
TERMS OF SERVICE

This Terms of Service is a Contract (hereinafter "Agreement") between the user (hereinafter "you") of the subscription based marketing platform that provides possibility to automate communication with contacts uploaded by users via connected channels and other services(hereinafter the "Services"), on the one hand, and LAVATECK LIMITED, a company incorporated and existing under the laws of the Republic of Cyprus, with registration number HE 367106 (hereinafter "Retainly" and "we"), on the other hand.If you enter into this Agreement not as an individual but on behalf of a company, the term "you" refers to that company, which undertakes to comply with this Agreement. If you act on behalf of a company in your dealings with us, you confirm that you have all legal grounds and permissions to act on behalf of that company, and that you are not bound by any of its internal regulations or any other legally binding documents.

Please read the terms of this Agreement carefully before using any Services of Retainly.

Retainly grants its users a limited, non-exclusive, non-sublicensable, and non-transferable license to use the Services only in accordance with this Agreement.If you do not agree with the terms of this Agreement, do not click the "Accept" button or any other button, regardless of its name, that would confirm your approval of reading and accepting this Agreement, and do not use the Services. By clicking "Accept" or by opening or using the Services, you agree to be bound by the terms of this Agreement.

1. Subject Matter

This Agreement regulates the legal rights and obligations of the users of the Services, on the one hand, and Retainly, on the other hand. This Agreement shall govern intellectual property rights, privacy policy, commercial terms, warranties, and other matters set forth in this Agreement.

2. Contract Relations

You declare and guarantee that you have the ability to enter into this Agreement relating to the Services, and that you are capable and competent, within your jurisdiction or place of residence, to use and access the Services.

By accepting this Agreement, you declare, guarantee, and agree to use the Services and confirm that you will interact with them in a manner that:

DOES NOT violate any intellectual property rights, or any other rights of Retainly, or any other rights of any third parties;

DOES NOT violate any law or regulation;

IS NOT malicious, fraudulent, deceptive, threatening, abusive, discrediting, obscene, or otherwise unacceptable;

DOES NOT endanger the safety of your or someone else's account that you may access through the use of the Services, regardless of the level of access;

DOES NOT allow in any way to obtain any user's password, account information, or any other security information;

DOES NOT compromise the security of any computer network and/or crack any passwords and/or security encryption codes;

DOES NOT decompile, reverse engineer the Services or otherwise attempt to obtain the source code of the Services and/or use it in the development of any other derivative software, any separate software algorithm or its part.

This Agreement grants you certain legal rights. You may have other additional rights depending on your jurisdiction.

3. License

In accordance with the terms and conditions outlined in this Agreement, Retainly grants you a limited, non-exclusive, non-sublicensable, and non-transferable license to use the Services. You are not allowed to sell, rent, distribute, transfer, modify, commercially exploit, or sublicense the Services, or use the Services under a sharing arrangement or in any other unauthorized way. Moreover, the license does not grant you the right to use the Services in any way as a human-readable code (source code). You shall not be permitted to make any copies of software or its accompanying documentation for the purpose other than to back up the information generated while using the Services.

4. Other Software

This Agreement does not apply to any open-source code software that is included in the Services or to any third-party software that is licensed separately under the terms of various separate license agreements (hereinafter "Other Software"). Other Software is not subject to the terms and conditions of this Agreement but is provided to you in accordance with the terms of any relevant license agreements with third parties (hereinafter "Other Software Terms"). Other Software copyrights belong to the stakeholders specified in the Other Software Terms. Any terms of this Agreement that conflict with the terms of any license agreements for Other Software shall not apply to Other Software. Nothing in this Agreement shall limit your rights or grant you rights that supersede the terms of any applicable end user license for Other Software.

5. Update of the Services

From time to time, Retainly may provide updates, improvements, patches, bug fixes, and other modifications to improve the Services (hereinafter "Patches"). To increase your security level, you agree to automatic installation of updates, if technically feasible, without any further notice and, irrespective of whether such automatic update function is enabled or disabled for the Services, if absolutely necessary to ensure correct operation of the Services or allow encryption or critical error fixing. Retainly shall bear no responsibility for any harm caused due to the outdated Services in case of your refusal to install Patches.

6. Availability of the Services

The Services shall be made available by Retainly subject to any unavailability caused by circumstances beyond Retainly's reasonable control, such as force majeure events, any computer, communications, Internet service or hosting facility failures or delays involving hardware, software, power or other systems not within Retainly's possession or reasonable control, or denial of service attacks. The Services may also be temporarily limited or interrupted due to maintenance, repair, modifications, upgrades or relocation.

Any modification, reverse engineering, reverse compilation, or disassembly of the Services are strictly prohibited.

