

# Terms of use

## Terms of use 24sessions – Date: 1 March 2020

Welcome at 24sessions. 24sessions provides everything you need to meet your customers face to face and online, by offering various Software as a Service (SaaS) products: automated scheduling, video chat and screen sharing, reviews and recordings. These “**SaaS Service(s)**” are offered through our website: [24sessions.com](https://24sessions.com). The SaaS Services are not available to persons who are not legally eligible to be bound by these Terms of Use (“**Terms**”), such as minors.

Your use of the SaaS Services is conditioned upon your compliance and acceptance of these Terms.

- **DEFINITIONS**

1. **24sessions:** 24sessions.com B.V., a limited liability company incorporated under the laws of the Netherlands. The company is registered with the Dutch Chamber of Commerce under registration number 64312100. The company’s registered office is at hoogoorddreef 54D, 1101 BE, Amsterdam. 24sessions is also referred to as “we”.
2. **SaaS Service(s):** SaaS Service(s) rendered by 24sessions, such as the implementation and operation of the 24sessions platform, as further described in these Terms.
3. **(SaaS) Agreement:** the Front Sheet, these Terms and all annexes attached thereto, which compromise the SaaS Agreement between 24sessions and Customer, involving the authorized use of the 24sessions SaaS Service. The SaaS agreement will also be referred to as the “**Agreement**”.
4. **Authorized User:** any individual person, authorized by Customer to make use of the SaaS Service. The Authorized User can be a Guest or a User.
5. **Guest:** an Authorized User (being a natural person that is a guest of Customer) using the SaaS Service, in order to engage in video-chat sessions with Authorized Users that are classified as User.
6. **User:** an Authorized User (assigned by Customer) using the SaaS Service, in order to provide free or paid video-chat sessions to Guests. Customer may assign its own employees as Users, or any other individuals affiliated to Customer.

7. **Initial Contract Term:** the initial contract term for a SaaS Service as specified in a Front Sheet.
8. **Renewal Term:** the renewal contract term for a SaaS Service commencing after the Initial Contract Term or another Renewal Term as specified in a Front Sheet.
9. **Billing cycle:** the frequency of which 24sessions invoices Customer for the SaaS Service(s)
10. **Go live date:** the official starting date from which Customer is making use of the SaaS Services(s) of 24sessions. Starting with setup activities performed by 24sessions. (Ref: Article 3.1)
11. **(User) Account / (Your) Account:** Online personal environment which you can access by entering your username and password. You can manage account information, settings and configurations in your Account. You may be required to provide information about yourself in order to register for and/or use certain SaaS Services.
12. **Login Details:** the confidential information used to authenticate an Authorized User, such as passwords or encrypted information on a smart-card or token.

Other definitions – recognizable by use of a capital letter at the beginning - may also be explained in the text in the below.

- **CONCLUDING THE AGREEMENT**

1. In order to conclude the Agreement and to obtain the right to use the 24sessions SaaS Service, Customer is required to complete and sign the Front Sheet and return it to 24sessions as a digital scan attached to an email. If 24sessions approves the Front Sheet, the SaaS Agreement is concluded.
2. For avoidance of doubt, 24sessions is not a Party to any agreement between Customer and its Authorized Users, which may be concluded and/or performed via the SaaS Service. Customer shall indemnify and hold 24sessions harmless from any claim made against 24sessions with respect to Customer's (non-)performance of any such agreement which 24sessions is not a Party to, and also from any claim resulting from abuse by Customer of the SaaS Service, as defined in article 7. For the purpose of this Agreement, any act or failure to act by Customer's Authorized Users shall be attributable to Customer as if committed by Customer itself.

- **SETUP**

1. 24sessions shall first perform certain setup activities in order to make the SaaS Service ready for use. The Monthly Subscription Fees as indicated in the Front Sheet shall not be due until the moment the SaaS Service is made available to Customer.
2. Customer is allowed to include a notice "Powered by 24sessions" or a similar phrase in the web interface.

- **OFFERS AND QUOTATIONS**

1. All our offers and quotations are non-binding and only apply to the SaaS Service as specified therein, unless expressly agreed otherwise.
2. 24sessions may assume that all information provided for such an offer or quotation is correct. The offer or quotation may be adjusted if other or additional information is provided.

