

## Data Access and Use Terms – Third Party Data Access

V2.0. – 20.10.2025

### **Preface**

EU Regulation 2023/2854 (“Data Act”) entitles users of connected products or related service to provide data generated by these devices and/or services to be handled by third parties. Whenever said data cannot be accessed directly from the connected product or related service, Data Act relevant data must be made available by other means, e.g., an online access. For this purpose VAILLANT established a Platform, available at <https://www.eu-data-act.vaillant-group.com/>, (hereinafter “the Platform”) via which these Terms and Conditions are also being made available.

These Terms and Conditions govern the provision of Data Act relevant Data (“Data”) to Data Recipients who receive this data on request, or on behalf of a device’s user. Alongside with all information provided in the Data Access-Request form on the Platform, these Terms and Conditions form a binding contract regarding the access to and use of Data from connected products and related services distributed by VAILLANT Group and their affiliates.

### **1. Parties**

For the purposes of these Terms and Conditions, Vaillant GmbH, Berghauser Str. 40, 42859 Remscheid, acts as **Data Holder**.

The party acting on request, or on behalf of the person, being in possession of an Appliance or being user of Software distributed by Vaillant Group or their Affiliates, which subject to the EU Data Act, (“End-User”) acts as **Data Recipient**.

Data Holder and Data Recipients are jointly referred to as the “Parties” and alternatively referred to each as a “Party”.

### **2. Conclusion of the Contract on Data Access, Assurances and Acknowledgements**

- (1) Contracts can solely be concluded by using the Data-Access-Request form provided by Vaillant in the Platform.
- (2) Necessary precondition to each contract based on these Terms is Data Holder being obliged under Article 5 of the Data Act to make Data available to Data Recipient when requested to do so by or on behalf of an End-User. In light of this, End-User(s), Appliance(s) and relevant Related Services must be named in the Data-Access-Request form of the Platform.

- (3) A Data-Access-Request containing all legally required information for its validation filed by Data-Recipient forms an offer to enter into a contract on data access with Data Holder. Upon completed and successful validation of the Data-Access-Request, Data Holder either informs Data-Recipient about the successful validation of their Data-Access-Request or starts with the provision of the requested data; either of these actions qualifies as acceptance of End-User's offer, thus concluding the Contract. For the avoidance of doubt it is noted, the provision of data of each individual End-User to Data Recipient forms an individual and severable contract.
- (4) Whenever filing a Data Access Request on behalf of an End User, **Data Recipient** declares that, to the best of their knowledge, this End-User is a user within the meaning of Article 2 (12) of the Data Act of the Product(s) and/or Related Service(s) stated in the Data Access Request form within the Platform to which Data-Recipient requests Data-Access.
- (5) Save for cases in which the End-User directly instructed VAILLANT to provide Data to Data Recipient, Data Recipient will provide all necessary evidence that End-User wants Data from their device(s) to be transmitted to Data Recipient. Data Recipient acknowledges that they will solely be granted access to the Data as long as, to the best of the parties' knowledge, the End-User's data access request is valid under applicable laws, has not been withdrawn and has not expired.
- (6) Data Recipient declares that they have entered into a contract with the Requesting User on the use of the Data. According to this contract, the Data will be used exclusively for the purposes stated in the Data-Access Request-Form. Data Recipient will solely use the Data to the extent that is strictly necessary for fulfilling said purpose.
- (7) Furthermore, Data Recipient declares that it does not qualify as an undertaking designated as a 'gatekeeper' under Article 3 of Regulation (EU) 2022/1925 (Digital Markets Act).

### **3. Provision of Data**

- (1) Data Holder makes the Data available to Data Recipient, in a comprehensive, structured, commonly used and machine-readable format as well as the relevant metadata necessary to interpret and use this data. Data Holder generally uses JSON as commonly used and machine-readable format. The types of Data and Metadata, Data Recipient can receive, their sizes and the maximum possible frequency of their provision, is specified in Section 5.
- (2) Data Recipient receives the Data easily and securely, as transmission upon Data Recipient's or the End-User's request. If so requested, Data Recipient can receive the

Data continuously without undue delay after the Data becomes available to the Data Holder in the frequency described below in Section 5. For the avoidance of doubt it is noted that Data Holder does not provide Data-Streaming services. Access to the Data will be granted via an API, which is designed as a Pull-API. The API can be called by Data-Recipient as per the agreed Service Level and pricing-model; thus, if the user so desires continuously.