7. Compensation

You hereby agree to protect Retainly from any liability for any claims and to compensate for any losses, obligations, damages, fines, penalties, costs, and expenses (including attorney's fees) arising out of your breach of this Agreement.

8. Property Rights, Trade Secrets

You acknowledge and agree that (a) all copyrights and other intellectual property rights worldwide, and (b) property rights for the Services and all subsequent copies thereof, regardless of the form or carrier, are the exclusive property of Retainly.

You acknowledge and agree that the Services contains valuable trade secrets and other proprietary information of Retainly, which is not available to an average internet user, who does not use the Services. You agree to keep such trade and proprietary information confidential, and you acknowledge that any actual or potential breach of this obligation will cause immediate, irreparable harm, which cannot be adequately compensated by monetary means. In the event of a breach of this provision, Retainly shall be entitled to immediately cease maintaining the operability (cease providing services) of your copy of the Services without any notice and further compensation. You are also advised that any disclosure of the information contained in the Services or the information about the Services that you use to any third parties may harm your property or wellbeing and endanger your safety. Do not share such information with any third parties to avoid any negative consequences for you. You also confirm your consent and guarantee that any information received by you, including, but not limited to, from the Retainly Sales and Support Department, in connection with resolving your request addressed to Retainly, shall not be in any way transferred to anyone and shall remain known only to you as the recipient of such information.

9. Copyrights and Trademarks

All materials and informational content on the Retainly website, in Retainly web or other apps, and within its Services are owned and used by Retainly. You are not allowed to copy, distribute, or otherwise disclose any materials or informational content (including any logos, images, or data), or use it in any way that is incompatible with the exclusive rights of the copyright owner or the trademark owner, unless you have our written permission to do so. Any elements and objects used in the Services, including but not limited to images (both static and dynamic), texts, functionality, user interface, audio tracks, sounds, and color combinations, are the intellectual property of Retainly and may only be used by you as part of the Services for the use of the Services, as described in the Agreement. You are not permitted to decompose the Services or extract any elements from the Services. You also are not entitled to create any copies of any items/objects by copying from the Services as well as to take screenshots for purposes other than notifying the Retainly Sales and Support Department of any technical problems that may occur when using the Services. Any rights not expressly granted to you under the license in accordance to this Agreement or any other applicable agreements belong to Retainly.

10. Commercial Terms

Fees for the Services are posted on the website, and you will pay fees for the initial term upon starting your subscription. Following your first payment, you will be billed on a monthly basis for monthly subscriptions or annual basis for annual subscriptions. Retainly reserves the right to change fees at any time by posting an update to the Services on the website or notifying you by email. You are responsible for payment of all applicable fees. Any fees paid hereunder are non-refundable, unless otherwise required by law. You agree to provide valid and accurate credit card information and payment details and authorize Retainly to deduct the fees against the payment instrument provided. If you are using a credit card, you represent and warrant you are authorized to use that credit card, and that any and all charges may be billed to that credit card and won't be rejected.

Unless otherwise stated, fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, goods and services, sales, use or other taxes, assessable by any local, state, provincial, federal or foreign jurisdiction. You are responsible for paying all taxes associated with the purchases pursuant to the Agreement. If Retainly has a legal obligation to pay or collect taxes for which you are responsible under this paragraph, the appropriate amount shall be invoiced and paid by you, unless you provide Retainly with a valid tax exemption certificate authorized by the appropriate taxing authority.

Retainly will provide you with reasonable customer support and maintenance for the paid portion of the Services via e-mail. Retainly does not guarantee that the support will be available at a certain time or that Retainly will respond within a certain time or resolve all problems in connection therewith.

11. Privacy Policy

Retainly is committed to protecting your privacy with respect to any information that is collected under the terms of this Agreement. By purchasing and using Retainly Services, you acknowledge that you have accepted this Agreement and agree to the Privacy Policy set out on our website. For the purpose of providing our technical support functions, Retainly reserves the right to use its account as an Administrator or PRO user to have an access to your account. That said, Retainly shall bear all confidentiality conditions, logical and applicable in such circumstances.

By using the Services and adding the unique identifiers (such as username, email address, etc.) of the users that you have connected to your account (including the information about you, as listed above), you confirm that you have received and provided the information and data about these users, which you have collected and provided in this manner, with full and unconditional consent of the owners of these data and with understanding of the scope and the purpose of use.

By purchasing and/or using the Retainly Services for commercial purposes (e.g., as a service delivery tool), you confirm that you join this Agreement, agree to the Privacy Policy outlined on our website, and acknowledge and guarantee that Retainly's Privacy Policy is respected to the same extent as provided for by Retainly with regard to any third parties and/or all users of the Services, to which information Retainly has granted access to you. Moreover, you hereby guarantee that you have the capacity and the appropriate means to enforce the above policy.

