



PubNub Mobile Applications - Terms of Use

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This PubNub Terms of Use (or "**Agreement**") for PubNub Mobile Applications ("Mobile Apps") are provided by **PubNub, Inc.**, a Delaware corporation ("**PubNub**") and **You**, (collectively the "Parties"). Your use of the Mobile Apps are governed by this Agreement, and by using the service You agree to be bound by the Agreement.

If You are using the Mobile Apps on behalf of an entity, You agree and acknowledge that You have authority to bind that entity to this Agreement.

If You do not agree to be bound by this Agreement, You must cease use and access of the Mobile Apps.

This Agreement incorporates the terms of the PubNub Privacy Policy and PubNub Terms and Conditions found on the PubNub website, as well as all future modifications.

PubNub may modify this Agreement, its Privacy Policy, or Terms and Conditions, or terminate the Mobile Apps at any time in its sole discretion without any notice to You. By continuing to use and access the Mobile Apps after revisions to the Terms of Use or other PubNub Privacy Policy or Terms and Conditions, You agree to them as revised. Please review the Terms of Use each time You intend to use the Mobile Apps. For Your convenience, PubNub will indicate the date that the Terms of Use were last updated at the beginning of these terms.

The Mobile Apps are not intended for use by anyone under 18 years old.

1. Definitions

The following defined terms will apply under this Agreement.

1.1 **Agreement** means this PubNub Terms of Use as it may be amended at any time in PubNub's sole discretion and any other documents incorporated, including the PubNub Privacy Policy.

1.2 **PubNub** means PubNub, Inc., and its subsidiaries and affiliates.

1.3 **PubNub Mobile Applications** means the PubNub Mobile Applications ("Mobile Apps") and services offered by PubNub as set forth on its website or online stores such as the Apple Store or Google Store.

1.4 **Confidential information** means all proprietary or confidential material or information disclosed orally or in writing by the disclosing party to the receiving party that is designated as proprietary or confidential or that reasonably should be understood to be proprietary or confidential given the nature of the information and the circumstances of the disclosure of Confidential Information.

1.5 **Privacy Policy** means the PubNub Privacy Policy which can be viewed by clicking the link located on the PubNub website.

1.6 **Registration Data** means Your Name, account, user ID, email address, profile summary, and password (if applicable).

1.7 **You** means Yourself ("You," "Your," or "User"), and if applicable, Your agents, employees, contractors and any entity You represent. You must be 18 years or older to use the Mobile Apps.

2. Term and Termination

2.1 **Term.** This Agreement shall become effective upon Your use of the service and will not terminate unless You delete the Mobile Apps from Your device.

2.2 **Termination by PubNub.** If PubNub determines Your use of the Mobile Apps is in violation of this Agreement or is not authorized, PubNub reserves the right to terminate Your account at any time without any notice to You and delete any data related to your account. PubNub may terminate this Agreement, Mobile Apps, and any service at its sole discretion at any time without cause.



3. Intellectual Property

3.1. **License.** PubNub grants to You a personal, worldwide, non-exclusive, non-transferable, non-assignable, non-sublicenseable, revocable, royalty-free, limited license to use the PubNub Mobile App via your mobile device only. Any Mobile App or software that we provide You may automatically download and install upgrades, updates, or other new features. You may be able to adjust these automatic downloads through Your device's settings.

3.2 **IP Restrictions.** Except as expressly authorized by these Terms of Use, You may not copy, reproduce, distribute, disseminate, republish, frame, license, download, perform, display, post, transmit, exploit, sell, lease, assign, distribute, sublicense, or create derivative works or otherwise use any Mobile App Content in any form, by any means, or for any purpose, without PubNub's express prior written consent in each instance. If You violate any of these terms, PubNub will prosecute You and enforce its rights to the fullest extent permitted by law.

3.3 **PubNub Trademarks.** PubNub Mobile Apps or services and other exclusive product names and features that may appear on its websites, are trademarks of PubNub. These Apps, and all text, design, logos and other content published on the Mobile App ("Mobile App Content") belong to PubNub exclusively.

3.4 **Reverse Engineering.** You shall not modify, reverse engineer, decompile or otherwise decipher the source code used in connection with the PubNub Mobile Apps. Your use of the Mobile Apps and any sharing of data is restricted to the duration of Your use of the Mobile Apps in its original state.

4. Use

4.1 **Non-Commercial Use.** You may download the Mobile Apps for Your own personal non-commercial use.

