

# Upstash Terms of Service

Last Update Date: June, 5 2023

These Terms of Service ("AGREEMENT") are a legal agreement between You and/or the company You represent (collectively, "You" or "Your"), and any of Your affiliates and Upstash, Inc., a Delaware corporation d/b/a "Upstash" ("Upstash," "us," "we" or "our"). This Agreement governs Your access or use of our services. You accept this Agreement by accessing or using our services in any manner. If You do not accept any term under this Agreement You should not indicate acceptance and may not access or use the services.

## A. Definitions

The "**Service**", "**Cloud Services**" refers to the applications, software, products, and services provided by Upstash.

The "**Website**" refers to Upstash's website located at [upstash.com](https://upstash.com), and all Content, services, and products provided by Upstash at or through the Website. It also refers to Upstash-owned subdomains of [upstash.com](https://upstash.com), such as [console.upstash.com](https://console.upstash.com) and [docs.upstash.com](https://docs.upstash.com).

"**User**" refers to the individual who has visited or is using the Website or Service on Your behalf; that accesses or uses any part of the account on Your behalf; or that directs the use of the account in the performance of their functions on Your behalf. A User must be at least 18 years of age.

"**Content**" refers to content featured or displayed through the Website, including without limitation text, data, articles, images, photographs, graphics, software, applications, designs, features, and other materials that are available on the Website or otherwise available through the Service. "Content" also includes Services.

"**User-Generated Content**" or "**Customer Data**" is Content, written or otherwise, created or uploaded by our Users. "Your Content" is Content that You create or own.

## B. Account Terms

### 1. Required Information

You must provide a valid email address in order to complete the signup process. Any other information requested, such as Your real name, is optional, unless You upgrade to a paid account.

## **2. Account Requirements**

We have a few simple rules for accounts on Upstash:

- You must be a human to create an account. Accounts registered by "bots" or other automated methods are not permitted.
- One person or legal entity may maintain no more than one free account.
- You may not create an account for the use of any User under the age of 18. Upstash does not target our Service to individuals under 18, and we do not permit any Users under 18 on our Service. If we learn of any User under 18, we will terminate that User's account.
- Your login may only be used by one person — i.e., a single login may not be shared by multiple people.

## **3. User Account Security**

You are responsible for keeping Your account secure while using Upstash. The third party identity providers we integrate with (such as Google, GitHub and Amazon) offer tools such as two-factor authentication to help You maintain Your account's security, but the content of Your account and its security are up to You.

You are responsible for all content uploaded and activity that occurs under Your account (even when content is posted/uploaded by others who have access databases under Your account).

You are responsible for maintaining the security of Your account. Upstash cannot and will not be liable for any loss or damage from Your failure to comply with this security obligation.

You will promptly notify Upstash if You become aware of any unauthorized use of, or access to, our Service through Your account, including any unauthorized use of Your password or account.

## **4. Additional Terms**

In some situations, third parties' terms may apply to Your use of Upstash. For example, You may be a member of a data space or organization on Upstash with its own policies; You may download an application that integrates with Upstash. Please be aware that while these Terms are our full agreement with You, other parties' terms govern their relationships with You.

## **C. Acceptable Use**

Short version: *While using the Service, You must follow this Acceptable Use Policy, which includes some restrictions on Content You can post, conduct on the Service, and other limitations. In short, be excellent to each other.*

## **1. Compliance with Laws and Regulations**

Your use of the Website and Service must not violate any applicable laws, including copyright or trademark laws, export control laws, or other laws in Your jurisdiction. You are responsible for making sure that Your and Your Users' use of the Service in compliance with laws and any applicable regulations.

## **2. Content Restrictions**

You agree that under no circumstances will You or Your Users upload, post, host, or transmit any Content that:

is unlawful or promotes unlawful activities;

contains personally sensitive information

is or contains sexually obscene content;

is libelous, defamatory, or fraudulent;

is discriminatory or abusive toward any individual or group;

contains or installs any active malware or exploits, or uses our platform for exploit delivery (such as part of a command and control system); or

infringes on any proprietary right of any party, including patent, trademark, trade secret, copyright, right of publicity, or other rights.