- **PRICES, PAYMENT AND COLLECTION CHARGES**

1. 24sessions will invoice the fees for the use of the SaaS Service (collectively: the "**Fees**") in accordance with the relevant agreements on the Front Sheet.
2. For the use of the SaaS Service, Customer shall pay 24sessions the Fees as specified on the Front Sheet.
3. 24sessions has the right to invoice any agreed Setup Fees immediately following the conclusion of this Agreement.
4. Functionality within 24sessions that is delivered through a third-party supplier for which 24sessions does not directly charge Customer through an add-on to the user license fee is considered to be part of Fair Use. Including but not limited to, usage of international phone dial-in numbers. For these functionalities, 24sessions has the right to shift the fees invoiced by the third-party supplier to the Customer in case the monthly fees of these services exceed the threshold of 5% of the monthly license fees billed to Customer.
5. Customer consents to electronic invoicing of the Fees.
6. All amounts are in Euros and exclusive VAT and other levies imposed by relevant authorities, unless specified otherwise.
7. Customer shall pay the invoiced Fees within thirty (30) days after the invoice date.
8. If Customer does not pay the Fees on time:
  1. Statutory interest will be due in respect of the outstanding invoice without requiring further notice of default;
  2. Customer is obliged to fully compensate both the judicial and extrajudicial collection costs, including lawyer's and bailiff's fees and the costs of collection agencies, in addition to the amount that is owed and the interest due in respect thereof.
9. 24sessions will have the right, after it has issued a warning, to limit the use of the SaaS Service for Customer and, after a renewed warning, to

fully block the use of the SaaS Service (for Customer and the Authorized Users) until the Fees have been paid.

10. A claim for payment becomes immediately due and payable in the event Customer is declared bankrupt, applies for a suspension of payment, all of its assets are attached, it is liquidated or dissolved.

11. During the Initial Contract Term of the Agreement, 24sessions may only change the Fees in case Customer requests (access to) a SaaS additional Services. In such a case, Customer will be informed in advance, so Customer can decide not to use the additional SaaS Service.

- **REGISTRATION AND ACCOUNT**

1. Customer may be required to provide information about itself in order to register for and/or use certain SaaS Services. Customer agrees that any such information shall be accurate, complete and up-to-date.
2. User will be asked to choose a username and password. User is entirely responsible for maintaining the security of its username and password and agree not to disclose such to any third party. We will assume that all actions taken from the Account are done under the supervision and with the approval of Customer. Customer is obliged to notify 24sessions immediately if it suspects abuse of the Accounts or Login Details of its Users.
3. Customer shall take appropriate measures to ensure that any equipment that is used to access the SaaS Service, such as PC's, laptops, tablets or smartphones, is secure and free from viruses and other malicious software.
4. 24sessions defines several possible roles for Authorized Users, which roles are set out in the Service Level Addendum ("SLA") incorporated as Annex B. The specific authorization rights and the access to information on the Platform depends on the role of User. Customer is responsible for assigning such roles and managing the use of the Platform according to those roles by its Users.

- **USE OF THE SAAS SERVICE**

1. Customer shall properly inform its Users and Guests of the Terms applicable to the use of the SaaS Service. Customer shall have the option to make its terms and conditions available via the SaaS Service
2. Customer insures that its Authorized Users will not use the SaaS Service in a manner that violates these Terms, the Dutch law or any other applicable laws and regulations, or:
  1. in an excessive or inappropriate manner causing disruptions to the SaaS Service;
  2. communicate any message or material that is harassing, libelous, threatening, obscene, indecent, would violate the intellectual property rights of any Party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation;
  3. to store information that is pornographic or erotic (even if legal);

4. spread malicious software such as viruses or otherwise damage, disable, overburden, impair or otherwise interfere with or disrupt (the networks and software of) the SaaS Service;
5. damage the reputation of 24sessions.
1. 24sessions has the right to implement all measures it reasonably considers necessary to prevent abuse of the SaaS Service.
2. 24sessions reserves the right to investigate and take appropriate action against anyone who, in 24sessions sole discretion, is suspected of violating this provision, including without limitation, reporting to law enforcement authorities.
3. If a violation by an Authorized User of Customer is identified, 24sessions will notify Customer thereof. If a violation by an Authorized User of Customer is identified by Customer, Customer is obliged to notify 24sessions thereof. Customer will be obliged to take action as soon as possible. 24sessions will have the right to implement all measures it considers necessary to end the violation.