4.2 **PubNub Rights.** PubNub may from time to time modify or discontinue, temporarily or permanently, the Mobile Apps (including parts thereof) with or without notice, and without any obligation to You. PubNub also may terminate or suspend Your account, use and/or access to all or any parts of these Mobile Apps, with or without notice, and for any reason or no reason, in each case in PubNub's sole discretion. Such termination or suspension will not terminate or suspend the Terms of Use as applied to Your use and access of the Mobile Apps.

4.3 **Disparagement.** You shall not use or access the Mobile Apps or services and its logo in a manner that violates its trademarks, disparages PubNub, or damage its reputation either during Your use of the Mobile Apps and after You are no longer using the Mobile Apps.

4.4 **Illegal Purpose.** You shall not use the Mobile Apps or PubNub Service for an illegal, malicious or fraudulent purpose, or to communicate any content that is deemed unlawful, harassing, or obscene.

4.5 **Compliance with Laws.** You are responsible for Your compliance with all applicable laws. You agree not to use or access these Mobile Apps from any jurisdiction in which any of the Mobile Apps is illegal or impermissible. You agree to use the Mobile Apps only for lawful purposes in a lawful manner. PubNub does not represent or warrant that Your use of Mobile Apps will comply with the laws of the jurisdiction or territory in which You use it.

4.6 **Misrepresentation.** You shall not misrepresent Your identity when using the Mobile Apps, nor shall You make any representations with respect to PubNub that would imply an endorsement between You or PubNub unless otherwise granted in writing by PubNub.

4.7 **Spam.** You shall not access or use the Mobile App or service in a manner that in any way violates the PubNub Privacy Policy, and/or to communicate any content that is an unsolicited mass distribution of email.

4.8 **Others' Use.** You agree not to use these Mobile Apps in any manner that interferes with its normal operation or with any other users' use and enjoyment of the Mobile Apps. You will not use any spider, robot ("bot"), deep link, page scrape, crawl, index, Internet agent, or other automated device, program, algorithm or technology which performs the same or similar functions, to use, access, copy, acquire, input or store information, generate impressions, search, generate searches or monitor the Mobile Apps or any portions thereof, or collect other Mobile App users' data or geo-location data. You will not use or attempt to use another user's account, username, or password without their permission, or solicit login credentials from another user.

4.9 **Misuse.** You agree not to access these Mobile Apps by any means other than via the user interface provided by PubNub for such purpose. You will not run, frame or otherwise display the Mobile Apps or its content on any other



websites or link to it, and in a manner that state or imply PubNub's sponsorship, endorsement, license or other affiliation between PubNub and You, Your websites, products, services, activities or representatives. You will not upload viruses or other malicious code or otherwise compromise the security of the Mobile Apps or PubNub services.

4.10 Competition. You shall not access and use the Mobile Apps or PubNub service in any application, product, or service that competes with any Mobile Apps or PubNub service, or to otherwise divert PubNub users or customers from the Mobile Apps or PubNub service.

4.11 Third Party Claims. During the use of the Service, You agree not to assert, authorize, encourage, or assist any third party to assert any copyright infringement or any intellectual property infringement claim against PubNub regarding the Mobile Apps or the PubNub service.

5. Data

5.1 Consent. You consent and give permission for PubNub to collect, store, process, analyze, and disclose any information provided in connection with the Mobile Apps, which may include the Registration data, and other information You provide to PubNub, including Your usage history, content, and geo-location data. During Your use of the Mobile Apps or services, You consent to share Your geo-location and content submitted to the Mobile Apps to other users of the service.

5.2 Storage of Data. PubNub reserves the right to store and process data provided by You or associated with You in international data storage locations at its sole discretion.

5.3 Data Charges from Your Mobile Provider. You are responsible for any mobile charges that You may incur for using the Mobile Apps, including text-messaging and data charges. If You are unsure what those charges may be, You should ask Your service provider before using the Mobile Apps.

6. Confidentiality

6.1 Confidentiality Obligations. You shall not use or disclose any Confidential Information of PubNub for any purpose outside the scope of this Agreement, except with PubNub's prior written consent. You shall protect the PubNub's Confidential Information in a manner similar to Your own Confidential Information of like nature (but in no event using less than reasonable care). In the event of an actual or threatened breach of Your confidentiality obligations, PubNub shall have the right, in addition to any other remedies available to it, to seek injunctive relief, it being specifically acknowledged by the breaching party that other remedies may be inadequate.

6.2 Confidentiality Exclusions. Confidential Information shall not include any information or material that: (i) was or becomes generally known to the public without the receiving party's breach of any obligation owed to the disclosing party; (ii) was or subsequently is independently developed by the receiving party without reference to Confidential Information of the disclosing party; (iii) was or subsequently is received from a third party who obtained and disclosed such Confidential Information without breach of any obligation owed to the disclosing party; or (iv) is required by law to be disclosed (in which case the receiving party shall give the disclosing party reasonable prior notice of such compelled disclosure and reasonable assistance, at the disclosing party's expense, should the disclosing party wish to contest the disclosure or seek a protective order, to the extent permitted by law). This clause survives contract termination.

