

## TERMS OF SERVICE

### Thank you for selecting YESIM!

These Terms of Service and the Privacy Policy (separately and collectively "**Agreement**" and/or "**Terms**") are binding and governs the relationship between the **User ("You" and/or "User")** and **GENESIS GROUP AG**, CHE-135.623.633, legal address: Chamerstrasse 172 6300, Zug, Switzerland (hereinafter – "YESIM")

– these Terms are as follows:

#### 1. DEFINITIONS:

- 1) "**User**" (and/or "**YOU**") means an individual (natural person) who has opened an account with YESIM and has or is about to associate a valid YESIM Product or Service.
- 2) "**YESIM Application**" or "**YESIM App**" means the proprietary software application offered by YESIM;
- 3) "**YESIM Virtual number**" means YESIM product offered via YESIM Application - a phone number designated for incoming SMS only.
- 4) "**eSIM**" means embedded universal integrated circuit card (eUICC), a form of programmable SIM that is embedded directly into a device of the User, necessary for use of YESIM Services and Products;
- 5) "**YESIM Products**" means, collectively "YESIM Application", "eSIM" (OR "SIM") and any YESIM Services or Products offered for sale;
- 6) "**Intellectual Property Rights**" means all of the following rights, collectively or individually and irrespective of whether registered or otherwise formalized, that may currently exist or may thereafter arise or be created anywhere in the world:
  - rights associated with works of authorship, including, without limitation, exclusive exploitation rights, copyrights, designs, benefits of moral rights, and mask work rights;
  - trademarks, service marks, trade dress, logos, trade names, domain names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith;
  - trade secrets and know-how;
  - industrial property rights and all rights associated with patents, patent applications, provisional applications, continuations, continuations-in-part, re-examination certificates, utility models, invention registrations, and invention disclosures;
  - other proprietary rights of every kind, including, without limitation, Confidential Information, rights, interests, and authorities existing pursuant to assignments, contracts, licenses, express or implied, and license registrations;
  - and rights in or relating to applications, filings, registrations, renewals, extensions, derivatives, modifications, enhancements, combinations, divisions, reissues, and the like for any of the rights referred to in through of this definition;
- 7) "**Data**" means mobile data allowances in accordance with the YESIM Data plan selected and purchased by the User for using YESIM Services and Products;
- 8) "**Data Plan**" means different Data offers, that User may purchase via YESIM Application, specifying the amount of Data, that User will be able to use within determined time period and for the determined price;
- 9) "**Participating Member Operator**" means each of the operator partners of YESIM in whose networks the YESIM SIM may be used by the User;
- 10) "**Service(s)**" or "**YESIM Service(s)**" means YESIM data plan(s) and any other data service provided and sold to the User.
- 11) "**Top-Up**" means the purchase of a Data Plan and/or other YESIM Services by the User via YESIM Application.

## 2. GENERAL TERMS:

- 1) These Terms govern the sale and use of YESIM Application and other YESIM Products and Services.
- 2) YESIM and the User are independent contractors, and no agency, partnership, joint venture, employment or franchising relationship is intended or created by these Terms, their changes, updates and amendments.
- 3) The titles and Definitions of these Terms are for convenience, facilitation and ease of reference only and shall not be used in any way to construe or interpret the Terms.
- 4) YESIM declares a zero-tolerance policy towards Users that violates Intellectual Property Rights. Any unauthorized copying, publication, reproduction or distribution of YESIM's and/or third Party's Intellectual Property is prohibited and is the subject of Users liability, as set in these Terms, applicable law and legal acts.
- 5) YESIM reserves the right to change, amend or update these Terms at any time, with or without prior notification to Users, by publishing information about changes and amendments at [yesim.app section: legal](#). The prior notification is not applied to changes, updates and/or amendments, concerning the additional functions and services of the YESIM Products, or other changes, amendments and updates, which, by the reasonable opinion of YESIM, does not reduce rights and/or increase the liabilities of Users. Such changes, updates and amendments will take effect immediately, without prior notification to Users.
- 6) Changes, amendments and updates are in force on the date they are published. Changes, amendments and updates are dated, and the date is displayed at the end of such a document as an **"Effective Date"**.
- 7) **If You do not agree with these Terms, or their changes, amendments or updates, You shall stop the use of the YESIM Application, YESIM Services and/or Products immediately. Continued use of the YESIM Application, YESIM, Services and/or Products shall clearly mean User's acceptance of these Terms and/or their changes, amendments or updates.**
- 8) **Commencing and continuing to use the YESIM Services and/or Products shall clearly mean Your acceptance of these Terms, including without limitation, the REFUND TERMS specified herein, and/or their changes, amendments or updates.**