- (3) Save for further provisions in these Terms and Conditions, Data Holder is only obliged to provide Data to Data Recipient to the extent that this provision of Data does not violate or infringe:
  - (a) the rights and interests of third parties, including, but not limited to, applicable data protection laws, and
  - (b) other statutory requirements binding Data Holder or their Affiliates, such as antitrust laws.
- (4) Data Holder will not keep any information on Data Recipient's access to the Data beyond what is necessary for:
  - (a) the sound execution of the End-User's access request and this Contract;
  - (b) the security and maintenance of Data Holder's IT-infrastructure; and
  - (c) compliance with legal obligations on Data Holder to keep such information.
- (5) Data Holder can withhold the Provision of Data in case and for as long as Data-Recipient is in default of their payment subject to clause 8.

#### **4. Notification obligations, Communication**

- (1) Any Party that becomes aware that any declaration referred to in preceding section 2 is not, or is no longer, correct, or will no longer remain correct in the foreseeable future, must, without undue delay, notify the other Party (unless the other Party is or ought to be already aware of the fact).
- (2) On becoming aware of this situation, each of the Parties must take appropriate action and cure the false or incorrect fundamental declaration, to the extent possible. Depending on the circumstances, this may include notifying the Requesting User or any protected third party who is affected, or the temporary or final suspension of the making available of the Data by the Data Holder or the use of the Data by the Data Recipient, if making the Data available or the use of the Data is or has become unlawful.
- (3) If the situation is not and cannot be cured, the Contract must terminate for cause by means of a termination notice mentioning the reasons of termination given by either

party to the other. The termination has immediate effect. Where the incorrectness affects only a part of the data covered by the Contract, termination must take effect only for the relevant part.

- (4) Data Recipient shall send all notifications and communications regarding their Contract to [eudataact@vaillant-group.com](mailto:eudataact@vaillant-group.com).

## **5. Available types of Data, Metadata, Data-Size and Frequency of Transmission, Data Quality; Mitigation Procedures**

- (1) Data Recipient can obtain the following types of data from connected products with the following maximum frequency:

| Data-Type                      | Transmission Interval                                          | Data-Type examples                                                                                                   | Data-Size                     |
|--------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-------------------------------|
| System Control Data            | May vary based on data point between on change to once per day | Desired water-temperature settings, actual temperature of the water inside of the appliance, target room-temperature | Avg. 1KB per one data package |
| Ambisense Data                 | May vary based on data point between on change to once per day | Room temperature, humidity                                                                                           | Avg. 1KB per one data package |
| Operational Data               | May vary based on data point between on change to once per day | Water-pressure, flow rate, device status, sensor information                                                         | Avg. 1KB per one data package |
| Energy Management Informations | on change (by user)                                            | Status changes of the energy management functionalities, e.g., as triggered by the appliance's EEBUS connection      | Avg. 1KB per one data package |
| Topology Data                  | on change                                                      | Connected components, their serial numbers and soft-/firmware-versions                                               | Avg. 1KB per one data package |
| Diagnostic Trouble Codes       | ~ 15min                                                        |                                                                                                                      | Avg. 1KB per one data package |
| Online Status                  | on change                                                      | Of gateway or device (depending on appliance type)                                                                   | Avg. 1KB per one data package |

- (2) Data Holder does currently not receive any Data from Related Services. Hence, Data Holder cannot make any such Data available to Data Recipient.
- (3) If Data Recipient identifies an incident on the Data covered by the Contract or on the Data quality and access arrangements and if Data Recipient notifies the Data Holder with a detailed description of the incident, Data Holder shall cooperate in with best efforts to identify the reason of the incident. In case the incident was caused by a failure of Data Holder, Data Holder will use their best efforts to remedy the incident within a reasonable period of time.

## **6. Permitted use of the Data by Data Recipient**

- (1) The Data Recipient will solely process the data made available to them under the Contract only for the purposes and under the conditions agreed with the Requesting User.
- (2) Data Recipient must erase the Data when it is no longer necessary for the agreed purpose, unless otherwise agreed with the Requesting User in relation to Data that is non-personal data.

## **7. Unauthorised use or sharing of data**

- (1) Data Recipient must not:
  - (a) provide false information to the Data Holder, deploy deceptive or coercive means or abuse gaps in the Data Holder's technical infrastructure designed to protect the data; or
  - (b) alter or remove, without the agreement of the Data Holder, any protective measures applied by the Data Holder; or
  - (c) use the data they received for unauthorised purposes; or
  - (d) use the Data to develop a product that competes with the Product; or
  - (e) use the Data to derive insights about the economic situation, assets and production methods of the Data Holder, or their use of the Data; or
  - (f) use the Data in a manner that adversely impacts the security of the Product or any Related Service;
  - (g) notwithstanding Article 22 (2) points (a) and (c) of the GDPR, use Data for the profiling of natural persons, unless this is necessary to provide the service requested by the Requesting User; or