If any User Generated Content could be subject to restrictive governmental regulation or may require security measures beyond those specified by us for the Upstash Services, You will not input, provide, or allow such Customer Data onto the Cloud Services. Your Customer Data shall not include protected health information. You represent and warrant that Your use of the Cloud Services comply with all applicable laws and regulations, including without limitation any applicable data privacy protection laws. To the extent the European General Data Protection Regulation (EU/2016/679) (GDPR) applies to Your Customer Data, then our GDPR section (E. Personal Data Processing - GDPR) shall apply and serve as an integral part of this Agreement. You are responsible for assessing the suitability of the Cloud Services for Your intended use and Customer Data and to take necessary actions to order, enable, or use available data protection features appropriate for the Customer Data being used with the Cloud Services. By using the Cloud Services, You accept responsibility for Your use of the services, and acknowledge that it

meets Your requirements and processing instructions to enable compliance with applicable laws.

### **3. Conduct Restrictions**

While using Upstash, You agree that under no circumstances, will You or Your Users:

Harass, abuse, threaten, or incite violence towards any individual or group, including Upstash employees, officers, and agents, or other Upstash Users;

Use our servers for any form of excessive automated bulk activity (for example, spamming), or relay any other form of unsolicited advertising or solicitation through our servers, such as get-rich-quick schemes;

Attempt to disrupt or tamper with Upstash's servers in ways that could harm our Website or Service, to place undue burden on Upstash's servers through automated means, or to access Upstash's Service in ways that exceed Your authorization;

Impersonate any person or entity, including any of our employees or representatives, including through false association with Upstash, or by fraudulently misrepresenting Your identity or site's purpose; or

Violate the privacy of any third party, such as by posting another person's personal information without consent.

### **4. Services Usage Limits**

You agree not to reproduce, duplicate, copy, reverse engineer, sell, resell or exploit any portion of the Service, use of the Service, or access to the Service without Upstash's express written permission.

### **5. Privacy**

Misuse of Upstash Users' Personal Information is prohibited. Any person, entity, or service collecting data from Upstash must comply with the Upstash Privacy Statement, particularly in regards to the collection of our Users' Personal Information (as defined in the Upstash Privacy Statement). If You collect any Upstash User's Personal Information from Upstash, You agree that You will only use the Personal Information You gather for the purpose for which our User has authorized it. You agree that You will reasonably secure any Personal Information You have gathered from Upstash.

### **6. Excessive Bandwidth Use**

If we determine Your bandwidth usage to be significantly excessive in relation to other Upstash customers, we reserve the right to suspend Your account or throttle Your hosting until You can reduce Your bandwidth consumption

## **7. Fair Use**

We will use commercially reasonable efforts to provide You with sufficient resources that we determine are typical for your level of Service. We reserve the right to shut down or limit any activities that are creating an unreasonable burden on our Services, infrastructure and/or business operations.

## **8. Other Terms**

- The Services may only be used for lawful purposes.
- You shall not attempt to undermine the security or integrity of computing systems or networks of Upstash, its partners, or any other person, and must not attempt to gain unauthorized access.
- You must not introduce software or automated agents or scripts into Upstash's website in order to produce multiple accounts, generate automated searches, requests or queries, or to strip or mine content or data from Upstash's website.
- You must not access Upstash's website through automated methods, including any use of robots or other computer code which calls Upstash's website.
- You shall not send unsolicited messages or use the Services to send unsolicited messages (also known as junk mail or SPAM).
- You shall not use the Services as a remote storage server or for the primary purpose of providing downloadable content.
- You may not rent, lease, loan, or sell access to, or otherwise attempt to transfer any right in Upstash's Website (which includes its software and documentation) to a third-party, through framing or any other method.
- You must not perform any benchmark tests or analyses relating to Upstash's Website or Services without express permission of Upstash.