## 3. TECHNICAL ISSUES:

- 1) To use YESIM Application Your device shall support an eSIM. You shall check this information in the settings of Your device.
- 2) YESIM Application only allows Data usage as defined by the Global System for Mobile Association (GSMA). All other services, including voice calls, SMS, and MMS cannot be made with the eSIM.
- 3) The YESIM Application only works on unlocked devices, which can use the YESIM Access Point Name (APN). For device configuration, please read our [FAQ](#).

## 4. USE OF YESIM, APPLICATION, PRODUCTS AND SERVICES:

- 1) To use YESIM Application, YESIM Products and Services, You should register the Account, that is: to fill in and complete a registration form and provide the information required. You should provide true, accurate, up to date and complete information, as requested in the registration form, and should regularly update the information to keep it current. As part of the registration process, You should identify an email address (which will be used as Your Login) and password, credit card data or other payment methods. Upon creation of the Account YESIM will send You a confirmation notice to the email specified by You.
- 2) The User shall be fully responsible for the use of the YESIM Application, YESIM Products and Services, SIM/eSIM and under no circumstances shall YESIM be liable for any loss, expenses, or damages incurred

or suffered by the User resulting from the User's misuse, fraud or non-conforming use of the YESIM Application, YESIM Products and Services and/or eSIM.

- 3) YESIM Products and Services may only be sold to and used by persons 18 years old and above. You as the User are liable for the compliance of Your Users to such terms.
- 4) YESIM may, in certain cases, when required by law/legal acts, or on its own discretion, for example, if having reasonable doubt about Your identity and legal capacity, ask You to provide YESIM with certain documentation and information, in order to validate Your Account and to identify You. The documents must be clear and legible.
- 5) You should not send to YESIM the originals of the documents, and YESIM shall not be liable for any and all direct, indirect, exemplary, punitive, incidental or consequential, actual, special, damages or any damages whatsoever or results arising from Your failure to comply with the provision of this Article. Still in special cases, when required by law/legal acts or governmental authorities, banks, financial institutions, and other authorized persons, YESIM may ask and You must provide YESIM with document originals or notarized, apostilled or publicly certified copies (excluding identification documents or documents, which contains publicly available information (for example, incorporation data)).
- 6) You must provide YESIM with any other identification and verification documentation at any time and at any demand of YESIM.
- 7) YESIM may at any time and in its reasonable discretion, impose limitations on, suspend or terminate Your Account and use of the YESIM Services and Products without being liable to You for damages and results, in case of Your failure to comply with the aforesaid requirements.
- 8) You are responsible for maintaining the security and confidentiality of Your Account, Login, Password, and for any activities occurring from Your Account. YESIM reserves the right to refuse registration or cancel any Account if it deems inappropriate. You hereby agree that YESIM shall not be liable for any direct, indirect, punitive, incidental or consequential, actual, special, damages or any damages whatsoever arising from Your failure to comply with this Article.
- 9) You have to notify YESIM immediately of any unauthorized use of Your Account, Login or Password or any other violation of Your security.
- 10) You unconditionally agree that all activities (including, but not limited to activities that directly or indirectly affine to accepting these Terms, their changes, amendments and updates, making orders, and payments, that occur under Your Account will be deemed to have been performed wittingly, directly and by You. You are purely and solely responsible for activities that arise from Your Account, unless these activities are the result of Events of Force Majeure.
- 11) You may request the termination of their Account at any time by submitting a request to: support@yesim.app or using the Contact Support form. Upon termination, YESIM shall disconnect this access to Services and/or YESIM Products for User.
- 12) In the event that the User does not use the YESIM Application for any continuous period of one hundred eighty (180) days, YESIM reserves the right to invalidate the Yesim User's account and the Service without prior notice and without any refund, repayment or compensation.
- 13) **SPECIAL TERMS REGARDING USE of "YESIM Virtual number"**
  - (1) You can purchase YESIM Virtual number offered via YESIM Application with YCOINS only. YESIM Virtual number will be generated upon receipt of the payment specified in YESIM Application.
  - (2) **You shall use YESIM Virtual number for incoming SMS (incoming short messages) only.** Any other use and/or attempt to use the YESIM Virtual number shall be considered as an essential breach of these Terms (Your Agreement with YESIM). In case of such breach YESIM is entitled, without any prior notice to YOU and solely in its own discretion as YESIM deems appropriate (a) to suspend or terminate Your Account and any and Products and Services related to Your Account, to restrict, suspend or terminate Your access and use of any YESIM App and other YESIM Services and Products,