- (h) disclose the data to another third party unlawfully or in violation of the Contract.
- (2) Data Recipient must comply, without undue delay, with requests from Data Holder, the holder of the relevant trade secret (if this is not the same as the Data Holder) or the Requesting User to:
  - (a) inform the Requesting User of the unauthorised use or disclosure of the data and measures taken to put an end to this;
  - (b) erase the data made available by the Data Holder under this Contract, or obtained in an unauthorised or abusive manner, and any copies of it;
  - (c) compensate the Data Holder, the Requesting User or protected other third party for any harm suffered from the unauthorised use or disclosure; and
  - (d) end the production, offering, placing on the market or use of goods, derivative data or services produced on the basis of knowledge obtained through this data, or the importation, export or storage of infringing goods for those purposes;
  - (e) destroy any infringing goods, if there is a serious risk that the unlawful use of the Data will cause significant harm to the Data Holder, trade secret holder or User – or where this measure would not be disproportionate, given the interests of the Data Holder, trade secret holder or User.

## **8. Remuneration**

- (1) Remuneration depends on the amount of End-Users on behalf of which Data-Recipient shall receive Data. Payment is made upfront for each entire contract-period.
- (2) If within the meaning of Art. 9 subs. 4 Data-Act Data-Recipient does not qualify as Small or Medium Enterprise (SME) under Recommendation 2003/361/EC and is not a non-profit research organization, the following applies:

Data-Recipient will be charged a one-time registration fee of EUR 560.-, covering the costs of verification of Data-Recipient and technical set-up of data-access.

Per End-User, Data-Recipient shall receive Data for, a one-time setup fee of EUR 42.- will be charged, covering the costs of verification of End-User and technical set-up. The annual fee for provision of Data is EUR 63.- per End-User on behalf of whom Data-Recipient requests Data-Access.
- (3) If Data-Recipient qualifies as Small or Medium Enterprise (SME) under Recommendation 2003/361/EC or qualifies as a non-profit research organization within the meaning of Art. 9 subs. 4 Data-Act the following applies:

Data-Recipient will be charged a one-time registration fee of EUR 400.-, covering the costs of verification of Data-Recipient and technical set-up of data-access.

Per End-User, Data-Recipient shall receive Data for, a one-time setup fee of EUR 30.- will be charged, covering the costs of verification of End-User and technical set-up. The annual fee for provision of Data is EUR 45.- per End-User on behalf of whom Data-Recipient requests Data-Access.

- (4) Payments are due within one (1) week of conclusion of a Contract.
- (5) None of the above precludes Data Holder from its entitlement to receive interest on overdue payments from Data-Recipient in statutory amounts or invoke other statutory rights and entitlements in such situations.

## **9. Default, non-performance and remedies**

- (1) A non-performance of an obligation by a Party is fundamental to this Contract if:
  - (a) strict compliance with the obligation is of the essence of this Contract, in particular because non-compliance would cause significant harm to the other Party, the Requesting User or other protected third parties; or
  - (b) the non-performance substantially deprives the aggrieved Party of what it was entitled to expect under this Contract, unless the other Party did not foresee and could not reasonably have foreseen that result; or
  - (c) the non-performance is intentional.
- (2) A Party's non-performance is excused if the non-performing Party proves that it is due to an impediment beyond its control and that it could not reasonably have been expected to take the impediment into account at the time of the conclusion of this Contract, or to have avoided or overcome the impediment or its consequences.
- (3) Where the impediment is only temporary the excuse has effect for the period during which the impediment exists. However, if the delay amounts to a fundamental non-performance, the other Party may treat it as such.
- (4) The non-performing Party must ensure that notice of the impediment and of its effect on its ability to perform is received by the other Party within a reasonable time after the non-performing Party knew or ought to have known of these circumstances. The other Party is entitled to damages for any loss resulting from the non-receipt of such notice.
- (5) In case of non-performance by a Party the aggrieved Party shall have the following remedies, without prejudice to any other remedies available under applicable law.
  - (a) Remedies which are not incompatible may be cumulated.
  - (b) A Party may not resort to any of the remedies to the extent that its own act or state of affairs caused the other Party's non-performance, such as where a

shortcoming in its own data infrastructure did not allow the other Party to duly perform its obligations. A Party may also not rely on a claim for damages for loss suffered to the extent that it could have reduced the loss by taking reasonable steps.

(c) The aggrieved party can:

- 1.) request that the non-performing Party comply, without undue delay, with its obligations under this Contract, unless it would be unlawful or impossible or specific performance would cause the non-performing Party unreasonable effort or expense;
- 2.) withhold their own performance under this Contract, unless this would foreseeably cause a detriment to the non-performing Party that is obviously disproportionate in the light of the gravity of the non-performance;
- 3.) terminate the contract for cause if the non-performance is fundamental;
- 4.) claim damages for pecuniary loss caused to the aggrieved Party by the non-performance which is not excused. The non-performing Party is liable only for loss which it foresaw or could reasonably have foreseen at the time of conclusion of this Contract as a likely result of its non-performance, unless the non-performance was intentional or grossly negligent.

