

## Vivid Money App and Web Terms and Conditions

**Effective date:** 29 December 2023.

### 1. Scope of application, Services

- 1.1 These terms and conditions ("**T+C App + Web**") apply to the business relation between the customer and **Vivid Money GmbH** ("**Vivid**") as provider of a mobile application ("**Vivid App**") and a website - [www.vivid.money](http://www.vivid.money), ("**Vivid Web**" - Vivid Web and Vivid App collectively referred to as "**Vivid App + Web**").
- 1.2 Customers need the Vivid App + Web in order to use certain products and services that are accessible from the Vivid App + Web, and it provides customers with joint functionality (such as access passcodes, the display format and filters to display transaction history on the Vivid App) and joint financial overviews on the Vivid App. The T+C App + Web sets rules about the access to and the use of the Vivid App + Web.
- 1.3 These T+C App+Web do **not** apply to any services that are merely accessible from Vivid App + Web, to the respective dedicated app and online environments and to the data retrieved from such services. Such services are governed by separate terms and conditions which can be found on the Vivid Web under "legal documents" and in Vivid App, for example:
  - any payment services are either provided by Vivid Money SA, or by Solaris SE in cooperation with Vivid as may be the case
  - Investment services "Invest 2.0", the Interest Pocket
  - any other offers or Services by Vivid, its group companies or third parties.

### 2. Vivid App + Web Content; IP rights

- 2.1 Vivid is exclusively responsible for and retains all right, title and interest (including copyrights, trademarks, patents, as well as any other intellectual property or other right) in all information and content (including all information, images, videos, databases and computer programs) available on the Vivid App + Web ("**Vivid Content**") and in the software underlying the Vivid App + Web or the Vivid Services ("**Vivid Software**").
- 2.2 The ability or permission by Vivid to use or access the Vivid App + Web shall not convey any proprietary or ownership rights in the Vivid Content or the Vivid Software. The customer shall not attempt to modify, translate, disassemble, de-compile, copy or reverse engineer the Vivid Content or the Vivid Software or create any derivative product based thereon.
- 2.3 Any use of the Vivid App + Web beyond an ordinary use, in particular the private and commercial reproduction, modification, distribution or storage of information or files, in particular of texts, parts of texts, images and film material, requires Vivid's prior express written consent. This also applies to the inclusion into electronic databases and the reproduction on any data carriers, into any kind of social media, into applications or providing accessibility in the internet, as well as modification, distribution or other misuse. By downloading or sending the source code, the customer does not acquire any ownership rights to the Vivid App + Web. No copyrights or other ancillary copyrights shall be transferred. If the service is discontinued the customer is obliged to delete the software provided immediately. In all other respects, the legal limits arising from copyright law and other applicable legal provisions shall apply.

- 2.4 The Vivid App + Web may contain links to other websites that may contain information produced or disclosed by persons that are independent from Vivid. Vivid is not responsible for such information and cannot accept any liability. The mere existence of a link to an external provider content on the Vivid App + Web may not be seen as a recommendation, endorsement or other kind of support of such content or its provider by Vivid.

### 3. Access to the Vivid App and Web

- 3.1 Access to the Vivid App and Web requires registration for the services provided thereon accordance with Section 1.2 ("**Registration**"). Vivid reserves the right to refuse Registration to an applicant without providing reasons or revoke it.
- 3.2 Registration requires the applicant to have the following devices ("**Access Devices**") available (and keep the Access Devices available throughout his/her status as a customer of Vivid):
- (a) an email address with an inbox to which only he him/herself has access ("**Customer Email Address**"); and
  - (b) a suitable personal computer or browser for the Vivid Web (only available for Business Clients) and for the Vivid App, a suitable smartphone (see "**System Requirements**");
- 3.3 For Registration the applicant must:
- (a) download the Vivid App / enter the Business Registration on Vivid Web;
  - (b) provide all data requested for the respective service, including the Customer Email Address ("**Customer Data**"), take all other steps required to onboard to the respective service;
  - (c) create a password and, optionally, a PIN code, a FaceID or TouchID (the password and, if applicable, PIN code, FaceID or TouchID together the "**Customer Identification Instrument**"). The Customer Identification Instrument is used for authentication on the Vivid App and Web and also serves for authentication for other services available from Vivid App and Web;
- 3.4 By completing the Registration the applicant makes a binding offer to Vivid for entering into an agreement for the use of the Vivid App + Web in accordance with these terms. If Vivid accepts such offer it will send a confirmation to the Customer Email Address as a consequence of which the applicant becomes a customer of Vivid and any other services mentioned in such confirmation.