- (b) to receive a contractual penalty from You in amount of **EUR 1 000.00 (one thousand Euro,-) per each case of a breach. Hereby You authorize YESIM to deduct/charge this contractual penalty from the payment method, specified in Your Account.**
- (3) YESIM shall not be liable for any and all Your direct, indirect, punitive, incidental or consequential, actual, special, damages or any damages whatsoever, and other results of the penalties, preventive and punitive actions, and disciplinary sanctions, applied to You by YESIM in connection with Your breach.
- (4) YESIM shall not be held liable for any actions, penalties, suspensions, bans, or other measures imposed by third-party services as a result of the use of YESIM Virtual Numbers. YOU acknowledge and accept full responsibility for ensuring compliance with the terms and conditions of any third-party services where YESIM Virtual Numbers are used. Any risks or consequences arising from such use shall remain solely YOUR responsibility.
- (5) **Payment of contractual penalty as specified in this section shall not release You from the obligation to compensate YESIM for damages.**

## **5. PAYMENTS, FEES AND TOP-UP:**

- 1) After registration of the Account Your eSIM will not be preloaded with Data. The Data should be purchased separately by selecting the YESIM Data Plan offered via YESIM Application. After You have purchased the Data, YESIM shall generate and send You via email the QR code which You shall use for activation of both: YESIM Application and Your eSIM profile.
- 2) You shall scan the QR code on Your device (e.g. smartphone) with an active Internet connection for downloading data for Your eSIM profile and activate the received eSIM profile in the settings of Your device. Information about Your eSim profile will be available in the Account. YESIM shall also send You that information to Your email associated with the Account (Clause 4 of these Terms).
- 3) The Data, and other Services and QR codes are available only after YESIM has received the payment for the selected YESIM Data Plan in full. The default transaction currency shall be Euro or other currency directly specified in the YESIM Application.
- 4) After payment Your eSIM will be loaded with Data specified in the YESIM Data Plan You have selected and purchased and it will be active in the countries or zones specified in the YESIM Application in connection with the selected YESIM Data plan. You can control and disable certain countries from usage.
- 5) All the payments in connection with YESIM Services and Products shall be made in advance with Top-up.
- 6) You may accept Automatic Recurring Billing (automatic fixed payments) by selecting the respective option in Your Account. YESIM offers its Users the opportunity to set up a Continuous Payment Authority, whereby Users can safely and securely provide their credit card details and YESIM will take the payment following the parameters laid out by the User.
- 7) YESIM can take fixed payments at any time, according to two parameters:
  - The Data used (when amount of available Data is less than 30% of total amount)
  - The Data period expiration date (1 day before the expiring date of the selected YESIM Data plan) YESIM will take fixed payment, as repeat your purchase. Payments can run indefinitely or over a fixed period. An agreement can be cancelled by User at any time.
- 8) You may cancel Automatic Recurring Billing at any time.
- 9) **Online Purchase or Top-Up:** by making Your first online purchase or Top-Up transaction, You give Your consent and authorize YESIM to automatically debit the credit card (or other authorized payment method) used for the first purchase or Top-Up for any future purchases or Top-Up of the same eSIM.
- 10) The fee for generation of the QR codes shall be charged/ debited from Your credit card or other payment method, You have provided in the Account. **This fee is not refundable.**