## **D. User-Generated Content**

Short version: *You own the data You upload (the User-Generated Content), but You allow us certain rights to it. You still have control over Your User-Generated Content, and responsibility*

*for it, and the rights You grant us are limited to those we need to provide the Service. We have the right to remove User-Generated Content.*

### **1. Responsibility for User-Generated Content**

Customer Data consists of all data and information that You or Your authorized Users provide or input to the Cloud Services. Your use of the Upstash Services will not affect Your ownership rights of any Customer Data. Customer Data remains Your data at all times and You are solely responsible for ensuring that Your data, and Your use of it, complies with this Agreement e and applicable law.

### **2. Data Processing and Protection**

We may need to make design choices to technically administer the Upstash Services, for example, how to replicate, store, scale, cluster, compress, decompress or backup Your Customer Data. You hereby give us full permissions to make any such design choices and use of Your Customer Data and User-Generated Content. You are solely responsible for obtaining all necessary rights and permissions to enable, and grant us such rights and permissions. Further, You represent and warrant to us that: (a) You have all rights in Your Customer Data and User-Generated Content necessary to grant the rights contemplated by this Agreement; and (b) that none of Your Customer Data or User-Generated Content violates this Agreement, any applicable law or any third party's intellectual property or other right.

### **3. Upstash May Remove Content**

We do not pre-screen User-Generated Content, but we have the right (though not the obligation) to refuse or remove any User-Generated Content that, in our sole discretion, violates this Agreement, or any Upstash terms or policies.

### **4. Ownership of Content, Right to Post, and License Grants**

You retain ownership of and responsibility for User-Generated Content You and Your authorized Users create or own. If You're posting anything You or Your Users did not create, or do not own the rights to, You agree that You and Your Users are responsible for any of that Content; that You will only submit content that You have the right to post; and that You will fully comply with any third-party licenses relating to Content You post.

Because You retain ownership of and responsibility for User-Generated Content and you Customer Data , we need You to grant us certain legal permissions, set forth herein. These license grants apply to Your User-Generated Content and Customer Data. You understand that You will not receive any payment for any of the rights granted herein. The licenses You grant to

us will end when You remove, or you instruct us to remove, Your User-Generated Content and Customer Data from our servers.

## **5. License Grant to Us**

We need the legal right to do things like host Your User-Generated Content and Customer Data, publish it, and share it. You grant us and our legal successors the right to store, parse, and display Your User-Generated Content and Customer Data, and make incidental copies as necessary to render the Website and provide the Services. This includes the right to do things like storing in our infrastructure and make backups; show it to You. Also this includes design choices to manage data.

This license does not grant Upstash the right to sell Your User-Generated Content and Customer Data or otherwise distribute or use it outside of our provision of the Service.

## **6. Moral Rights**

You retain all moral rights to Your User-Generated Content and Customer Data that You or Your Users upload, publish, or submit to any part of the Website or Services, including the rights of integrity and attribution. However, You waive these rights and agree not to assert them against us, to enable us to reasonably exercise the rights granted above and to provide You with the Services..

## **E. Personal Data Processing - See Our Privacy Policy**

## **F. Data Spaces**

### **1. Control of Data Spaces**

Data spaces allow the User to control access to Content.

### **2. Confidentiality of Data Spaces**

Upstash considers the Content of data spaces to be confidential to You. Upstash will protect the Content of Your databases from unauthorized use, access, or disclosure in an industry standard manner and with a reasonable degree of care.

### **3. Access**

Upstash employees may only access the Content of Your databases in the following situations: With Your consent and knowledge, for support reasons. If Upstash accesses a database for support reasons, we will only do so with the owner's consent and knowledge.

When access is required for security reasons.

You may choose to enable additional access to Your databases. These rights may vary depending on the service or feature, but Upstash will continue to treat Your database Content as confidential.

You may also grant a third-party application authorization to use, access, and disclose the Content of Your databases. Your use of third-party applications is at Your sole risk.

#### **4. Exclusions**

If we have reason to believe the Content of a database is in violation of the law or of this Agreement, we have the right to access, review, and remove them. Additionally, we may be compelled by law to disclose the Content of Your databases.