### 4. Customer's duties of cooperation and diligence

- 4.1 The customer shall always comply with Vivid's safety instructions as set out on the Vivid App + Web.
- 4.2 The customer shall check the messages sent by Vivid to the Customer Inbox and/or the Customer Email Address on a regular basis. The customer shall promptly notify Vivid of any changes of his/her Customer Data.

- 4.3 The customer is responsible for keeping his/her Customer Identification Instrument confidential and secured against access by third parties. In particular, the customer shall ensure the following:
- (a) The Customer Identification Instrument must not be stored electronically in an unsecured way outside of the Vivid Authentication Process;
  - (b) when entering the Customer Identification Instrument, it must be ensured that other persons cannot spy out such features;
  - (c) the Customer Identification Instrument must not be forwarded outside the Vivid Authentication Process, i.e. by way of example, it may not be forwarded by email;
  - (d) the different elements of the Customer Identification Instrument must not be stored together; and
  - (e) the combination of the Customer Identification Instrument and the Customer Data must not be used for any other service (other than those accessed through the Vivid App and Web).
- 4.4 If the customer discovers that his/her Customer Identification Instrument has been retrieved by any third party ("**Customer Security Violation**"), he/she shall promptly notify Vivid thereof.
- 4.5 The customer is responsible for meeting all System Requirements, and for all fees and costs arising from the use of his/her equipment in connection with the Vivid App + Web, including network usage and the fees of the respective smartphone provider.

## **5. Unauthorized use of the Vivid App + Web by the customer**

- 5.1 The customer may only use the Vivid App + Web for legitimate purposes (in compliance with all applicable laws and regulations, national or European) and not in a manner that could violate the integrity of Vivid or any of their affiliated companies or partners.
- 5.2 The Vivid App + Web may only be used by the customer that applied for Registration in his/her own name and representation.
- 5.3 The use of the Vivid App with an Access Device that circumvents the manufacturer's restrictions on use or security functions especially with respect to the operating system, (e.g. through a process such as jailbreaking or by means of rooting) is expressly prohibited.
- 5.4 Unless expressly permitted in the T+C App + Web, the customer shall not:
- (a) publish, distribute or transfer the Vivid App;
  - (b) reproduce the Vivid App;
  - (c) store the Vivid App + Web on a server or another storage device connected to a network, or to set up a database by systematically retrieving and storing data from the Vivid App;

- (d) remove or modify the contents of the Vivid App + Web or circumvent security measures or interfere with the proper functioning of the Vivid App + Web or the server on which the Vivid App is hosted;
- (e) link to the Vivid App+Web from third party online content or functionality; or
- (f) do anything else that is not expressly permitted by the T+C App + Web.

## **6. Blocking of access to the Vivid App + Web**

- 6.1 Vivid shall be authorized to block the customer's access to the Vivid App + Web at any time when it discovers:
  - (a) an unauthorized use of the Vivid App by the customer; and/or
  - (b) the occurrence of a Customer Security Violation.
- 6.2 Vivid shall also be authorized to block the customer's access to the Vivid App + Web at any time in case of a violation of terms and conditions of a service mentioned in Section 1.3. by the customer, or in case such service otherwise requires the blocking of access to the entire Vivid App + Web (e.g. in order to prevent fraud within or outside the responsibility of the customer).
- 6.3 Vivid shall inform the customer of a blocking and, if possible and legally permissible, the steps required to enable Vivid to undo the blocking of the customer's access to the Vivid App + Web.