## 6. REFUND:

- 1) You may request the refund of the balance of Your payments for Yesim services **within 30 (thirty) days after purchase**. Requests made after the aforesaid deadline shall not be proceeded, excluding justified requests, based on the confirmed technical malfunctions of YESIM Application, which were duly and in timely manner (**within 1 hour**) notified to YESIM (via support@yesim.app or Support Contact form in Application).
- 2) Refunds are guaranteed unless the respective YESIM Service description explicitly states that the service is non-refundable. Such indications in the YESIM Service description shall take precedence over this Section.
- 3) The costs of Data and other YESIM Services actually used shall not be refunded.
- 4) Any refund request shall be addressed to YESIM only and sent to support@yesim.app or Support Contact form in Application. The requests sent to YESIM payment service provider shall not be proceeded.
- 5) Any refund request shall be reviewed within 15 (fifteen) business days upon receipt. Confirmed refund requests shall be executed to the payment method You have used to make the respective payment.
- 6) **If the requested refundable amount is equal or less than 10 EUR, the refund will be made in YCOINS (Clause 7 Of these Terms).**

## 7. YCOINS:

- 1) YESIM offers to their Users the *point - based loyalty program "YCOINS"*, which provides the availability to earn and/or buy YCOINS and to use them for purchasing Data Plans for Yesim Application as well as other Services and Products, provided by YESIM;
- 2) You may use YCOINS via YESIM Application only and for purchasing YESIM Products and Services only.
- 3) YCOINS may be earned both:
  - (1) by buying them via YESIM application with the respective provided payment method (**Clause 5 of these Terms**) and
  - (2) by receiving them as a bonus for participating in some marketing, promotional campaigns and other programs as provided via YESIMapplication.
- 4) **YCOINS are not refundable and User cannot exchange the YCOINS to money and/or other funds.** Regardless the aforesaid, You may request the refund of YCOINS, in case of technical malfunctions of YESIM Application, which were duly and in timely manner (within 1 hour) notified to YESIM (via support@yesim.app or Support Contact form in Application).
- 5) **In case of termination, suspension of Your Account due to Your violation or breach of these Terms, You will lose any and all YCOINS accumulated in Your Account.**

## 6) PLEASE NOTE:

- 1) **The expiry date for each YCOIN is 1 (one) year** from the moment of its receipt, regardless of the method of receipt (in a form of purchase or in a form of a bonus). YCOINS not used within the aforesaid term will be lost and cannot be recovered.
- 2) When You **first time** make a **purchase (eg. purchase of Data, other Yesim services and products)** with YCOINS, which were received as a bonus or a gift (**Item (2), subclause 3, Clause 7 of these Terms**) - the **security payment on amount of EUR 0.50** (fifty-eurocents) will be requested and/or debited from the payment method, specified in Your Account (e.g. credit card), to prevent risks of fraudulent use of Your YCOINS. The security payment will be used to top - up the balance of Your YCOINS.
- 3) **Security payment shall not be deemed as a purchase, and the amount of security payment will not be taken into account when calculating bonuses in Referral -, Partner Bonus -, promotional and other**

**programs of YESIM.**

## **8. USER'S WARRANTIES AND GENERAL OBLIGATIONS:**

**In addition to the obligations and warranties of You/User, set forth in other Clauses of these Terms, by accepting these Terms:**

