



## COYERO, INC. TERMS OF SERVICE

Last updated on May 13th, 2019.

***Important:*** By using, downloading or installing any element of the Product (as defined below), you indicate that you have read, understood, and agree to be bound by these COYERO Terms of Service (“Terms”). These Terms govern you (“COYERO Customer”) and your users (“COYERO User”) use of the Product and form a legal contract between COYERO, INC. (“COYERO”, “we” or “us”) and you (“Customer” or “you”). If you are an individual accepting these Terms on behalf of a company or entity, then you are binding the company or entity to these Terms and represent and warrant that you have full power and authority to do so. COYERO may modify these Terms from time to time as described in Section 18 (Modifications to Terms) below.

PLEASE READ THESE TERMS CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THESE TERMS CONTAIN A MANDATORY INDIVIDUAL ARBITRATION AND CLASS ACTION/JURY TRIAL WAIVER PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

- 1. Introduction.** Thank you for using the COYERO Product! The “**Product**” means (a) our authentication and authorization services and features related to grant COYERO user access to services and infrastructure offered on a server suite (“**COYERO Server**”) being accessible over the internet (“COYERO Server components”, or “COYERO Cloud service”), including creation of electronic keys and a set of different attributes, used in combination with (b) the COYERO software modules (“**COYERO Software Development Kits**” or “**COYERO SDK**”) being integrated in applications on (i) mobile devices like smart phones, tablets, watches, cars, wearables or similar (“**COYERO Client**”) and (ii) devices like smart phones, tables, point of sales (“POS”), point of identification (“POI”), other electronic components (“**COYERO Kiosk**”), both (i) and (ii) being able to communicate electronically wireless by means of near field communication (“NFC”) and/or Bluetooth (“BT”, “Bluetooth 4.0”, “BT LE”, or “BLE”) and/or optical using QR codes (c) our specific COYERO Kiosk devices like “COYERO Communication Controller” or “COYERO Gateway” (“**Hardware**”), (d) our related software including the COYERO SDKs and firmware as part of COYERO Hardware or any other hardware (“**Software**”), (e) any Updates and Upgrades (as defined below) and (f) COYERO’s standard user documentation.
- 2. Your Account.** You must be at least 18 years of age to use the Product. Use of the Product may require you to create an account and register your email address and a password. You are solely responsible for any and all actions taken using your account and you must keep



your passwords secure. To use specific features of the product you may be asked to provide more information

### 3. The Product.

1. Use of the Product. Subject to these Terms, including Section 4 (Usage Plans, Fees and Beta Releases) below, you may access and use the Product for your business purposes and in accordance with our standard user documentation. This includes the right to download and use the Software on compatible devices that you own or control or that are delivered to you as part of the Product based upon the conditions outlined in these Terms. You may permit your employees, agents, customers and COYERO user to use the Product on your behalf, but you must remain responsible for their acts, omissions and compliance with these Terms.
2. Restrictions. Your rights to use the Product are non-exclusive, non-transferable and non-sublicensable. You will not (or permit anyone else to): (i) rent, lease, reproduce, modify, create derivative works of, distribute or transfer the Product; (ii) circumvent mechanisms in the Product intended to limit its use; (iii) reverse engineer, disassemble, decompile, or translate the Product or attempt to derive the source code of the Software or any non-public application program interfaces (“APIs”); (iv) publicly disseminate information regarding the performance of the Product; (v) access the Product to build a competitive product or service; (vi) submit any viruses, worms or other harmful code to the Product or otherwise interfere with or cause harm to the Product; (vii) seek to access information or data of other COYERO customers; (viii) use the Product to transmit spam or other unsolicited email; or (ix) use the Product except as expressly permitted herein.

### 4. Usage Plans, Fees and Beta Releases.

1. COYERO Tickets and Transactions: Authorizations to access infrastructure and/or services for authenticated users (COYERO User), being (i) either anonymous users or (ii) electronically identified and registered at your systems, is based on exchange of digital, encrypted, electronic information (“COYERO Ticket”) being issued by the COYERO Server and sent to the COYERO Client. The COYERO Ticket may be redeemed (“COYERO Transaction”) at the COYERO Kiosk within limited or unlimited time initiated by NFC and/or BLE based communication between the COYERO Client and the COYERO Kiosk and/or by reading QR codes being displayed at the COYERO client and read by the COYERO Kiosk. COYERO Tickets may hold additional information about number of their recurrent usage in time and/or date and/or location information or any other information like e.g. cost to access the service. In general, additional information hold is subject the specific Software in use.
2. COYERO Uses: To provide the Product to you, fees are calculated upon use of the product. For a balanced cost-usage scheme COYERO defines the term “COYERO Uses” as a number of at least one up to infinite COYERO Transactions within one calendar month. COYERO Uses may vary between zero and twelve per calendar year



of for one single COYERO User. Our Hardware supports also 3<sup>rd</sup> party products to read contactless chip cards. Any transaction triggered by reading contactless chip cards are excluded from the COYERO Uses.

