

## **MASTER SUBSCRIPTION AGREEMENT**

This Master Subscription Agreement ("Agreement") is entered into by and between ngrok Inc., a Delaware corporation ("ngrok"), and the party (the "Customer") on the Order Forms attached to this Agreement from time to time (each, an "Order Form"). This Agreement is effective as of the date accepted by Customer ("Effective Date"). Each Order Form shall be governed by and become part of this Agreement, and is incorporated by reference. ngrok and Customer may be referred to as "Party" and collectively as the "Parties."

### **1. Definitions.**

1.1 "Customer Application" means an application created by Customer in the course of using or accessing the ngrok Properties or that embeds a portion of the ngrok Software into the software that Customer makes available to its Customer Licensees.

1.2 "Customer Data" means any data, information or material provided or submitted by Customer or on behalf of Customer to ngrok in the course of using or accessing the ngrok Properties.

1.3 "Customer Licensee" means a third party to whom Customer makes a Customer Application available.

1.4 "End Users" means employees of Customer and its representatives, consultants, contractors, subcontractors, or agents who are authorized by ngrok or the Customer to use the ngrok Properties.

1.5 "ngrok APIs" means the application program interfaces developed by ngrok and described on the ngrok Site, as the same may be made available and amended from time to time by ngrok.

1.6 "ngrok Client Software" means that portion of the ngrok Software that is downloaded to Customer's computer systems that interfaces with ngrok's server software to provide the tunneling functionality of the ngrok Software.

1.7 "ngrok Documentation" means the applicable ngrok documentation relating to the operation and use of the ngrok Properties, including technical program and interface documentation, operating instructions, update notes and support knowledge base, as the same may be made available and revised from time to time by ngrok.

1.8 "ngrok Properties" means the ngrok Software, the ngrok Documentation and the ngrok Site.

1.9 "ngrok Site" means the ngrok.com website, presently located at <https://ngrok.com>.

1.10 "ngrok Software" means that certain software system made available to Customer hereunder, comprising both server software and the ngrok Client Software and the ngrok APIs, for managing communication channels through firewalls and NATs, which software system routes incoming requests to the appropriate device and relays the response back to the requesting application, as the same may be made available and revised from time to time by ngrok.

### **2. Services.**

2.1 **License of ngrok Properties.** Subject to the terms and conditions of this Agreement, ngrok grants Customer a non-exclusive, non-transferable, non-sublicensable, revocable right to access and use

the ngrok Properties during the term specified in the applicable Order Form and to download, copy and distribute the ngrok Client Software to Customer Licensees in connection with a Customer Application. All rights not expressly granted to Customer under this Agreement remain the sole property of ngrok.

**2.2 Use of ngrok Properties.** Customer will be solely responsible for all use (whether or not authorized) under its account of the ngrok Properties. Customer will be solely responsible for all acts and omissions of its End Users and Customer Licensees. Customer will take all reasonable precautions to prevent unauthorized access to or use of the ngrok Properties and will promptly notify ngrok in writing immediately of any unauthorized access to or use of the ngrok Properties of which it becomes aware.

**2.3 Restrictions.** Except as expressly provided in Section 2.1, Customer will not: (i) copy the ngrok Properties or any portion thereof; (ii) distribute, modify, adapt, translate, reverse engineer, decompile, disassemble, create derivative works based on, print any part of, or otherwise attempt to discover the source code, compiled executables, intermediate files, or underlying structure, ideas, know-how or algorithms relating in any way to the ngrok Properties; (iii) rent, transfer, resell, lease, license, assign, grant any rights in, or otherwise make available the ngrok Properties to third parties or offer it on a standalone basis; (iv) violate the intellectual property rights of ngrok; (v) use the ngrok Properties to send or store infringing, obscene, threatening, libelous, or otherwise unlawful material, including material that violates third party rights; (vi) use the ngrok Properties to create, use, send, store, or run material containing software viruses, worms, Trojan horses or otherwise engage in any malicious act or disrupt the security, integrity or operation of the ngrok Properties; (vii) use the ngrok Properties in any manner that violates any applicable foreign, federal, state or local law, rule or regulation; or (viii) use the ngrok Properties in any manner that violates any third party rights or the terms of this Agreement.