12. Lack of Implied Rights

Any rights not expressly granted to you by Retainly shall not be granted in any way – there are no implied rights in this Agreement.

13. Duration and Termination

This Agreement shall be effective from the time you first use the Services and shall be valid until its termination. For subscription users, your account is by default set to automatically renew every month (or other agreed to term), until you decline to do so. You may terminate the Agreement at any time by closing your account or upon sending a written notice to Retainly at support@retainly.app; however, the Agreement will not be terminated unless you have stopped using the Services completely. Moreover, the Agreement will be immediately terminated if you have failed to comply with any of the terms of this Agreement. Any fees paid hereunder are non-refundable, unless otherwise required by law. Upon termination of the Agreement, the licenses set forth in this Agreement will be immediately terminated, and you agree to cease having any access to the use of the Services, and the documentation. You also confirm that, upon termination of the Agreement, your access to the Services, as well as any support of the Services, will be terminated or limited. Any provisions on confidentiality, protection of personal data, intellectual property, dispute resolution procedure, and any applicable law, and any other provisions that by their nature remain in force, shall remain in force upon termination of this Agreement.

14. Laws and Jurisdiction

This Agreement and any disputes and claims arising out of or in connection with this Agreement are governed and construed in accordance with the laws of the Republic of Cyprus, without regard to conflict-of-law provisions. Any legal proceedings that you may initiate against us in connection with this Agreement shall only take place in a court located in Nicosia, the Republic of Cyprus.

Use of the Services is not authorized in any jurisdiction that does not give effect to all provisions of this Agreement, including without limitation, this section.

15. Disclaimer of Assignment

You may not assign or transfer any of your rights under this Agreement. Any claim of assignment or transfer contrary to this clause shall be deemed invalid.

16. Warranty Disclaimer

Regardless of any provision and in accordance with the applicable law, Retainly provides the Services “as is” and disclaims and excludes all and any guarantees and conditions not provided by the law, express or implied, including any implied warranties of fitness for a particular purpose, ownership, uninterrupted use, accuracy, and non-infringement of any third party rights. Retainly does not guarantee any specific results in the use of the Services. Retainly does not guarantee or assume any responsibility for (a) the quality and completeness of the functionality of the Services, (b) your access to the functionality if you have passed on to any third party any identifying information in relation to your Services, such as the email address that you have used to activate the Services, and/or the mobile phone number that you have used to activate the Services.

17. Limitation of Liability

Nothing in this Agreement (including everything outlined in the “Limitation of Liability” provision) shall attempt to exclude or limit the liability that cannot be excluded or limited under the applicable law. To the fullest extent permitted by law, in addition to the above liability, Retainly shall disclaim and exclude for itself any liability based on a contract, any violation of law (including negligence and direct liability), or otherwise for any direct, indirect, special, or punitive damages of any kind, any loss of income or profit, loss of business, loss of any information or data, or any other damages resulting from or in connection with any sale, installation, maintenance, use, operation, failure, or interruption of the Services, even if Retainly has been aware of the possibility of such damages.

18. Partial Application

If any clause of this Agreement is deemed invalid, illegal, or unenforceable, this shall in no way affect the fairness, legality, and enforceability of any remaining clauses, and any such clause that is to be replaced shall be considered an automatically replaced, valid, legal, and enforceable clause with the same intentions and economic consequences.

19. Notifications

Retainly may send you notifications via email and/or to your mobile phone number. Notifications shall be sent to the email address or the mobile phone number you have specified when using the Services.

20. Disclaimer of Rights

Retainly's disclaimers of any of its own rights will not be valid unless provided in writing. Any disclaimer by Retainly of its right to demand compliance of any of the clauses of this Agreement in one instance shall not be considered a disclaimer of its rights under any other clause and/or under such a clause in any other instance.

21. Names and Numeration

Any names, headings, or numbering of any parts of this Agreement, as well as the title of the Agreement, shall be for convenience only and shall not be used to interpret this Agreement.

22. Full Agreement and Amendments

This Agreement shall set forth the full scope of any understandings related to this Agreement between you and Retainly. The Agreement shall supersede any prior agreements (both written and oral) with respect to the Services. In the event of any changes to this Agreement, Retainly shall notify you of such changes via the Retainly website (by publishing an updated Agreement on the website), or by sending you an email notification, or by informing you through notifications in the Services. If you continue using the Services, this will be considered as acceptance of the announced changes by you. It is your responsibility to monitor changes, so please check the Retainly website periodically.

23. Questions or Additional Information

If you have any questions regarding this Agreement, please contact Retainly by sending us an email to support@retainly.app.

The Agreement shall be effective from the date of purchase/start of use of the Retainly Services and, for the existing users, from the date of its publication on this website.