3. COYERO Engineering Services: Customers may require specific extensions of the product which are offered as Engineering services and are subject to a further agreement. Unless otherwise stated in writing the same terms apply as given in these Terms, in particular also the Sections 13, 14, 15 and 19.
4. Usage Plans. COYERO offers various usage plans for the Product, including:
  - Free trials, which offer limited functionality and will expire if not converted to a paid plan (“**Trial Plans**”) and may be subject to additional “Terms and Conditions for Trail Plan”.
  - Paid subscriptions, which allow you to create an unlimited number of COYERO Tickets and Transactions during a specific subscription period (“**Paid Plans**”); and
  - Paid packages, which let you purchase a specific number of COYERO Uses in of within a defined period of time from the purchase date (“**Paid Package**”).Your permitted scope of use – such as features available and number of issued COYERO Tickets and COYERO users – depends on the plan you select. Current plans are described at [www.coyero.com/us/pricing](http://www.coyero.com/us/pricing) and your specific plan will be identified in the terms presented when you register, order or pay for the Product (“**Order Terms**”). These Terms incorporate the Order Terms and any referenced URLs and COYERO policies. Depending on how you use the Product, the Order Terms may be presented by COYERO (e.g., through our website), by a third party application store or marketplace (“**App Marketplace**”) or through the Product itself. Paid Subscriptions are for limited subscription terms and, if not renewed, the Product will revert to limited (or no) functionality once a subscription term expires. If you have a Trial Plan, you may use the Product solely to determine whether to purchase a Paid Plan.
5. Fees. For Paid Subscriptions and Packages, you must pay all fees and taxes to COYERO or the authorized third party (e.g. App Marketplace) through which you made your purchase, as specified in the Order Terms. Renewals are governed by our Billing Policy (available at [www.coyero.com/us/billing\\_policy](http://www.coyero.com/us/billing_policy)) All fees are non-refundable except as expressly specified in Section 12.2 (Termination or Suspension by COYERO), Section 18 (Modifications to Terms), Section 21 (Apple-Related Terms), the Order Terms or our Billing Policy.
6. Beta Releases. As part of COYERO’s effort to extend the functionality of the Product, certain features of the Product may be made available to customers on a “beta” basis (“**Beta Releases**”). If Customer chooses to use a Beta Release, Customer acknowledges that the Beta Release may not be complete or fully functional and may contain bugs, errors, omissions and other problems. COYERO does not



guarantee that future versions of a Beta Release will be made available under these Terms or otherwise.

7. COYERO use with Payments. If you use COYERO with Payments, the additional terms in Section 9 (COYERO Payments) below apply.
  
5. **Support, Updates and Upgrades.** COYERO uses reasonable efforts to provide email, live chat and online self-help. All support is governed by COYERO's then-current support policies. We may provide updates to the Product ("**Updates**") or upgrades to the Product ("**Upgrades**"). All Updates and Upgrades are governed by these Terms unless we specify otherwise. In certain cases, we may require you to download Updates to continue to use the Product. Upgrades and other Product changes are made in our discretion; we have no liability to you for any such changes and do not guarantee that any changes will meet your needs.
  
6. **End-Users, Reseller and Business Partner:** We reserve the right to refuse selling and shipping the Product to you if we have reason to believe you are not a COYERO customer. Likewise, customer support is only available to the original purchaser. In certain regions we work with companies ("COYERO Business Partner") that have integrated the Product within their own products and/or services and provide the Product to you ("End-User"). COYERO Business Partner must provide the Product under exact the same Terms to End-User. We do not currently sell to or work with resellers.
  