### **G. Intellectual Property Notice**

#### **1. Upstash's Rights to Content**

Upstash and our licensors, vendors, agents, and/or our content providers retain ownership of all intellectual property rights of any kind related to the Website and Service. We reserve all rights that are not expressly granted to You under this Agreement or by law. The look and feel of the Website and Service is copyright protected. You may not duplicate, copy, or reuse any portion of the HTML/CSS, Javascript, or visual design elements or concepts related to the Website or Services without express written permission from Upstash.

#### **2. License to Upstash Policies**

This Agreement is adapted from GitHub's site policies and is licensed under this Creative Commons Zero license (<https://creativecommons.org/publicdomain/zero/1.0/>).

### **H. Payment**

#### **1. Pricing**

Our pricing and payment terms are available at [upstash.com/#pricing](https://upstash.com/#pricing). Your payment is calculated according to Your usage of database types. Payments are calculated and charged at the end of each month. Upstash can issue provisional credit if Your usage cost exceeds \$500 before the end of the month. When You add a payment method, we may do some verifications to validate that the card is active and working.



## 2. Data Transfer Costs

Upstash waives data transfer costs incurred by the customer's database usage unless its average data size per request in a day is higher than 200KB and/or total data transferred on a day is higher than 100GB. In this case, Upstash communicates with the customer about a new pricing plan that includes data transfer price. You have the right to reject the new pricing but Upstash reserves the right to suspend Your database or throttle Your bandwidth.

## 3. Upgrades, Downgrades, and Changes

If You upgrade from a free plan, or from one paid plan to a higher paid plan, we will bill You the day You upgrade.

You can not revert a paid database type to free.

Any user can create at most one free database.

In case of the payment failure, we will email You to update Your payment method. If the issue is not solved in 3 days, we have the right to suspend Your databases. While suspended, databases may not be available for use but Your Content will be kept for at least 2 weeks.

If payment failure issues are not resolved in 2 weeks, we have the right to terminate Your account. (including Your Content)

## 4. Billing Schedule; No Refunds

For monthly or yearly payment plans, the Service is billed in advance on a monthly or yearly basis respectively and is non-refundable. There will be no refunds or credits for partial months or partial years of service, downgrade refunds, or refunds for months or years unused with an open account; however, the Service will remain active for the length of the paid billing period.

## 5. Responsibility for Payment

You are responsible for all fees, including taxes, associated with Your use of the Service. By using the Service, You agree to pay Upstash any charge incurred in connection with Your use of the Service. If You dispute the matter, contact [support@upstash.com](mailto:support@upstash.com). You are responsible for providing us with a valid means of payment for paid accounts. Free accounts are not required to provide payment information.

# I. Cancellation and Termination

## 1. Account Cancellation

It is Your responsibility to properly cancel Your account with Upstash. You can cancel Your account at any time from the Upstash Console. We are not able to cancel accounts in response to a phone request. You need to delete all Upstash Clusters/Resources for cancellation request. After the cancellation request your data will be completely deleted in 6 months (cancellation period). You can cancel your cancellation request from the Upstash Console if you decide to use Upstash again during the cancellation period.

## **2. Upon Cancellation**

We will retain and use Your information as necessary to comply with our legal obligations, resolve disputes, and enforce our Agreement, but barring legal requirements, we may delete Your full profile and the Content of Your databases immediately after cancellation or termination (though some information may remain in backups). This information can not be recovered once Your account is cancelled.

Upon request, we will make a reasonable effort to provide an account owner with a copy of Your lawful, non-infringing Content after any account closure, suspension, or downgrade. You must make this request within 10 days of closure, suspension.

## **3. Upstash May Terminate**

Upstash has the right to suspend access to all or any part of the Website, Services or Your account at any time, with or without cause, with or without notice, effective immediately if (i) Your payment is overdue or You are otherwise in breach of this Agreement; (ii) we determine that there is a risk to the Cloud Services or to any third party from Your actions and/or that Your use of the Cloud Services may be unlawful; or (iii) You have ceased to operate in the ordinary course of business, made an assignment for the benefit of creditors or made a similar disposition of Your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding. If we suspend Your right to access or use any portion or all of Your Cloud Services, You remain responsible for all Service Fees You have incurred prior to the suspension and You will not be entitled to any credit or refund.