## **7. Availability, System Requirements and modifications to the Vivid App + Web**

- 7.1 The following System Requirements apply:
  - for the payment functionality on the Vivid Web (only available for Business Clients), a personal computer and browser that meet general security and communication standards (such as an up-to-date TLS/SSL encryption).
  - for the Vivid App, a smartphone that meets the requirements for the operating system (iOS / Android) with an active mobile phone number and the Vivid App. Currently supported versions and further information can be found on [www.vivid.money](http://www.vivid.money).
  - It is the customer's responsibility to ensure that his/her equipment meets all technical requirements necessary to use the Vivid App at all times.
- 7.2 The customer has no claim to permanent and uninterrupted availability of the Vivid App + Web. The Vivid App + Web is provided as-is and as-available, and Vivid makes no representations or warranties of any kind concerning the Vivid App + App, whether express, implied, statutory or other. While trying to provide customers with the best of its services, any kind of software - also the Vivid App + Web is not free of latent or other defects, bugs or errors, whether known or discoverable.
- 7.3 Vivid may modify or discontinue the Vivid App + Web or parts thereof. In particular, Vivid may modify the format and content of the Vivid App + Web and/or the requirements for the Access Devices from time to time. This may mean that Vivid may discontinue servicing out-of-date versions of operating systems for the Vivid App or very outdated browsers for security reasons. In this case, Vivid will, to the extent

reasonably possible, notify the customers two months before discontinuing the service on your smartphone.

## **8. Restriction of Liability of Vivid**

- 8.1 Vivid shall only be liable for foreseeable losses. Liability for indirect damage, in particular consequential damage, unforeseeable damage or atypical damage as well as loss of profit shall be excluded. The same applies to the consequences of industrial disputes, accidental damage and force majeure.
- 8.2 Vivid does not accept liability for damages arising to a customer as a result of using the services provided or contents published by Vivid.
- 8.3 The above stated limitation of liability shall not apply (i) in cases of intentional or grossly negligent behaviour on the part of Vivid or any of its vicarious agents, (ii) to any damage arising from injury to life, body, or health resulting from a breach of duty by Vivid or any of its vicarious agents; and (iii) to the breach of any obligations, the proper fulfilment of which is essential for the proper performance of the contract and on the fulfilment of which the customer may reasonably rely.

## **9. Amendments to the T+C App + Web**

- 9.1 Any proposed amendments of the T+C App + Web shall be notified to the customer by no later than two (2) months prior to their proposed effective date.
- 9.2 The customer may either approve or indicate disapproval of the amendments before their proposed effective date.
- 9.3 Any amendments shall be deemed to have been approved by the customer, unless the customer indicates disapproval before their proposed effective date. Vivid shall expressly draw the customer's attention to this tacit approval in its offer. If the customer is offered the changes, the customer may also terminate the agreement affected by the changes free of charge with immediate effect before the proposed effective date of the changes. Vivid shall expressly draw the customer's attention to this right of termination in its offer. If the customer terminates the agreement, the amendment shall not be applied to the terminated agreement.
- 9.4 Notwithstanding the foregoing paragraphs of Section 3, Vivid shall always be entitled to make any clarifications and make any changes to the T+C App + Web that are not detrimental to the customer, without adhering to any notification period. In this case Vivid shall post a new version of the T+C App + Web to the terms and conditions site. Further, Vivid and the customer may always agree on an earlier or immediate application of any proposed new terms; this applies in particular in case of new product features or functionalities that the customer has actively requested from Vivid.

## **10. Termination**

- 10.1 The customer may terminate the entire business relationship with Vivid, or individual parts thereof, at any time without observing a notice period.

- 10.2 Vivid may terminate the entire business relationship with the customer, or individual parts thereof, at any time by way of an ordinary termination (ordentliche Kündigung) giving no less than two months' prior notice.
- 10.3 The customer's and Vivid's right to terminate the business relationship for good cause (wichtiger Grund) without observing a notice period shall remain unaffected. Examples for good termination causes are repeated violations of the T+C App + Web, a serious one-time violation of the T+C App + Web.
- 10.4 It terminates automatically when the services provided accordance to Clause 1.3 are terminated.

## 11. Communications

- 11.1 Communications between Vivid and the customer in connection with the Vivid App + Web will be in electronic form. Notifications by Vivid to the customer will be placed into an online inbox on the Vivid App set up individually for the customer ("**Customer Inbox**") and/or send to the Customer Email Address, unless a notification in paper form is required by law.
- 11.2 In addition, Vivid shall always be entitled to offer additional means of communication to the customer, e.g. customer service by telephone.

## 12. Miscellaneous

### 12.1 Governing law and settlement of disputes

- 12.2 The T+C App + Web shall be construed and governed in accordance with the laws of the Federal Republic of Germany, except for the provisions relating to updates of the T+C App + Web (Section 3) which shall be construed under the laws of the European Union country of residence of the customer. Besides this, consumers that qualify as consumers can rely on the mandatory consumer protection laws of their country of residence.