7. **User Data.**
  1. Your Rights. As between COYERO and User, User retains all of its rights to any User information or other data that User submits to the Product ("**User Data**"). Additionally for Users being located in the European Union the COYERO General Data Protection Rules ("**COYERO GDPR**") apply which are available under [www.coyero.com/gdpr/](http://www.coyero.com/gdpr/).
  2. Use of User Data: User grants COYERO a worldwide, non-exclusive, royalty-free right to use, copy, store, transmit, distribute, publicly perform and display, create derivative works of and modify any User Data in order to provide the Product to User and otherwise to operate, improve and maintain the Product. This includes COYERO's distribution of issued COYERO Tickets, authorizations, independent from its format and content, containing anonymized User Data to the recipients designated by User through the Product. COYERO may use the services of subcontractors to provide the Product and permit them to exercise our rights to User Data.
  3. Privacy Policy: We respect the privacy rights of our Users. User provide data (User Data) to COYERO by creating an account. COYERO uses this account information as described in Section 2 (Your Account) above and other information about the use of the Product in accordance with our Privacy Policy. The COYERO Privacy Policy is



available under [www.coyero.com/us/privacy-policy/](http://www.coyero.com/us/privacy-policy/) and explains how we collect, use, share and protect User Data.

4. Storage of User Data. COYERO does not provide an archiving service. COYERO agrees only that it will not intentionally delete User Data prior to Users subscription of the Service provided by the Product. We expressly disclaim all other storage obligations to the extent permitted by applicable law. COYERO will store User Data from its Users located in the U.S.A. or Canada on servers located in United States, User Data from Users being located in the European Union, Switzerland or Norway will be stored in the European Union. For Users being located in other countries COYERO will store the data according to best performance of the Product.

## 8. Customer Data.

1. Your Rights. As between COYERO and Customer, Customer retains all of its rights to any business information or other data that Customer submits to the Product (“Customer Data”).
2. Use of Customer Data. Customer grants COYERO a worldwide, non-exclusive, royalty-free right to use, copy, store, transmit, distribute, publicly perform and display, create derivative works of and modify any Customer Data in order to provide the Product to Customer and otherwise to operate, improve and maintain the Product. This includes COYERO’s distribution of issued COYERO Tickets, authorizations, independent from its format and content, containing anonymized Customer Data to the recipients designated by Customer through the Product. COYERO may use the services of subcontractors to provide the Product and permit them to exercise our rights to Customer Data.
3. Storage of Customer Data. COYERO does not provide an archiving service. COYERO agrees only that it will not intentionally delete Customer Data prior to termination or expiration of your Paid Subscription. We expressly disclaim all other storage obligations to the extent permitted by applicable law. You are solely responsible for maintaining backups of Customer Data on your own systems. COYERO will store Customer Data from its Customers located in the U.S.A. or Canada on servers located in United States, Customer Data from Customers being located in the European Union, Switzerland or Norway will be stored in the European Union. For Customers being located in other countries COYERO will store the data according to best performance of the Product.
4. Customer Obligations.

(A) *In general.* Customer represents, warrants and agrees that: (i) Customer’s use of the Product will comply with all applicable local, state, federal and international laws and regulations, including those relating to privacy, data security, export control and electronic communications (“Laws”); (ii) Customer has obtained all necessary rights, releases and permissions to provide and allow the processing, use and disclosure of Customer Data by COYERO under



these Terms; (iii) neither the Customer Data nor its processing, use or disclosure will violate any Laws, third party rights (including intellectual property rights, rights of privacy or rights of publicity) or any applicable Customer privacy policy; and (iv) Customer will not use the Product in support of, or to further, any activities prohibited by any Laws (e.g., money laundering) or, even if not prohibited by law, for gambling, prostitution, alcohol, drug, pharmaceutical or healthcare businesses or services.

(B) Certain Customer Data Prohibited. Except in the specific fields designated by COYERO, Customer agrees not to submit to the Product any tax identification numbers, bank account numbers or credit or debit card numbers. In addition, Customer agrees not to include in any invoices or otherwise submit to the Product any of the following: (i) patient, medical or other protected health information regulated by HIPAA or any similar federal or state laws, rules or regulations. (including without limitation any health insurance information); (ii) social security numbers; or (iii) driver's license numbers or California identification card numbers.

(C) Attorney Use. While attorneys are welcome to use the Product, they should not submit anything that constitutes or could reasonably be considered "confidential" or "attorney-client privileged" information. COYERO takes no responsibility and assumes no liability for any Customer Data, and Customer is solely responsible for Customer Data and the consequences of its use.