In addition to Upstash's right to terminate Your account for non-payment, Upstash has the right to terminate Your account at any time, with or without cause, upon 10 days advance notice or if Your account has been suspended for more than 3 weeks.

#### **4. Account Inactivity**

Upstash has the right to delete inactive accounts. Inactive account means that it hasn't used any Upstash Services for more than 2 weeks and it does not have any databases with any paid plan.

#### **5. Resource Inactivity**

Upstash has the right to delete inactive databases and kafka clusters. A resource is considered inactive if it doesn't get any requests for a period of 2 weeks for free plans and 3 months for paid plans. In such cases, Upstash may proceed with the deletion of these inactive resources.

### **J. Communications with Upstash**

#### **1. Electronic Communication Required**

For contractual purposes, You (1) consent to receive communications from us in an electronic form via the email address You have submitted or via the Service.

#### **2. Legal Notice to Upstash Must Be in Writing**

Legal notice to Upstash must be in writing and sent to [support@upstash.com](mailto:support@upstash.com).

#### **3. No Phone Support**

Upstash only offers support via email, in-Service communications, and electronic messages. We do not offer telephone support.

### **K. Disclaimer of Warranties**

Upstash provides the Website and the Service “as is” and “as available,” without warranty of any kind. Without limiting this, we expressly disclaim all warranties, whether express, implied or statutory, regarding the Website and the Service including without limitation any warranty of merchantability, fitness for a particular purpose, title, security, accuracy and non-infringement. Upstash does not warrant that the Service will meet Your requirements; that the Service will be uninterrupted, timely, secure, or error-free; that the information provided through the Service is accurate, reliable or correct; that any defects or errors will be corrected; that the Service will be available at any particular time or location; or that the Service is free of viruses or other harmful components. You assume full responsibility and risk of loss resulting from Your use of the Services and Website.

## **L. Limitation of Liability**

To the maximum extent permitted by applicable law, each party's total cumulative liability to the other party or any third party under this Agreement from all causes of action and all theories of liability will be limited to and will not exceed the fees You've actually paid us during the 24 months preceding the claim giving rise to such liability.

You understand and agree that we will not be liable to You or any third party for any loss of profits, use, goodwill, or data, or for any incidental, indirect, special, consequential or exemplary damages, however arising, that result from your use of the Services and/or Website.

## **M. Release and Indemnification**

### **1. Customer's Indemnification**

Subject to the limitations above, You agree to indemnify us and us hold harmless from and against any and all third party claims and expenses, including attorneys' fees, arising out of Your use of the Website and the Service, including but not limited to Your violation of this Agreement.

### **2. Upstash's Indemnification**

We'll defend or settle, at our option and expense, any third-party claim brought against You to the extent that it's based on an allegation that Upstash's service infringes a copyright or misappropriates a trade secret of any third party (each, a "Claim"), and, subject to the above Limitation of Liability we'll pay all damages and costs (including reasonable legal fees) finally awarded by a court of final appeal attributable to such a Claim, provided that You notify us in writing of any such Claim as soon as reasonably practicable and allow us to control, and reasonably cooperate with us in the defense of, any such Claim and related settlement negotiations.

## **N. Changes to These Terms and Modifications to Services**

We reserve the right, at our sole discretion, to amend this Agreement at any time and will update this Agreement in the event of any such amendments.

If we modify this Agreement:

We will post the modification on the Website or provide You with notice of the modification. We will also indicate the last update date at the top of this Agreement. By continuing to access or use the Services and/or the Website after we have posted a modification on the Website or

have provided You with notice of a modification, You are indicating that You agree to be bound by the modified Agreement. IF THE MODIFIED AGREEMENT IS NOT ACCEPTABLE TO YOU, THEN PLEASE CEASE USING THE SERVICES AND THE WEBSITE IMMEDIATELY.