**2.4 Customer Data.** Customer will ensure that ngrok is entitled to use the Customer Data as needed to provide Customer with the functionality of the ngrok Properties. Customer represents and warrants that it will comply with ngrok's Privacy Policy <https://ngrok.com/privacy> at all times. Customer acknowledges, and agrees that ngrok may access, preserve and disclose Customer's account information and Customer Data if required to do so by any applicable law or if ngrok in good faith believes that such access, preservation or disclosure is reasonably necessary to: (i) comply with any applicable legal process; (ii) enforce this Agreement; (iii) respond to claims that any Customer Data violates the rights of third parties; (iv) respond to Customer's requests for customer service; or (v) protect the rights, property or personal safety of ngrok, its customers and/or users and/or the public. In no event shall ngrok or its designees have any liability or obligation to Customer in connection with exercising any rights set forth in this Section 2.4.

### **3. Fees.**

**3.1 Payments.** Unless otherwise agreed by the Parties in the Order Form, All fees described on the Order Form are due on the effective date of the Order Form and will be paid within thirty (30) days via one of the following accepted payment methods: (i) via ACH transfer to an account designated by ngrok or (ii) via wire transfer of immediately available funds to an account designated by ngrok. Unless otherwise agreed by the Parties in writing, all fees hereunder are payable in United States dollars. Except as otherwise expressly described in this Agreement, all payment obligations are non-cancelable and fees paid under this Agreement are non-refundable.

**3.2 Taxes.** Customer shall be responsible for all taxes associated with the Customer's use of the ngrok Properties other than U.S. taxes based on ngrok's net income. If any applicable law requires Customer to withhold amounts from any payments to ngrok under this Agreement, Customer shall effect such withholding, remit such amounts to the appropriate taxing authorities and the sum payable by Customer

upon which the deduction or withholding is based shall be increased to the extent necessary to ensure that, after such deduction or withholding, ngrok receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount ngrok would have received and retained absent the required deduction or withholding.

**3.3 Late Payments.** All late payments shall bear interest at the lesser of 1% per month or the highest rate permissible under applicable law, plus all expenses of collection.

**3.4 Non-Payment Suspension.** If Customer fails to timely make any payment that is due hereunder and fails to cure such non-payment within ten (10) days after ngrok provides Customer with written notice thereof, then in addition to assessing any applicable late payment fee, ngrok may suspend Customer's access to and use of the ngrok Properties associated with Customer's account until such non-payment is cured.

**3.5 Disputes.** Customer will provide written notice to ngrok of any good faith dispute with respect to any invoice within sixty (60) days after the date of such invoice and the Parties will work in good faith to resolve the applicable dispute promptly. Upon expiration of such sixty (60) day period, Customer will not be entitled to dispute any fees paid or payable by Customer hereunder.

#### **4. Term and Termination.**

**4.1 Agreement Term.** This Agreement shall commence on the effective date listed on the Order Form and shall continue until terminated as described in this Section.

**4.2 Material Breach.** Either Party may terminate this Agreement in the event the other Party breaches any material term of this Agreement and fails to remedy such breach within thirty (30) days after written notice of such breach. ngrok may terminate this Agreement immediately if (i) Customer declares bankruptcy or is adjudicated bankrupt; or (ii) a receiver or trustee is appointed for Customer or all or substantially all of Customer's assets.

**4.3 Effect of Termination.** Upon expiration or termination of this Agreement, all licenses and rights granted under this Agreement are immediately revoked and Customer must (i) immediately cease using the ngrok Properties; (ii) destroy all copies of any ngrok Confidential Information (as defined below) within seven (7) days after the termination date and certify in writing to ngrok that Customer has complied with this clause; and (iii) pay in full all accrued amounts owing hereunder. Any obligations that expressly or by implication are intended to survive expiration or termination shall survive expiration or termination of this Agreement.