(D) Responsibility for Customer Data. COYERO takes no responsibility and assumes no liability for any Customer Data, and Customer is solely responsible for Customer Data and the consequences of its use.

5. Customer Indemnity. Customer will indemnify defend (at COYERO's request) and hold harmless COYERO (and its affiliates and their respective employees, agents, officers, directors and customers) from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees) arising out of or in connection with (i) any Customer Data, (ii) Customer's negligence, misconduct or breach or alleged breach of these Terms, (iii) Customer's relationships or disputes with any of its own customers or business partners, including any invoice recipients, and (iv) any service, product or offering of Customer used in connection with the Product.
6. Third Party Products. If you use the Product with (or to send Customer Data to) any third party products or services (as permitted through the standard functionality of the Product), then you (not COYERO) shall be fully responsible for and assume all risk arising from your use of such third party products or services and from the use



of Customer Data by such third parties. COYERO is not responsible for how third parties use Customer Data once it has left our systems.

7. Aggregate/Anonymous Data. In addition to its other rights above, COYERO may aggregate Customer Data with other data so that the results are non-personally identifiable to Customer and may collect anonymous technical and other data about Customer's use of the Product ("**Aggregated/Anonymous Data**"). COYERO owns all Aggregate/Anonymous Data and may use Aggregate/Anonymous Data for its marketing, reporting and other lawful business purposes.
8. Compelled Disclosures. COYERO may share Customer Data when we have a good faith belief that access, use, preservation or disclosure of such information is reasonably necessary to: (i) satisfy any Law, legal process or governmental request; (ii) enforce these Terms, including investigation of potential violations hereof; or (iii) protect against imminent harm to the Product or the rights, property or safety of COYERO, its users or the public as required or permitted by law.
9. Other Data Collection and Handling. COYERO uses your account information (as described in Section 2 (Your Account)) and other information about your use of the Product in accordance with our Privacy Policy (available under [www.coyero.com/us/privacy\\_policy](http://www.coyero.com/us/privacy_policy)). Nothing in the Privacy Policy limits our rights to Customer Data described above in this Section 8 or elsewhere in these Terms.

## 9. COYERO Payments.

1. General. The Product may include features to allow you to receive payments from your own customers ("**End Customers**") or users ("**COYERO User**") for services you offer to End Customers or COYERO Users through the Product ("**COYERO Payments**"). These payments are processed through our payments partner (currently company Stripe) ("**Payments Partner**"), and if you use COYERO Payments, you must provide certain underwriting and other information requested by the Payments Partner. Your relationship with the Payments Partner (including their use of your information and any fees you owe) are governed by the Payments Partner's Terms of Service (available under <https://stripe.com/terms>) or other terms presented through the Product. If you agree to directly provide COYERO with the same or similar information, we will handle the information as Customer Data under these Terms and our Privacy Policy.
2. Your Responsibilities. Any purchase or payment is solely between you and the End Customer; COYERO is not party to your transactions and assumes no liability or responsibility for your products, services or offerings. COYERO is not your bank, agent, or trustee or otherwise involved in the flow of funds or payments. Any payment dispute must be resolved between you and the End Customer. WITHOUT LIMITING SECTION 13 (DISCLAIMER OF WARRANTIES) OR SECTION 14 (LIMITATION OF LIABILITY) BELOW, COYERO MAKES NO WARRANTY AND ASSUMES NO RESPONSIBILITY OR LIABILITY FOR COYERO PAYMENTS OR ANY DISPUTES, CHARGEBACKS, OVERCHARGES, DELAYED PAYMENTS, INSUFFICIENT FUNDS,



EXPIRED CARDS, CIRCUMSTANCES BEYOND OUR CONTROL (INCLUDING WITHOUT LIMITATION POWER OUTAGES, SERVICE INTERRUPTIONS OR OTHERWISE) OR OTHER ISSUES RELATING TO TRANSACTIONS MADE THROUGH COYERO PAYMENTS. Notwithstanding anything in these Terms to the contrary, COYERO may modify, suspend or terminate COYERO Payments at any time, without notice or liability to you.