- 1) You authorize YESIM and their payment service provider to collect, operate, check, store and process Your credit card and other Payment method data and information. **Please note, that this information will be stored on the payment service provider's servers, who's security measures comply with all necessary regulations relevant to operating, storing and processing such information.** As User, You confirm, acknowledge, represent, agree and warrant that you have and will have full power and authority:
  - to provide YESIM and their payment service provider with Your payment information, credit card and/or other Payment method data and information;
  - to authorize YESIM and their payment service provider to collect, operate, check, store and process Your credit card and other Payment method data and information;
- 2) You shall use the YESIM Products and Services in compliance with these Terms and all applicable laws/legal acts (including but not limited to policies and laws related to personal data, intellectual property right and other civil right protection, policies and laws regulating civil and commercial deeds, policies and laws related to data spamming, privacy, obscenity, or defamation);
- 3) You shall NOT use the YESIM Application, Products and Services in other means and ways and for other purposes than provided by such Products and/or defined in these Terms;
- 4) You shall NOT copy the code, not adapt, not reverse engineer, not decompile or not attempt to modify or copy the source code of the YESIM Application and YESIM other Products and Services. Any such attempt will be considered a violation of intellectual property right and might result in prosecution;
- 5) You shall NOT be subjected to any sanctions or other legal restrictions in using YESIM, Products enacted by any country, international organization or jurisdiction, commit or encourage a criminal, administrative offence or other unlawful activities or wrongdoings, including, but not limited with causing annoyance to or defraud YESIM and any other person, engage, participate in or perform such actions as: spamming, distributing of unsolicited email, unsolicited advertisement and promotional information, transmitting or distributing a virus or other technologically harmful, destructive, malicious, spying, offensive or obscene material, programs and/or codes, harmful agent or mechanism, that is designed to disrupt functionality, harm, disable or collect information, or post any other material which is malicious, technologically harmful, or in any way offensive or obscene; attempting to affect the performance or functionality of any YESIM Application and other Products and Services as well as products and services of Participating Member Operators.

## **9. LIABILITY AND TERMINATION:**

- 6) In any case, when You violate these Terms and/or law/legal acts and other legal regulations, or if YESIM has reasonable grounds to believe, that You are in violation of any term, obligation, and/or warranty, set forth in these Terms and/or applicable law/legal acts, YESIM has the right in its own discretion to apply such penalties, preventive and punitive actions and disciplinary sanctions, as YESIM deems appropriate:
  - Suspend or terminate Your Account and terminate the Agreement;
  - restrict, suspend or terminate the access and use of any YESIM Service or Product;
  - impose other restrictions on Your use of any features or functions of YESIM Application and YESIM and other Products.
- 7) YESIM shall clear the User's balance, if User activity seems malicious swiping and exists the risk receiving fraudulent payment of accounts.

- 8) YESIM shall terminate the agreement and close/suspend the Account of the User and disconnect the User's access to Services and/or YESIM Products, if:
  - The User abuses YESIM Products by improper usage, including for illegal or unethical purposes;
  - Any of the information provided by the User upon purchasing the YESIM Products is found to be false or unauthorized;
  - The User breaches any of the User's obligations under these Terms, including Privacy Policy.
- 9) If the User fails to pay YESIM any fee or other payment according to these Terms, or User initiates an improper chargeback or cancels the payment on their credit or debit card YESIM may suspend or close access to Account and terminate the Agreement. YESIM, at its discretion, will report such cases to responsible credit reporting institutions and agencies, law enforcement authorities and relevant institutional bodies for investigation or prosecution of Users with outstanding amounts.
- 10) YESIM reserves the right to cooperate fully with governmental authorities and other authorized persons in the investigation of any suspected criminal, administrative or civil wrongdoing. Further, as it is set forth in other Clauses of these Terms, in case of any violation of law /legal acts and other legal regulations, YESIM may and will disclose Your identity and contact information, requested by a state, governmental institutions, law enforcement body, court or other authorized institution or organization. YESIM shall not be liable for Your direct, indirect, punitive, incidental or consequential, actual, special, damages or any damages whatsoever or results arising from such information disclosure, and User agrees not to bring any action or claim against YESIM for such disclosure.
- 11) YESIM should terminate Account, Services and Agreement in case if required by state, governmental institutions, law enforcement body, court or other authorized institution or organization.
- 12) YESIM is not liable for Your direct, indirect, punitive, incidental or consequential, actual, special, damages or any damages whatsoever, and other results of the penalties, preventive and punitive actions, and disciplinary sanctions, applied to You by YESIM in connection with Your violation.