#### **5. Confidentiality; Proprietary Rights.**

**5.1 Confidential Information.** Each Party (the "Receiving Party") understands that the other Party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business ("Confidential Information"). Confidential Information of ngrok includes all non-public information regarding features, functionality and performance of the ngrok Properties. The Receiving Party agrees: (i) to protect the confidentiality of the Confidential Information of the Disclosing Party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care), and (ii) not to use (except as expressly permitted in this Agreement) or divulge to any third person any Confidential Information of the Disclosing Party. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (A) is or becomes generally available to the public other than as a result of a breach of this Agreement, (B) was in its possession or known by it

prior to receipt from the Disclosing Party, (C) was rightfully disclosed to it without restriction by a third party, (D) was independently developed without use of any Confidential Information of the Disclosing Party or (E) to the extent required to be disclosed by law.

**5.2 Ownership.** As between the Parties, ngrok exclusively owns and reserves all right, title and interest in and to the ngrok Properties and ngrok's Confidential Information. As between the Parties, Customer exclusively owns and reserves all right, title and interest in and to the Customer Data, the Customer Applications and Customer's Confidential Information.

## **6. Representations and Warranties.**

**6.1 Power and Authority.** Each Party represents and warrants to the other Party that it has sufficient rights and authority to enter into this Agreement, and that this Agreement is a valid and legally binding obligation of such Party, enforceable against such Party in accordance with its terms.

**6.2 Compliance with Laws.** Each Party represents and warrants to the other Party that, as of the date hereof, it does, and during the Term it will, comply with all applicable foreign, federal, state and local laws, rules and regulations relating to its activities under this Agreement, including but not limited to, privacy and data protection laws, U.S. Foreign Corrupt Practices Act, and applicable rules established by the Federal Communications Commission.

**6.3 Limited Warranty.** ngrok represents and warrants to Customer that: (i) the ngrok Software will perform in accordance in all material respects with the ngrok Documentation and (ii) the ngrok Software, as delivered to Customer, will be free from all viruses or other materially harmful components. Customer shall make no representations or warranties to any third party, including without limitation, any Customer Licensees with respect to the ngrok Properties or the functionality thereof.

**6.4 Disclaimer.** Except as otherwise expressly described in Section 6, the ngrok Properties are provided on an "as is" basis without representations, warranties or indemnities of any kind. The entire risk as to the quality and performance of the ngrok Properties is with Customer, and Customer is solely responsible for ensuring that the ngrok Properties meet Customer's requirements. To the extent permitted by applicable law, ngrok expressly disclaims all warranties, express or implied, whether statutory or otherwise, relating to the ngrok Properties and the other subject matter of this Agreement, including but not limited to, implied warranties of merchantability, fitness for a particular purpose, and/or non-infringement. Except as otherwise expressly described in this Agreement, Customer acknowledges that in entering into this Agreement it has not relied on any representations, warranties, promises or undertakings not expressly listed in this Agreement, but has relied on its own knowledge and/or independent advice.

**7. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, NGROK SHALL NOT BE RESPONSIBLE OR LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, STATUTE, OR OTHER THEORY FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NGROK'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO NGROK FOR THE TWELVE (12) MONTHS PRIOR TO THE INITIAL ACT THAT GAVE RISE TO THE LIABILITY.

**8. Export Restrictions.** Customer acknowledges that the laws and regulations of the United States and other jurisdictions restrict the export and re-export of commodities and technical data of the United States or other origin, including the ngrok Properties. Customer agrees to comply with all such

restrictions and will not deviate from them in any way without the appropriate United States and foreign government licenses.

