to anti-spam, export control, privacy, and anti-terrorism laws and regulations and laws requiring the consent of subjects of audio and video recordings, and You are solely responsible for compliance with all such laws and regulations.
11. Users of the Service may post content, ideas, and other information, provided that the materials do not contain any unlawful, harmful content, or content which infringes upon the rights of any third party. You acknowledge that by accessing the Service, You may come into contact with content that You find harmful, offensive, threatening, indecent or objectionable and You acknowledge that Agora shall have no liability to You for the content including, but not limited to explicit language and other potentially offensive material. Agora has the right to edit, forbid, and remove any content on the Service.
12. You shall not use the Service to communicate any message or material that is harassing, libelous, threatening, obscene, or indecent, or that violates the intellectual property rights of any party or is otherwise unlawful, such that the use of the Service would give rise to civil liability, or constitute or encourages conduct that could constitute a criminal offense, under any applicable law or regulation.

13. You agree not to upload or transmit any software, content or code that does or is intended to harm, disable, destroy or adversely affect performance of the Service in any way or which does or is intended to harm or extract information or data from other hardware, software or networks of Agora or other users of Service.
14. Recognizing the global nature of the Internet, You also agree to comply with applicable local rules or codes of conduct (including codes imposed by Your employer if any) regarding online behavior and acceptable content and the transmission of technical data exported from or imported to the country in which You reside.
15. Agora reserves the right to investigate and take appropriate action against anyone who, in Agora's sole discretion, is suspected of violating any provision in these Terms, including without limitation, reporting You to law enforcement authorities.
16. Use of the Service is void where prohibited. Although Agora is not responsible for any content you might post that violates any provision of these Terms, Agora may delete any such content of which Agora becomes aware, at any time without notice to You.
17. If You violate these Terms, Agora may, at its sole discretion, terminate Your account, remove or modify any account-related content or access (including, but not limited to, reviews, newsletters, and user profile information), or take any other action that Agora deems appropriate.
18. You agree not to deep-link to the Service for any purpose, unless specifically authorized by Agora.
19. If Agora authorizes You to deep-link a service offered by Your platform to Agora, in addition to and notwithstanding anything to the contrary, You understand and agree that:
  - a. Agora has no obligation to continue to provide or make the service available;
  - b. All conditions, disclaimers and limitations on use set forth in these Terms remain in effect;
  - c. All intellectual property rights relating to Agora and its technology, including all ownership rights, remain the exclusive property of Agora;
  - d. You will be solely responsible for the data and content that You will publish on Your platform;
  - e. Agora may terminate at any time in its sole discretion Your use of the Service.

## **OWNERSHIP, PROPRIETARY INFORMATION, AND INTELLECTUAL PROPERTY.**

### **1. Agora Intellectual Property**

- a. Unless You have been specifically permitted to do so in a separate agreement with Agora, You shall not disclose, reproduce, duplicate, copy, sell, trade or resell any aspect of the Service for any purpose, including, but not limited to, all intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "**Intellectual Property Rights**") of Agora.
- b. Agora reserves all rights not specifically granted herein. You shall not modify any copyright notices, proprietary legends, any trademark and service mark attributions, any patent markings, and other indicia of ownership in the Service or other materials accessed through the Service. The delivery of, and license to, the program and/or access to third party materials does not transfer to You any commercial or promotional use rights in the Service or any portion thereof. Any use of the Service, or descriptions; any derivative use of the Service or its materials; and any use of data mining, robots, or similar data gathering and extraction tools is strictly prohibited.

## 2. **Your Submissions**

- a. The Service will give You the opportunity to publish and/or link Your comments and opinions. Users are permitted to publish such content only as part of the Service and hereby grant to Agora a perpetual, irrevocable, royalty-free license to publish, edit, copy, assign, license, transfer, syndicate, sell or otherwise use such comments and opinions.
- b. By submitting any materials or photographs through the Service, You are representing that You are the rightful owner of the submitted material and that no other person or entity may claim rights to such material. Agora reserves the right to remove infringing material or access to such material. Such actions do not affect or modify any other rights Agora may have under law or contract.

## 3. **Third-Party Content**

- a. The Service may contain links to other sites on the Internet which are owned and operated by external sites ("**External Sites**"). You acknowledge that Agora is not responsible for the availability of, or the materials located on or through, any External Sites. You should contact the site administrator or webmaster for those External Sites if You have any concerns regarding such links or the materials located on such External Sites.
- b. Third party content that You link or publish belongs to such third parties as applicable.

## **REPORTING**

1. If You see objectionable content or have any questions about this Agreement, please contact Agora at ethan@agoravr.world.

### **DISCLAIMERS AND LIMITATIONS**

1. Disclaimer. AGORA MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURED, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCT, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM AGORA OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.
2. Limitations. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. AGORA EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. No arbitration or other claim under these Terms may be brought by either party against the other more than one (1) year after the cause of action arises. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under these Terms if such delay or failure arises by any reason of any event beyond its reasonable control, including any act of God, the elements, earthquakes, floods, fires, epidemics, riots, failures or delay in transportation or communications.
3. Limitation of Liability. YOU EXPRESSLY UNDERSTAND AND AGREE THAT AGORA SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF AGORA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED, OR MESSAGE RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD

PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE.

### **INDEMNITY**

1. You agree to indemnify, defend, and hold harmless Agora, its agents, distributors and affiliates, and their officers, directors and employees from and against any and all claims, actions, demands, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees, resulting from Your breach of any provision of these Terms, or any warranty You provide herein, or otherwise arising in any way out of Your use of the Service.
2. Agora reserves the right to take exclusive control and defense of any such claim otherwise subject to indemnification by You, in which event You will cooperate fully with Agora in asserting any available defenses.

### **CHANGES TO THIS AGREEMENT**

1. Agora reserves the right, in its sole discretion, to modify, suspend, or terminate these Terms, the Service, Your account, and Your password at any time for any reason with or without notice to You.
2. Please review these Terms periodically for changes. Your continued use of the Service constitutes Your acceptance and agreement to be bound by these changes without limitation, qualification or change. If at any time You do not accept these changes, You must immediately discontinue use of the Service.

### **GENERAL LEGAL PROVISIONS**

1. These Terms, Your rights and obligations, Agora's rights and obligations, and all actions contemplated by these Terms will be governed by the laws of the Commonwealth of Pennsylvania.
2. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of or relating to these Terms shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Pennsylvania in each case located in the City and County of Philadelphia, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
3. Use of the Service is unauthorized in any jurisdiction that does not give effect to all provisions of these terms and conditions, including, without limitation, this paragraph.
4. No joint venture, partnership, employment, or agency relationship exists between You and us as a result of these Terms or use of the Service.

5. If any provision in these Terms is invalid or unenforceable under applicable law, including, but not limited to, the warranty disclaimers and liability limitations set forth above, the remaining provisions will continue in full force and effect, and the invalid unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision.
6. Our performance under these Terms is subject to existing laws and legal process, and nothing contained in these Terms is in derogation of our right to comply with law enforcement requests or requirements.
7. All rights not expressly granted herein are hereby reserved. These Terms are the entire and final agreement regarding the Service, and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between You and us with respect to the Service.
8. Severability. If any term or provision of these Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.
9. Survival. Provisions of these Terms, which by their nature should apply beyond Your use of the Service, will remain in force after Your use terminates.
10. Evidence. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.