#### **10. NO WARRANTIES:**

- 1) ALL PRODUCTS AND/OR SERVICES PROVIDED BY YESIM ARE PROVIDED "AS IS" AND "WITH ALL FAULTS," AND YESIM EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF OPERABILITY, CONDITION, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, QUIET ENJOYMENT, VALUE, ACCURACY OF DATA, OR QUALITY, AS WELL AS ANY WARRANTIES OF MERCHANTABILITY, SYSTEM INTEGRATION, WORKMANSHIP, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT.
- 2) THE PRODUCTS AND SERVICES PROVIDED BY YESIM ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE AS ON-LINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, EXAMPLES SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR AIRCRAFT COMMUNICATION SYSTEMS, MASS TRANSIT, DIRECT LIFE SUPPORT MACHINES, OR WEAPON'S SYSTEMS, IN WHICH THE FAILURE OF THE PRODUCTS OR SERVICES COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). ACCORDINGLY, YESIM DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. USER AGREES THAT YESIM SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF YESIM PRODUCTS OR SERVICES IN HIGH RISK ACTIVITIES OR SIMILAR APPLICATIONS.

#### **11. LIMITATIONS OF LIABILITY:**

- 1) IN NO EVENT SHALL YESIM BE LIABLE UNDER ANY LEGAL THEORY: TO USER FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, OR FOR ANY LOST PROFITS, EVEN IF ADVISED OF THE POSSIBILITY OF THE SAME, HOWEVER CAUSED AND REGARDLESS OF THEORY



OF LIABILITY, WHETHER TORT, CONTRACT, OR STRICT LIABILITY, TO USER OR ANY THIRD PARTY FOR DAMAGES RELATING TO PERSONAL INJURY CAUSED BY INSTALLATION OR USE OF ANY YESIM PRODUCT OR SERVICE, OR FOR ANY DAMAGES THE USER MAY SUFFER FROM OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE YESIM SIM OR YESIM APP, INCLUDING THE INABILITY TO MAKE EMERGENCY SERVICE CALLS.