- 12.3 Disputes between the customer and Vivid shall only be brought before a German court. This applies when the customer appeals to a court as well as when Vivid does so. Exceptions to the above are: (a) if mandatory law indicates a different competent court, this is binding for the customer and Vivid - this means for example that for disputes with consumers the exclusive place of jurisdiction is to the courts at the residence of the consumer where Vivid has directed its services to that country, and (b) if a foreign court is competent for the customer, Vivid can submit the dispute to that court.

### 12.4 Customer's capacity

The customer declares to have the capacity to contract under the conditions described below, therefore, to be of legal majority and not to be protected under any tutorship or curatorship regimes that restrict his/her legal capacity.

### 12.5 Language of contract

The T+C App + Web and all further documents referred to herein are provided to the customer and concluded in the English language; any translation is a courtesy translation only. By entering



into T+C App + Web and using Vivid services, customers confirm that the customer understands the English language and agrees to communicate with Vivid in the English language as far as the legal relations arising under this agreement are concerned, including with respect to submitting and resolving any complaints and disputes.

#### **12.6 Severability**

If any provision of the present T+C App + Web is held to be unenforceable, the enforceability of all remaining provisions shall not be affected thereby.



## **Special Terms of Use for users, who download the Vivid App from the Apple App Store**

*The following conditions apply in addition to the STC-App + Web, if a customer downloads the Vivid App via the App Store by Apple Inc. ("Apple"):*

- 1. The terms of use are agreed upon solely between the customer and Vivid. Apple is not a party of this contract whatsoever and has no responsibilities regarding the terms of use and the content thereof.*
- 2. The customer is granted a non-transferable right of use of the Vivid App on every Apple device that is in the customer's possession within the scope of the terms of use in the general terms and conditions of the App Store, except if the Vivid App can also be accessed and used by other accounts associated with the purchaser via Apple's family sharing or volume purchasing.*
- 3. Apple is not responsible for providing maintenance and support services for the Vivid App. Apple is not in any way obliged to provide maintenance and support services for the Vivid App.*
- 4. Apple is not responsible for Vivid's warranties, no matter whether they arise explicitly or are implied by act of law if not waived effectively. In the case of us Vivid not fulfilling applying warranties, the customer may contact Apple for a refund of the potential price, if any, to which the customer purchased the Vivid App. The customer further notes, that Apple does not have any other warranties of any kind regarding Vivid, to the extent permitted by law.*
- 5. Apple is not responsible for claims associated to the Vivid App, possession and/or its usage, including (i) product liability claims, (ii) allegations that the application does not meet the applicable jurisdictional and administrative regulations; and (iii) claims of consumer protection law or related legislative acts.*
- 6. In case of a third party claiming that the Vivid App, its possession thereof or its usage violates intellectual property of a third party, Apple is not responsible for the investigation, defence, settlement or fulfilment of such a claim regarding the violation of intellectual property.*
- 7. Use of the Vivid App is not permitted if the customer (i) resides in a country, that is subject to an embargo by the U.S. government or which is regarded as a country that supports terrorism by the U.S. government; or (ii) is listed as a blocked or restricted person by the U.S. government.*
- 8. Any questions, complaints or claims in relation to the Vivid App should be raised with Vivid. The contact information is provided in Vivid App and Vivid Web.*
- 9. Apple and its subsidiaries are third-party beneficiaries of these terms of use and by accepting these terms of use, Apple has the right to enforce this contract as a third-party beneficiary of the contract against the customer; this right shall be deemed to be accepted by Apple.*



**Special Terms of Use for Users who download the Vivid App from Google's Google Play Store**

*The following conditions apply in addition to the STC-App + Web if the customer downloads the Vivid App via the Google Play Store by Google Inc. ("Google"):*

1. *The customer accepts that these terms of use are only effective between the customer and Vivid, not with Google.*
2. *The customer's use of the Android App must meet the current terms of use of Google Play.*
3. *Google is only the provider of Google Play where the customer downloaded Vivid's Android App. Only Vivid, and not Google, is solely responsible for the Android App, services and content, which are accessible via these. Google has neither an obligation nor a liability regarding the Android App or this agreement.*
4. *The customer acknowledges that Google is a third-party beneficiary of these terms of usage, as far as a connection to Vivid's Android App is established.*

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