#### 10. COYERO Hardware.

1. General. The Product might, upon the Use Plan, need specific Hardware. Hardware is leased, and not purchased as defined under the clause "Ownership" below. Use of the Hardware is subject to these Terms. Only upon payment of Fees for Subscriptions and acceptance of these Terms you will be licensed to access and use all Hardware and Software installed on the Hardware (and any updates and upgrades thereto), on a limited, non-exclusive, revocable, non-sublicensable, non-transferable basis, solely for the purposes of using the Product.
2. Usage. You agree to use the Hardware in accordance with all procedures that may be provided by COYERO from time to time and solely for the purposes of using the Product. Any other use is subject to a breach of these Terms. Hardware is subject to our Return Policy, which can be found at [www.coyero.com/us/return\\_policy](http://www.coyero.com/us/return_policy).
3. Security. While the Hardware uses encryption technology, and the law generally prohibits third parties from monitoring transmission, COYERO will, under no circumstances be liable for any unauthorized authorization to services, access to or use of data transmitted using the Product.
4. RF Exposure Information. Hardware has been tested and meets applicable limits for radio frequency (RF) exposure. Cases with metal parts may change the RF performance of the device, including its compliance with RF exposure guidelines, in a manner that has not been tested or certified.
5. Availability. Every effort is made to maintain sufficient stock of all the Products we offer. Potential inventory shortages at our distributor may impact our ability to fulfill an order. We reserve the right to cancel an order if we are, for any reason, unable to fulfill the order requirements. If we are unable to fulfill an order, we will notify you by email.
6. Shipment. We can't ship Hardware to certain places (like PO boxes, military bases, and specific regions). If we can't deliver your order, it'll be shipped back to us and we'll send you a refund. Inventory shortages or other fulfillment issues may cause delays. Your order is shipped using a carrier that we have selected. We cover the shipping fee as long as the shipping address is located in the Continental United States or Canada. Once you have completed your purchase, we will provide you with an estimated delivery date. Every effort is made to facilitate delivery of your order on time, and by the estimated delivery date. After your order is processed and fulfilled, we will send you an email containing the order tracking number. Once





your order is fulfilled and placed in the hands of our selected shipping carrier, we cannot guarantee any delivery date indicated by the carrier.

7. Installation and Setup. Installation of Hardware must be performed by a professional. COYERO refuses any liability for this process. You agree to take care on your own responsibility where to install the Hardware. COYERO will never contract and/or send a professional on its own initiative to any premises. Setup of the Hardware is done automatically during the boot process and requires, for the duration of the setup procedure, access to the internet with reasonable performance (upload and download speed minimum 1Mbit/sec).
  
11. **Ownership**. COYERO and its licensors retain all right, title and interest (including all intellectual property rights) in and to the Product and any and all related and underlying technology and documentation. Customer is obtaining only a limited usage right to the Product, regardless of use of words like “purchase”, “sale”, “lease” or similar terms. If Customer submits any comments, suggestions or other feedback regarding the Product, COYERO may freely exploit the feedback (including as part of the Product) without restriction on account of intellectual property rights or otherwise.
  
12. **Termination and Suspension**. These Terms will continue until terminated.
  1. Termination by Customer. You may terminate these Terms at any time by ceasing all use of the Product, deleting any Software and returning the Hardware (if any is part of your Use Plan) to COYERO.
  2. Termination or Suspension by COYERO. For Paid Subscriptions and Packages, COYERO may terminate or suspend these Terms if Customer fails to cure any material breach within fifteen (15) days after written notice, except that COYERO may terminate or suspend these Terms immediately as a result of Customer’s breach of the express obligations under Sections 3.2 (Restrictions) or 8.4 (Customer Obligations) or to prevent harm to the Product or other customers. For Trial Plans and Beta Releases, COYERO may terminate or suspend these Terms at any time for any or no reason. Further, if COYERO ceases to offer the Product, or if COYERO’s right or ability to offer the Product is restricted, suspended or terminated (whether pursuant to Laws or by App Marketplaces or other third parties), COYERO may immediately terminate or suspend these Terms. In such case, if you have a Paid Subscription or Package, you will receive a pro-rated refund based on the unused portion of your subscription term or the number of unused invoices remaining in your Package.
  3. Effect of Termination. Upon termination of these Terms, your right to the Product will automatically terminate and you must cease using the Product, delete any Software and send back the Hardware to COYERO. Following termination, you will have no further access to any Customer Data in the Product and COYERO may delete all Customer Data in its possession at any time unless prohibited by law. You will delete all Confidential Information (or return it to COYERO) upon any



termination of these Terms or request by COYERO. The following will survive termination: Section 3.2 (Restrictions), Sections 8.4 (Customer Obligations) through 8.9 (Other Data Collection and Handling), Section 9.2 (Your Responsibilities), and Sections 11 (Ownership) through Section 21 (Apple-Related Terms).