- 2) YESIM'S TOTAL AGGREGATE LIABILITY FOR ANY OTHER DAMAGES ASSERTED BY USER SHALL BE LIMITED TO USER'S ACTUAL DAMAGES CAUSED BY ANY YESIM PRODUCT OR SERVICE PURCHASED, LICENSED, OR USED UNDER THIS AGREEMENT, AND SHALL IN NO EVENT EXCEED THE AMOUNTS PAID TO YESIM BY USER FOR THE THREE MONTHS PRECEDING FOR NON-TOP-UP SERVICE OR THE LAST TOP-UP SERVICE FROM THE DATE OF CLAIM BY USER, UNDER THE APPLICABLE SCHEDULE FOR THE SPECIFIC PRODUCT OR SERVICE THAT ARE THE SUBJECT OF USER'S CLAIM AGAINST YESIM.
- 3) TO THE EXTENT THAT ANY PRODUCTS, SERVICES, OR FACILITIES PROVIDED HEREUNDER, OR IN RELATION TO THIS AGREEMENT, ARE PROVIDED BY THIRD PARTIES PURSUANT TO AN ARRANGEMENT WITH YESIM, THE DISCLAIMERS AND LIMITATIONS OF YESIM'S LIABILITY SET FORTH HEREIN, SHALL EXTEND FULLY TO SUCH THIRD PARTIES. THE DISCLAIMERS AND EXCLUSIONS CONTAINED HEREIN ARE INDEPENDENT OF ANY EXCLUSIVE REMEDY AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF SUCH EXCLUSIVE REMEDY.
- 4) THE ABOVE LIMITATION INCLUDES, BUT IS NOT LIMITED TO, DAMAGES RESULTING FROM LOSS OR THEFT OF DATA, TRANSMISSION DELAYS OR FAILURES, SERVICE INTERRUPTIONS, UNAUTHORIZED ACCESS OR DAMAGE TO RECORDS, SOFTWARE PROGRAMS OR OTHER INFORMATION OR PROPERTY; LOSS OF PROFITS; COST OF COVER; OR ANY OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT OR PUNITIVE DAMAGES, HOWEVER CAUSED. THIS LIMITATION WILL APPLY EVEN IF YESIM HAS BEEN ADVISED OF, OR IS AWARE OF, THE POSSIBILITIES OF SUCH DAMAGES. YESIM DOES NOT AND CANNOT CONTROL THE QUALITY OF THE PARTICIPATING MEMBER OPERATOR'S NETWORKS IN WHICH SERVICE(S) MAY BE USED OR INTERCONNECT WITH. THEREFORE, YESIM DISCLAIMS ANY AND ALL LIABILITY THAT MAY ARISE FROM THE PERFORMANCE, INCLUDING FAILURE, OF THE PARTICIPATING MEMBER OPERATOR'S NETWORKS. WHERE A STATE DOES NOT ALLOW THE DISCLAIMER OR LIMITATION OF DAMAGES RELATING TO PERSONAL INJURY, THE ABOVE DISCLAIMERS AND LIMITATIONS OF LIABILITY SHALL NOT BE CONSTRUED IN THAT STATE AS DISCLAIMING OR LIMITING DAMAGES TO PERSONAL INJURY.
- 5) YESIM does not and cannot control the quality of the Participating member operator's networks in which service(s) may be used or interconnected with. Therefore, YESIM disclaims any and all liability that may arise from the performance, including failure, of the participating member operator's networks.
- 6) YESIM does not and cannot control and warrant, and therefore disclaims any and all liability for the quality and availability of any extra features and functions as hotspot, LTE and etc. of the participating member operator's.
- 7) YESIM disclaims any and all liability for "unsuccessful payments" charged from your credit card /and or other payment method, if "unsuccessful payment" reasons are:
  - expired card or incorrect card number;
  - the card declined based on location;
  - there aren't sufficient funds on card;
  - the card is over its limit;
  - the card is blocked by the bank's fraud system;
  - other errors on the side of the User or User's bank.
- 8) Where a state does not allow the disclaimer or limitation of damages relating to personal injury, the above disclaimers and limitations of liability shall not be construed in that state as disclaiming or limiting damages to personal injury.

## **12. CHANGES IN REGULATION:**

- 1) User and YESIM understand and agree that regulators of the Participating Member Operator's networks, or other bodies of competent legal jurisdiction, may impose regulations on telecommunication services. If new regulations are imposed upon YESIM, then the User hereby acknowledges that YESIM is authorized to make changes to these Terms that reflect the new regulations and will post such changes via YESIM Application.
- 2) If any competent authority holds any term, condition or provision (or part of term, condition or provision) of these Terms, their changes, updates and amendments to be illegal, invalid, or otherwise unenforceable, or any term, condition or provision (or part of term, condition or provision) of these Terms, their changes, updates and amendments becomes illegal, invalid, or otherwise unenforceable due to the changes or amendments in applicable law, the remaining provisions (or portion of term, condition or provision) of these Terms shall not be affected thereby and shall be found to be valid and enforceable to the fullest extent permitted by law.