## **9. Indemnification.**

9.1 ngrok shall defend Customer from any third party claims brought against Customer that the ngrok Software infringes such third party's U.S. copyright or misappropriates such third party trade secret and indemnify Customer against the damages awarded to such third party or as agreed to by ngrok in settlement, provided ngrok is promptly notified in writing of any and all threats, claims and proceedings related thereto and is given reasonable assistance and the opportunity to assume sole control over the defense and settlement thereof. ngrok will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the ngrok Software (i) not supplied or performed by ngrok; (ii) developed or performed in whole or in part in accordance with Customer's specifications; (iii) modified other than by ngrok; (iv) combined with other products, processes or materials where the alleged infringement relates to such combination; (v) where Customer continues infringing activity (whether alleged or actual) after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; (vi) open source software or (vii) where Customer's use of the ngrok Software is not strictly in accordance with this Agreement. If, due to a claim of infringement, the ngrok Software are held by a court of competent jurisdiction to be (or ngrok believes that a court may so hold), ngrok may, at its option and expense (A) replace or modify the ngrok Software to be non-infringing, provided that such modification or replacement software contains substantially similar features and functionality, (B) obtain for Customer a license to continue using the ngrok Software, or (C) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees with respect to the infringing portion of the ngrok Software.

9.2 Customer shall indemnify, defend and hold harmless ngrok and its officers, agents, subsidiaries, affiliates and partners, if any, against any third party claim arising out of any Customer Data, any Customer Application or ngrok's use thereof, or Customer's (or its End Users' or Customer Licensee's) use of the ngrok Properties in a manner that violates, breaches or otherwise circumvents this Agreement or any applicable foreign, federal, state or local law, rule or regulation.

10. **Injunctive Relief.** Customer acknowledges and agrees that in the event of its breach of this Agreement, ngrok would be damaged in a fashion that cannot be addressed with monetary damages, and that, therefore, ngrok will be entitled to injunctive relief with respect to any such breach without proof of actual damages or the posting of any bond.

## **11. General.**

11.1 This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to its choice of law rules.

11.2 Any action or proceeding arising out of this Agreement shall be brought only in a competent state or federal court located in the City and County of San Francisco, California. Customer hereby consents to the jurisdiction of, and laying of venue in, such court(s) and waives any objection thereto.

11.3 The Parties specifically exclude the United Nations Convention on Contracts for the International Sale of Goods from this Agreement and any transaction that may be implemented in connection with this Agreement.

11.4 If any provision of this Agreement is deemed by any court to be invalid, illegal or unenforceable, such provision will be enforced to the maximum extent permissible by law, and the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

11.5 No provision of this Agreement or right created under it may be varied or waived except in a writing signed by the Parties.

11.6 This Agreement, including without limitation, the Order Form attached hereto and the Appendices attached hereto, constitutes the entire agreement with respect to Customer's access to and use of the ngrok Properties, and supersedes all previous agreements, understandings and negotiations, written or oral, with respect thereto. It is expressly agreed that the terms of this Agreement shall supersede the terms in any purchase order or other non-ngrok document and no terms included in any such purchase order or other non-ngrok document shall apply to Customer's access to the ngrok Properties. Except as described in this Agreement, this Agreement may not be modified and the rights and restrictions may not be altered or waived except in a writing signed by an authorized representative of each Party.

11.7 No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind ngrok in any respect whatsoever.

11.8 In no event will ngrok be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation acts of God, war or terrorism, civil or military disturbances, nuclear or natural catastrophes, strikes, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

11.9 All notices to be delivered under this Agreement must be in writing, addressed to the Party at the address listed in the Order Form, and will be deemed to have been duly given (i) when received, if personally delivered; (ii) when receipt is electronically confirmed, if transmitted by facsimile or e-mail on a business day, and if such fax or e-mail is not transmitted on a business day it will be deemed to be received on the next business day; (iii) one business day after delivery to an overnight delivery service for next day delivery; and (iv) upon receipt, if sent by certified or registered mail, return receipt requested.

11.10 Neither Party may assign this Agreement except in the case of a merger or sale of all or substantially of its assets or stock.

11.11 In no event shall ngrok be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control.