13. **Disclaimer of Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PRODUCT IS PROVIDED "AS IS" AND COYERO AND ITS LICENSORS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED OR STATUTORY. THE PRODUCT IS NOT INTENDED TO PROVIDE LIFE SAVING APPLICATIONS, APPLICATIONS IN MEDICAL, CHILD CARE OR SAFETY RELATED APPLICATIONS. COYERO EXPRESSLY DISCLAIMS ANY WARRANTY THAT USE OF THE PRODUCT WILL ENSURE YOUR COMPLIANCE WITH ANY SAFETY STANDARDS OR LEGAL OR REGULATORY OBLIGATIONS OR THAT THE RESULTS OF THE PRODUCT WILL BE ACCURATE OR SUFFICIENT FOR YOUR PURPOSES. THERE IS NO WARRANTY THAT THE PRODUCT WILL BE ERROR FREE, THAT ACCESS WILL BE CONTINUOUS OR UNINTERRUPTED, THAT ANY INFORMATION PROVIDED OR USED WITH THE PRODUCT WILL BE SECURE, ACCURATE, COMPLETE OR TIMELY, OR THAT ANY CUSTOMER DATA WILL BE PRESERVED OR MAINTAINED WITHOUT LOSS. COYERO SHALL NOT BE LIABLE FOR ANY PRODUCT FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF COYERO. YOU MAY HAVE OTHER STATUTORY RIGHTS; HOWEVER, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

14. **Limitation of Liabilities.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL COYERO OR ITS LICENSORS BE LIABLE TO YOU OR TO ANY THIRD PARTY (I) FOR ANY LOST PROFITS, LOSS OF USE, LOST DATA, INTERRUPTION OF BUSINESS, FAILURE OF SECURITY MECHANISMS OR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES OR (II) IN ANY EVENT, FOR AMOUNTS EXCEEDING THE GREATER OF (A) THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO COYERO IN THE PRIOR SIX (6) MONTH PERIOD OR (B) ONE HUNDRED DOLLARS (US\$100). THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY IN THESE TERMS IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. Customer acknowledges that the foregoing limitations are an essential element of these Terms and a reasonable allocation of risk between the parties, and that in the absence of such limitations the pricing and other provisions in these Terms would be substantially different.

The Product is controlled and operated from facilities in the United States or the European Union but may involve transmission of data or utilization of third-party services globally. For storage of data Section 7.4 (Storage of User Data) and 8.3 (Storage of Customer Data) apply. For Customers and Users located in the European Union the transmission of



Customer Data and User Data outside the European Union is limited according the COYERO General Data Protection Regulation available under [www.coyero.com/gdpr](http://www.coyero.com/gdpr). COYERO makes no representations that the Product is appropriate or available for use in other locations than United States, Canada, The European Union, Switzerland and Norway. Those who access or use the Product from other jurisdictions do so at their own volition and are entirely responsible for compliance with all Laws. Unless otherwise explicitly stated, all materials found on the Product are solely directed to users located in the United States.

15. **Third Party Products.** All third party hardware and other products included or sold with the Product are provided solely according to the warranty and other terms specified by the manufacturer, who is solely responsible for service and support for its product. For service, support, or warranty assistance, you should contact the manufacturer directly. COYERO OR ITS LICENSORS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, AND EXPRESSLY DISCLAIMS ANY WARRANTY OR CONDITION OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.
16. **Consumer Law.** Notwithstanding any other provision of these Terms, If Customer is a Consumer (as defined in Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of the Australian Consumer Law (New South Wales) (“**Australian Consumer Law**”):
  1. Sections 13 (Disclaimer of Warranties) and 14 (Limitation of Liabilities) do not apply to any liability of COYERO to comply with an applicable consumer guarantee under the Australian Consumer Law;
  2. Subject to Section 16.3 below, the liability of COYERO for any liability, loss, cost or damage, however caused (including by the negligence of COYERO), suffered or incurred by Customer because of a failure to comply with a consumer guarantee is limited to COYERO (at its election):
    1. resupplying the services; or
    2. paying the cost of having the services supplied again; and
  3. Section 16.2 above does not apply if it is not fair or reasonable for COYERO to rely on it for the purposes of section 64A of the Australian Consumer Law.
17. **Confidential Information.** In connection with access to the Product, Customer may receive access to confidential or proprietary information of COYERO (“**Confidential Information**”). Confidential Information includes the Software, Hardware, all non-public elements of the Product and any performance information regarding the Product. Confidential Information excludes information that Customer already lawfully knew or that becomes public through no fault of Customer. Customer will (a) use a reasonable degree of care to protect all Confidential Information, (b) not use Confidential Information except in support of its authorized use of the Product and (c) not disclose Confidential Information except to employees and agents with a legitimate need to know and who have agreed in writing to