## **13. CONSENT OF THE USER:**

- 1) Upon opening an account with YESIM, such person becomes the User who has expressly consented to allow YESIM to collect, process, use, and retain the User's personal information according to these Terms and those within YESIM's Privacy Policy.
- 2) If you do not want to agree to our Terms and/or Privacy Policy, please do not use YESIM Application, YESIM Services, Products or any of YESIM's offerings via YESIM Application. YESIM uses the consent that you, the User, had expressly provided us upon the opening of your YESIM account and/or when you use YESIM Products. YESIM does not share your personal information except with affiliated third-parties who work with YESIM to provide your purchased Services – please refer to our Privacy Policy for details regarding sharing information with third-parties.
- 3) The User may request the deletion of their Account at any time by submitting a request to: support@yesim.app.
- 4) YESIM is committed to providing our visitors to YESIM.app with a great experience but also protecting our rights and the rights of our users. YESIM takes the User's privacy seriously. Please refer to YESIM's Privacy Policy for full details at [https://yesim.app/privacy\\_policy\\_yesim.pdf](https://yesim.app/privacy_policy_yesim.pdf).

## **14. FORCE MAJEURE:**

- 1) YESIM shall be excused from performance of its obligations under these Terms or Agreement if such a failure to perform results from:
  - compliance with any requirement of applicable law, regulation, or judicial order;
  - any act of God, fire, explosion, flood, strike, embargo, terrorist attack, war, insurrection, or riot;
  - shortage of, or inability to obtain, appropriate labor, fuel, power, or raw materials;
  - any failure or malfunction of User's equipment, or of any equipment or services used by or otherwise provided to User by a third-party provider;
  - or without limiting the foregoing, any other cause beyond the reasonable control of the excused Party, whether of the class of causes herein before enumerated or not (each of individually being a "Force Majeure Event").
- 2) Any delay resulting from a Force Majeure Event shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.

#### **15. FAIR USE POLICY:**

- 1) The use of the purchased Service by the User is expected to be a fair data usage. Excessive volume or duration of data use, determined at YESIM's sole discretion, acting reasonably, will constitute abuse of data usage privileges by the User. YESIM reserves the right to monitor data usage and to withdraw the Services supplied to the User at any time in case of overuse or abuse of the Service by the User. YESIM will not be liable for reimbursement, compensation, or any subsequent loss of any YESIM Product or Service(s) that is suspended, withdrawn, or terminated under this Fair Use Policy.
- 2) Data plans offered to You via Yesim Application may have specific Fair Usage Policies. The respective information and Fair Usage terms are available under the Data plan offer in Yesim Application. You shall read the respective information and Fair Usage terms prior to purchase. By purchasing and paying for a selected Data plan shall clearly mean Your acceptance of corresponding information and Fair Usage terms.

#### **16. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP:**

- 1) Nothing in these Terms or Agreement or in the Parties' course of dealing or performance hereunder shall transfer, assign, or grant to, or be claimed to transfer, assign, or grant any right, title, or interest in, or expressly or impliedly licence, including by estoppel, statutory operation, or otherwise, other than as expressly granted, any Intellectual Property Rights of YESIM, its Affiliates, or any third party. YESIM and its Affiliates and licensors reserve all rights thereto, except the limited rights expressly granted to User hereunder.
- 2) All intellectual property rights in YESIM Application, Products and Services belong to YESIM. The purchase or use of such YESIM Products and Services by the User does not imply any transfer of intellectual property rights from YESIM to the User. The User shall not engage in any act or omission that would impair the Intellectual Property Rights of YESIM or its Affiliates or licensors in any YESIM product or service. For use of YESIM Trademarks and Brand, please request our Terms of Use and we will provide Trademarks and Brand Use of Guidelines.

#### **17. JURISDICTION AND ARBITRATION:**

- 1) These Terms shall be interpreted, governed by and construed in accordance with the laws of Switzerland.
- 2) Any dispute, controversy, or claim arising out of, or in relation to the service, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules (<https://www.swissarbitration.org/centre/arbitration/arbitration-rules/>).