- **INTELLECTUAL PROPERTY**

1. 24sessions (or our licensor or supplier, as applicable) is the exclusive owner of all intellectual property rights vesting in and relating to and vesting in the SaaS Service and underlying source- and object code, such as – but not limited to – patents, patent applications, trademarks, trademark applications, database rights, service marks, trade names, copyrights, trade secrets, licenses, domain names, know-how, property rights and processes (**Intellectual Property Rights**). Nothing in this Agreement shall be construed to assign or confer to Customer any Intellectual Property Rights pertaining to the SaaS Service.
2. 24sessions grants its Customers a non-transferrable, non-exclusive and revocable license intended for fair use of the SaaS Service, including the use of the SaaS Service by Authorized Users.
3. The SaaS Service may be used for internal business or consumer purposes only.
4. Customer may use the SaaS Service and related logos to promote the SaaS Service, provided this does not create confusion about its status as Customer of 24sessions. 24sessions has the right to issue reasonable instructions concerning the correct use for promotions, which Customer must strictly follow.
5. Customer may not frame or utilize framing techniques to enclose any 24sessions Intellectual Property Rights without express written consent. Customer may not use any meta tags or any other “hidden text” utilizing 24sessions Intellectual Property Right without 24sessions express written consent. Customer will not reproduce, resell, or distribute the SaaS Service or any reports or data generated by the SaaS Service for any

purpose unless Customer has been specifically permitted to do so under a separate agreement with 24sessions.

6. Customer hereby grants 24sessions a non-transferable and non-exclusive license to display Customer's trademarks and/or logos on [www.24sessions.com](http://www.24sessions.com) and use it for purposes of reference and acknowledgement.

- **DURATION AND TERMINATION**

1. The Agreement shall be valid for the duration specified on the Front Sheet.
2. Parties may terminate the Agreement in accordance with the agreements on the Front Sheet. Apart from those agreements, Parties may only terminate the Agreement with mutual written consent.
3. 24sessions may directly terminate the Agreement in the following circumstances:
  1. Customer has gone bankrupt or is in suspension of payment;
  2. Customer will be dissolved or liquidated;
  3. Customer will be placed under guardianship or deceases;
  4. Customer can no longer freely dispose of his assets due to other circumstances;
  5. Customer breaches any provision of the Agreement and fails to cure such breach within thirty (30) days after receipt of written formal notice specifying the breach;
  6. The other Party has applied for or received a suspension of payment.
1. Upon any termination of these Terms, Customer must cease any further use of the SaaS Service and – if applicable - destroy any copies of associated software within its possession and control. Customer will not destroy or attempt to harm any SaaS Service or associated software on 24sessions servers or 24sessions network.

- **AVAILABILITY AND MAINTENANCE; DISCLAIMER WARRANTIES**

1. 24sessions will make reasonable efforts to make the SaaS Service available at all times. Any specified level of availability may only be guaranteed via a SLA incorporated as Annex B to this Agreement.
2. 24sessions makes commercially reasonable efforts to improve the functionality of the SaaS Service and to correct faults/errors. If any maintenance or modification could lead to limitations of availability, this will be performed during periods in which relatively limited use is made of the SaaS Service. 24sessions will consult with Customer concerning such modifications, but the final decision is up to 24sessions.
3. 24sessions may be dependent on its supplier(s) when implementing modifications. 24sessions has the right not to install certain corrections or updates of a supplier if it considers that this does not benefit the correct operation of the SaaS Service.