keep it confidential. Customer may also disclose Confidential Information to the extent required by law after reasonable notice to COYERO and cooperation to obtain confidential treatment. Unauthorized disclosure of Confidential Information may cause harm not compensable by damages, and COYERO may seek injunctive or equitable relief in a court of competent jurisdiction, without posting a bond, to protect its Confidential Information.

18. **Modifications to Terms.** COYERO may modify these Terms (including Product pricing and plans) from time to time, with notice given to you by email or through the Product. If you have a Trial Plan or are using Beta Releases, then any modifications will become effective immediately, and if you disagree with the modifications, your exclusive remedy is to terminate these Terms. If you have a Paid Subscription or Package, you must notify COYERO within fifteen (15) days of notice of the modifications that you do not agree to such changes, and COYERO (at its option and as your exclusive remedy) may either: (a) permit you to continue under the prior version of these Terms until your next subscription expiration or renewal date (after which the modified Terms will apply) or (b) allow you to terminate these Terms and receive a pro-rated refund based on the unused portion of your subscription term or the number of unused invoices remaining in your Package. Upon any changes to these Terms, you may be required to click to agree to the modified Terms in order to continue using the Product, and in any event continued use of the Product after the modifications take effect constitutes your acceptance of the modifications. As an exception to these rules regarding changes to these Terms, (i) if we make changes to our Billing Policy, the version of our Billing Policy in effect at the time of purchase (or renewal) of a Paid Subscription or Package shall apply to that usage plan, and (ii) any changes to our Privacy Policy will automatically become effective upon posting as described in the Privacy Policy.

19. **Governing Law, Arbitration, and Class Action/Jury Trial Waiver.**

1. Governing Law. You agree that: (i) the Product shall be deemed solely based in California; and (ii) the Product shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. These Terms will be construed in accordance with the laws of the State of California, USA without reference to its choice of law provisions and without regard to the United Nations Convention on Contracts for the International Sale of Goods. The Federal and State courts located in the County of Santa Clara, California will be the exclusive venue for any claim or dispute between the parties and the parties hereby consent to the personal jurisdiction of those courts for such purposes. The prevailing party in any dispute under these Terms will be entitled to its costs and reasonable attorneys' fees.
2. Arbitration. READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM COYERO. For any dispute with COYERO, you agree to first contact us at [legal.us@coyero.com](mailto:legal.us@coyero.com) and attempt to resolve the dispute with us informally. In



the unlikely event that COYERO has not been able to resolve a dispute it has with you after sixty (60) days, we each agree to resolve any claim, dispute, or controversy (excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to these Terms, or the breach or alleged breach thereof (collectively, "Claims"), by binding arbitration by JAMS, under the Optional Expedited Arbitration Procedures then in effect for JAMS, except as provided herein. JAMS may be contacted at [www.jamsadr.com](http://www.jamsadr.com). The arbitration will be conducted in Santa Clara County, California, unless you and COYERO agree otherwise. If you are using the Product for commercial purposes, each party will be responsible for paying any JAMS filing, administrative and arbitrator fees in accordance with JAMS rules, and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses. If you are an individual using the Product for non-commercial purposes: (i) JAMS may require you to pay a fee for the initiation of your case, unless you apply for and successfully obtain a fee waiver from JAMS; (ii) the award rendered by the arbitrator may include your costs of arbitration, your reasonable attorney's fees, and your reasonable costs for expert and other witnesses; and (iii) you may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve you of your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Section 19 shall be deemed as preventing COYERO from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, intellectual property rights or other proprietary rights.

3. Class Action/Jury Trial Waiver. WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE PRODUCT FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND COYERO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND.