## **10. Indemnification**

Notwithstanding the provisions in the preceding sections 7 and 9 and for the avoidance of doubt it is noted that Data-Recipient will indemnify and hold harmless Data Holder from all claims and damages arising from Data-Recipients failure to immediately notify the Data-Holder about and End-User's revocation of their consent to have their data made available to Data-Recipient.

## **11. Contract Duration, Termination and Termination for Cause**

- (1) Contracts entered into on grounds of these Terms and Conditions have a period of one year.
- (2) Notwithstanding the aforementioned, a Contract terminates upon destruction of the Product or permanent discontinuation of the Related Service, or when the Product or Related Service is otherwise put out of service or loses its capacity to generate the Data in an irreversible manner.

- (3) Either party may terminate a Contract with a notice period of three (3) months to the end of the contract period. Data Recipient must notify the Requesting User that the Contract has been terminated. Save for cases of termination for cause, any other termination of a Contract are barred.
- (4) Either party may terminate a Contract for Cause, i.e., with immediate effect. A situation entitling Data Holder to terminate the Contract for cause is, inter alia, given, when Data Recipient provided wrongful information about their qualification as Gatekeeper or should Data Recipient become a Gatekeeper or otherwise violates their acknowledgements under the preceding section 2 (5) or (6), as well as any misuse of the Data as described in preceding section 7.

## **12. Unilateral modification of these Terms**

- (1) Data Holder may, in good faith, unilaterally change details regarding the specifications for the Data and access arrangements, if this is objectively justified by the general conduct of business of the Data Holder – for example by a technical modification due to an immediate security vulnerability in the line of products or related services offered by the Data Holder or a change in the Data Holder's infrastructure. Any such change may not cause an infringement of this contract's stipulations.
- (2) Data Holder will in this case give notice of the change to the Data Recipient without undue delay.
- (3) Where the change has detrimental impact on Data Recipient, Data Recipient is entitled to terminate the (relevant part of the) Contract without any compensation being due to the Data Holder, this notwithstanding any other rights or remedies the Data Recipient may have.

## **13. Data-Protection Laws**

- (1) As far as the Data qualifies as personal data, the parties comply with the Regulation (EU) 2016/679 and, where relevant, Directive 2002/58/EC; both of which prevail.
- (2) In particular, when the Requesting User is not the data subject, Data Holder may only make the Data which is personal data available to the Data Recipient, to the extent permitted under Regulation (EU) 2016/679 and, where relevant, Directive 2002/58/EC.

## **14. Confidentiality**

- (1) The following information must be considered confidential:
  - (a) information referring to trade secrets, financial situation or any other aspect regarding the operations of the other Party unless the other Party has made this information public;
  - (b) information setting out the basis for the calculation of the reasonable compensation;
  - (c) information referring to the Requesting User and any other protected third party, unless the protected third party has made this information public;
  - (d) information referring to the performance of this Contract and any disputes or other irregularities arising in the course of its performance.
- (2) The Parties will take all reasonable measures to store securely and keep in full confidence the aforementioned information and not to disclose or make available such information to any third party, unless either of the Parties:
  - (a) has a legal right or is under a legal obligation to disclose or make available the relevant information, e.g. in order to comply with the obligation to provide information showing that there has been no discrimination in accordance with Article 8 (3) of the Data Act; or
  - (b) must disclose or make available the relevant information to meet their obligations under this Contract, and the other Party (or the party providing the confidential information or affected by its disclosure) can reasonably be considered to have accepted this; or
  - (c) has obtained prior written consent from the other Party or the party providing the confidential information or affected by its disclosure.
- (3) In any case, the Data Holder may disclose or make available such information to the Requesting User as is necessary for the Data Holder to demonstrate compliance with
  - (a) its obligations in respect of the Data Recipient under Article 5 of the Data Act or
  - (b) resulting from a contract made with the Requesting User under Article 4 (6) of the Data Act.
- (4) These confidentiality obligations remain applicable after the termination of the Contract for a period of two (2) years.
- (5) These confidentiality obligations do not prevail over more stringent obligations under other applicable laws.

#### **15. Governing Law, Place of Venue**

All contracts entered into on grounds of these Terms and Conditions shall be governed by the laws of the Federal Republic of Germany. The courts of Düsseldorf, Germany, shall have exclusive jurisdiction to settle any claims or disputes arising out of any agreement concluded under these Terms and Conditions.