4. 24sessions does not accept any responsibility whatsoever for unavailability of the SaaS Service, any other circumstance which may result in the SaaS Service being unavailable. To the maximum extent permitted by applicable law, 24sessions hereby disclaims all implied warranties regarding the availability of the SaaS Service. The SaaS Service is provided "as is" and "as available" without warranty of any kind.
- **SUPPORT**
    1. Support is included in accordance with the SLA, attached to this Agreement as Annex B.
    2. Customer is responsible for supporting its Authorized User(s) of the SaaS Service. Users may ask 24sessions questions and ask for support regarding the SaaS Service, if this is agreed upon in the SLA. Otherwise, only the designated contact person at Customer can ask questions and ask for support on behalf of the Users.
  - **RECORDINGS**
    1. The functionality for recording, storing, downloading and deleting video calls can be made available by 24sessions on request by Customer. The costs associated with such recordings (**Video Call Recording(s)**) are listed under Annex A: Pricing (7.1.4 & 7.1.5) and will be applicable from the date the recording functionality is activated.
    2. Customer is responsible for compliance with all laws applicable to Customer's use of the Video Call Recording functionality, such as but not limited to Data Protection Laws and laws and regulations regarding intellectual property rights.
    3. A file will be created during the (video) call which contains the selected content of the video call between User & Guest.
    4. Video Call Recordings can be stored at 24sessions, or on premise with the Customer. Depending on the type of storage the following applies:
      1. At 24sessions: The file will be encrypted and stored in a designated folder on the cloud server used by 24sessions. The file can be downloaded directly by Authorized Users of the Customer in MP4 format through a secured connection. This storage lasts until the moment the Customer chooses to delete the file or until the Customer terminates the Agreement.
      2. Transferring from 24sessions to external storage:
        1. Transferring of the files to the Customer is done through Customer's transfer mechanism of choice.
        2. 24sessions will count the transfer as successful once it has initiated the transfer of the file, using the Customer's transfer mechanism of choice and storage location of choice.

3. Due to external factors (such as availability and updates of the Customer's transfer mechanism and storage location of choice) 24sessions cannot guarantee the successful transfer of the file from 24sessions to the Customer's storage location of choice. 24sessions therefore offers Customer to keep a back-up of the file(s) in 24sessions encrypted storage, before deleting the file(s) at 24sessions. 24sessions will keep the back-ups with due care and diligence.
  4. Upon request of the Customer, 24sessions can also retain the file(s) in back-up until the Customer has confirmed to 24sessions that a file is transferred successfully. In this situation Customer is fully responsible for quality assurance of the Video Call Recordings and to make sure that this confirmation is correct.
  5. In case Authorized Users use manual recordings (where Authorized Users may start/stop recordings manually in the video call) the source data from 24sessions is leading in identifying when the recording started/stopped.
  6. 24sessions is not liable for any loss / deletion of Video Call Recordings.
  7. 24sessions is not liable for any claims from Users and Guests regarding the Video Call Recordings.
  8. Customer and its User are responsible to inform their Guests that the video call is being recorded and stored, taking into account the information obligations under the Data Protection Laws. 24sessions assumes no responsibility when Customer fails to do so.
  9. Prohibited Use: Customer agrees that it will not use, and will not permit any User or Guest to use, the Services in violation of any 24sessions terms or in a manner that violates applicable laws and regulations, 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. Customer also agrees to be solely responsible for compliance with all such laws and regulations.
- **CONVERSATION INTELLIGENCE**
    1. The functionality for conversation intelligence can be made available by 24sessions on request of Customer. Conversation intelligence converts the recording of a video call into a text file. This text file can be further analysed with optional add-on functionality such as (but not limited to) the 24sessions Goal Tracker that checks if key topics have been discussed in the conversation. Customer can choose to enable further add-on functionality.

2. The costs associated with conversation intelligence are listed under Annex A: Pricing (7.1.7) and will be applicable from the date the functionality is activated.
3. In order to utilise this functionality, Customer agrees to the following:
  1. Use of 24sessions's subprocessor Google Cloud to process the audio tracks of the conversations. (refer to DPA Annex A - List of 24sessions Sub-processors)
  2. Use of the recording functionality of 24sessions as listed under article 12.