## 20. General.

1. Contract Mechanics and Interpretation. These Terms constitute the entire agreement between you and COYERO related to the Product and supersede any prior or contemporaneous agreements relating to the Product. If any provision of



these Terms is held unenforceable, that provision will be enforced to the extent permissible by law and the remaining provisions will remain in full force. No provision of these Terms will be deemed waived unless the waiver is in writing and signed by COYERO. Except as set forth in Section 18 (Modifications to Terms), all amendments to these Terms must be in writing and signed by both parties. In these Terms headings are for convenience only and “including” and similar terms will be construed without limitation.

2. Assignment. You may not assign or transfer these Terms or any rights hereunder, and any attempted assignment or transfer in violation of the foregoing will be void. COYERO may freely assign or transfer its rights or obligations hereunder at its sole discretion. These Terms will bind and inure to the benefit of each party’s permitted successors and assigns.
3. COYERO Contact Information. If you have any questions, complaints or claims regarding the Product, please contact:

COYERO, INC.  
228 Hamilton Ave, 3rd floor  
Palo Alto, CA 94301, U.S.A.  
Email: [legal.us@coyero.com](mailto:legal.us@coyero.com)

If you are a California resident, in accordance with Cal. Civ. Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210 or (916) 445-1254.

4. Notices to You. We may send notices to your email on file or through the Product. All notices are effective upon delivery.
5. Publicity. COYERO may use Customer’s name, logo and marks on COYERO’s customer lists and marketing materials.
6. Export Control. The Product is subject to U.S. export control laws and regulations, and may be subject to foreign export or import laws or regulations. You agree to comply strictly with all such laws and regulations and not to use or transfer the Product for any use relating to nuclear, chemical, or biological weapons or missile technology. You also represent and warrant that 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 that you are not listed on any U.S. government list of prohibited or restricted parties.
7. Hardware Import and Export Requirements: Customer shall, at its own expense, pay all import and export licenses and permits, pay customs charges and duty fees, and take all other actions required to accomplish the export and import of the Hardware shipped to Customer (if any is part of the Use Plan). Customer understands that COYERO is subject to regulation by agencies of the U.S. government, including the



U.S. Department of Commerce, which prohibits export or diversion of certain technical products to certain countries and to certain parties as designated by the U.S. government, and when applicable, European Union export laws (including without limitation Council Regulation (EC) No. 428/2009), applicable UN resolutions/EU regulations imposing restrictive measures/trade sanctions/embargoes or other restrictions on exporting goods or services. Customer warrants that it will comply in all respects with the export and re-export restrictions including but not limited to those set forth in this Terms of Service for every Hardware shipped to Customer (if any is part of the Use Plan).

8. Open Source Software. The Product may contain or be provided with components licensed under “open source” software licenses (“OSS”). We list the OSS at Acknowledgments (available under [www.coyero.com/acknowledgements](http://www.coyero.com/acknowledgements)) and may update the list from time to time as our usage of OSS changes. To the extent required by the applicable OSS license, the terms of such licenses will apply in lieu of the terms of these Terms with respect to such OSS.
  9. Government Users. The Product includes commercial computer software and commercial computer software documentation. If the user or licensee of the Product is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Product or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by these Terms in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. All other use is prohibited.
  10. Force Majeure. COYERO will not be liable to Customer in any way whatsoever for any failure or delay in performance of any of its obligations under these terms arising out of any event or circumstance beyond the reasonable control of COYERO.
21. **Apple-Related Terms**. If you downloaded the Software from Apple’s App Store, then the following terms apply: These Terms are between you and COYERO, and not with Apple. However, as required by Apple, Apple and its subsidiaries will be third party beneficiaries of these Terms and will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary. As described in Section 13 (Disclaimer of Warranties), to the maximum extent permitted by law, we do not make any warranties about the Software. If the Software is nonetheless deemed not to conform to any warranty that may be implied at law, you may notify Apple and Apple will refund the purchase price (if any) for the Software to you. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation with respect to the Software, and, as between Apple and COYERO, any other claims, losses, liabilities, damages, costs or expenses attributable to a failure to conform to a warranty will be COYERO’s responsibility. Apple has no obligation whatsoever to furnish any maintenance or support services with respect to the Software. As between COYERO and Apple, COYERO is solely responsible for



the Software and for addressing any claims you or any third parties have about the Software or your possession or use of the Software, including (i) product liability claims, (ii) any claim that the Software fails to conform to any applicable legal or regulatory requirement and (iii) claims arising under consumer protection or similar legislation. In the event of any third party claim that the Software or your possession or use of the Software infringes that third party's intellectual property rights, Apple will not be responsible for the investigation, defense, settlement or discharge of such claim.