7. Warranty Disclaimer

THE PUBNUB MOBILE APPS OR SERVICES, AND ANY BENEFITS OR OTHER MATERIALS THAT PUBNUB MAY OFFER THROUGH THE MOBILE APPS (COLLECTIVELY THE "MATERIALS") ARE PROVIDED "AS-IS." EXCEPT TO THE EXTENT PROHIBITED BY LAW, PUBNUB AND ITS AFFILIATES MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE MOBILE APPS OR SERVICES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, ANY WARRANTIES THAT THE MATERIALS WILL BE ERROR FREE OR FREE OF HARMFUL COMPONENTS, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF



DEALING OR USAGE OF TRADE. THE UNITED NATIONS CONVENTION FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THESE TERMS.

8. Limitation of Liability

8.1. Exclusion of Consequential and Related Damages.

PUBNUB'S AGGREGATE LIABILITY TO YOU, WHETHER FOR NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, OR ANY OTHER CAUSE OF ACTION, AND WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITY, SHALL BE LIMITED TO THE **LESSER** OF THE PRICE PAID OR DUE UNDER THE MOBILE APPS DURING THE TWELVE MONTHS (12) PRIOR TO WHICH THE INCIDENT RELATES, OR \$50.00 USD. PUBNUB SHALL NOT BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST INCOME, LOST REVENUE, LOST PROFITS, BUSINESS INTERRUPTION, DAMAGES FOR GOODWILL, PROCUREMENT OF SUBSTITUTE SERVICES, ARISING OUT OR IN ANY WAY RELATED TO THIS AGREEMENT, THE USE OR THE INABILITY TO USE THE PUBNUB MOBILE APPS. IN NO EVENT SHALL PUBNUB BE LIABLE FOR ANY DAMAGES HOWEVER ARISING AS RELATED TO THE CLIENT AS PROVIDED UNDER THIS AGREEMENT. EVEN IF ADVISED OF THE POSSIBILITY OF SUCH CLAIM. THESE LIMITATIONS WILL APPLY DESPITE THE FAILURE OF ESSENTIAL PURPOSE.

8.2. Indemnification. You agree to hold harmless and indemnify PubNub, its subsidiaries, affiliates, its employees, officers, directors and representatives against any third party claim(s) arising from or related to Your use of the Mobile Apps or services, including any liability or expense arising from claims, losses, damages, suits, litigation costs, judgments, attorneys' fees, of every kind and nature.

9. General

9.1 Compliance with Law. Each party shall comply with all applicable laws and regulations relating to its performance hereunder.

9.2 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship.

9.3 No Third Party Beneficiaries. Except as otherwise provided, there are no third party beneficiaries to this Agreement.

9.4 Dispute Resolution; Waiver of Jury Trial. In the event of any dispute hereunder, the parties shall promptly and in good faith attempt to resolve such dispute, including escalating it as appropriate. Except for temporary injunctive relief as deemed reasonably necessary, neither party may initiate any court or other formal action relating to such dispute within the first 60 days following notice by one party to the other of such dispute. Each party hereby irrevocably waives any right to a jury trial in connection with any action or litigation relating to this Agreement.

9.5 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of any other remedies of a party at law or in equity.

9.6 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

9.7 Assignment. You may not assign Your rights or duties under this Agreement in whole or in part. PubNub may assign this Agreement together with all rights and obligations hereunder, without the consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

9.8 Governing Law. This Agreement will be construed under the laws of the State of California, USA, without regard to conflicts of law provisions thereof, provided, however, that either party may seek judicial relief in the state



and federal courts in San Francisco, California, USA in actions to obtain injunctive relief for enforcement of such party's rights to confidential and proprietary information or materials. Any action or proceeding arising out of this Agreement must be brought exclusively in the state or federal courts in San Francisco, California, USA and each party hereby consents to the jurisdiction of such courts for the resolution of any such action or proceeding.

9.9 **Notice.** All notices or other communications shall be in writing. Notices will be effective if dispatched by hand (which shall be deemed given upon delivery), e-mail to support@pubnub.com, or reliable overnight delivery service (which shall be deemed given on business day after mailing), sent to PubNub's address as specified on www.PubNub.com.

9.10 **Entire Agreement.** This Agreement, including all attachments and exhibits hereto, constitutes the entire agreement between the parties as to its subject matter and supersedes all previous and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing signed by both parties.