- **PRIVACY**

1. 24sessions respects the privacy of its Authorized Users. We comply with the General Data Protection Regulation (*Algemene Verordening Gegevensbescherming*) (the "**GDPR**"), which has replaced the different national privacy laws of EU member states as per 25 May 2018.
2. When an Authorized User (being a Guest or User) makes use of our SaaS Service, we will collect certain personal data – whereby we act as **Data Controller** within the meaning of the GDPR. In our Privacy Policy you can read which personal data we collect and for what purposes. You can find our privacy policy here: <https://www.24sessions.com/privacy>
3. As for the data transmitted by Customer and Authorized Users while using the SaaS Service (e.g. automated scheduling, video chat and screen sharing, reviews and recordings) 24sessions acts as a **Data Processor** within the meaning of the GDPR. We will enter into a Data Processing Agreement with Customer, referred to as *Customer EU Data Processing Addendum*, as required by the GDPR. This Data Processing Addendum is attached as Annex C.

- **CONFIDENTIALITY**

1. The Parties will treat as confidential the information they provide to each other before, during or after the performance of the Agreement if this information has been marked as confidential or if the receiving Party knows or should reasonably assume that this information was intended to be confidential. The Parties shall not use any information for any purpose other than is necessary for the performance of the SaaS Service. The Parties will also impose these obligations on their employees and other third Parties engaged by them.
2. 24sessions and Customer are not obliged to a compensation payment or indemnification, if they are legally obliged to disclose the confidential information.
3. These provisions continue to apply after the Agreement ends for any reason whatsoever and for as long as the providing Party has the right to invoke the confidential nature of the information.

- **WARRANTIES AND LIMITATION OF LIABILITY**

1. Customer represents and warrants that:
  1. It has the full right to enter into this Agreement and the obligations thereunder;
  2. Customer and its Authorized Users shall not use the SaaS Service in violation of this Agreement, any applicable laws or regulations or the legal rights of third parties.
1. Customer shall indemnify and hold harmless 24sessions from and against all claims, damages or losses resulting from Customer's breach of the warranties under article 16.1.
2. 24sessions is not liable for damages resulting from Customer's and Authorized User's use of our SaaS Service.
3. 24sessions is not in any event liable for:
  1. the actions or inactions of other Authorized Users;
  2. the situation where the device of Customer or an Authorized User is stolen and any third party subsequently makes use of the Account;
  3. any damage or alteration to the equipment of Customer and/or Authorized User including, but not limited to, computer equipment and devices as a result of the use of the SaaS Service.
1. If 24sessions is liable, for any reason, the total aggregate liability of 24sessions to the Customer shall not exceed the total amount of fees paid by Customer in the calendar year in which the liability causing event occurred.
2. Nothing in these Terms will exclude or limit the liability of 24sessions if this cannot be excluded or limited under the applicable law, such as in the case of intent or gross fault by 24sessions.
3. In case of force majeure, the performance of the obligations 24sessions shall be suspended.

● **MISCELLANEOUS**

1. Failure by 24sessions to exercise any of its rights under, or to enforce any provision of, these Terms will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision.
2. If any provision of these Terms is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect of the original provision and the remainder of these Terms will remain in full force and effect.
3. The Agreement embodies the entire understanding and agreement between the Parties respecting the subject matter of the Agreement and supersedes any and all prior understandings and agreements between the Parties respecting such subject matter. The Agreement may only be amended by a written agreement between the Parties.
4. 24sessions reserves the right to change these Terms. 24sessions will announce any material changes and additions to these Terms at least thirty days ahead to Customer. If Customer does not agree with the

changes or additions, Customer has the right to terminate the Agreement until the date such change or additions enters into effect. Continued use after the effective date applies as acceptance of the amended Terms.

5. All notices or other correspondence between 24sessions and Customer will be provided to the contact information as specified on the Front Page.
6. 24sessions has the right to transfer its rights and obligations under the Agreement to a third party that takes over the SaaS Service or the relevant business activity from it.

- **APPLICABLE LAW AND JURISDICTION**

1. These Terms shall be governed by and construed in accordance with the laws of the Netherlands.
2. All disputes resulting from or arising in connection with this Agreement shall be exclusively submitted to the competent court of Amsterdam (the Netherlands).