



PUBNUB AMBASSADOR TERMS AND CONDITIONS

Last Revised: December 12, 2018

This PubNub Inc. Ambassador Program Terms and Conditions ("**Agreement**") is effective as of the date of your enrollment ("**Effective Date**") in the PubNub Ambassador Program ("Program") by and between **PubNub, Inc.**, a Delaware corporation ("**PubNub**") and you, (collectively the "parties"). If you are using the Program on behalf of an entity, you agree and acknowledge that you have authority to bind that entity to this Agreement. By registering under the Program, and signifying your consent via click through, you agree to be bound by the Agreement.

If you do not agree to be bound by this Agreement, you must cease use, access and participation in the Program and notify PubNub.

This Agreement incorporates the terms of the PubNub Privacy Policy as well as all future amendments and modifications. PubNub may modify this Agreement and Program in its sole discretion without any notice to you.

1. DEFINITIONS

The following defined terms will apply under this Agreement.

- 1.1. **Agreement** means this Terms and Conditions as it may be amended in PubNub's sole discretion and any other documents incorporated, including the PubNub Privacy Policy.
- 1.2. **Ambassador Directory** means a public directory that includes your contact information, which you consent to share, by virtue of participating in the program.
- 1.3. **Ambassador Program** means the program operated by PubNub which provide exclusive benefits to participants in the Program comprising of members in the developer community.
- 1.4. **PubNub** means PubNub Inc., and its subsidiaries and affiliates.
- 1.5. **PubNub Service** means the list of services offered by PubNub that is set forth at www.pubnub.com.
- 1.6. **Confidential information** means all proprietary or confidential material or information disclosed orally or in writing by the disclosing party to the receiving party, including the Terms and Conditions of this Agreement, (which shall be deemed Confidential Information of PubNub), 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 Confidential Information
- 1.7. **Privacy Policy** means the PubNub Privacy Policy which can be viewed by clicking the link located on the PubNub website.
- 1.8. **Registration Data** means information about you collected by PubNub during the registration process, and that you represent is accurate, which may include but is not limited to: Your Name, Address, Email, Telephone, and Social network profile. It may also include any other data you submit to PubNub.
- 1.9. **You** means yourself ("you", "participant" or "**Ambassador**"), and if applicable, your agents, employees, contractors and entity you represent. You must be 18 years or older to participate in the Ambassador Program.
- 1.10. **Rewards** means any exclusive PubNub branded merchandise, or any other unrelated products provided as an incentive.
- 1.11. **Sponsorship** means PubNub will help sponsor a local developer meet up at a cost to be determined and pre-approved by PubNub prior to the event.

2. AMBASSADOR RIGHTS

- 2.1. **No Fees for the Program.** PubNub currently provides the Program free of charge. Likewise, Ambassador acknowledges that participation in the Program is strictly voluntary, and does not mean PubNub is obligated to make any financial payment to Ambassador, whether express or implied. Notwithstanding, PubNub reserves the right to change its policies for the Program, or terminate the Program at any time in its sole discretion without any notice to you.

2.2. **Grant of Rights.** Subject to the Terms and Conditions of this Agreement, PubNub hereby grants Ambassadors participation in the Program which permits the following benefits:

- 2.2.1. Ambassador is given a nonexclusive, nontransferable right to market PubNub on a non-exclusive basis, by sharing with their local developer community the benefits of using PubNub's proprietary technology;
- 2.2.2. Ambassador may also be given opportunities to participate at Industry events that cover PubNub, and to receive exclusive PubNub merchandises and rewards;
- 2.2.3. Ambassador may also be eligible upon application and pre-approval to obtain PubNub Sponsorship of local developer meet ups;
- 2.2.4. Ambassador may also be given advanced access to instructional materials on best practices with our APIs;
- 2.2.5. Ambassador may be given promotion of your developer work in PubNub's official social networks;
- 2.2.6. Ambassador may be given access to new projects and initiatives PubNub is developing.
- 2.2.7. Ambassador may be given Rewards under the Program, subject to PubNub's discretion.

3. AMBASSADOR OBLIGATIONS.

- 3.1. **Assignment.** You may not assign your rights or duties under this Agreement in whole or in part.
- 3.2. **Competition.** You shall not access and use the PubNub Service in any application, product, or service that competes with any PubNub Service, or to otherwise divert PubNub customers from the PubNub Service.
- 3.3. **Disparagement.** You should not use or access PubNub and its logo in a manner that disparages it.
- 3.4. **Illegal Purpose.** You shall not use the Program or PubNub Service for an illegal or fraudulent purpose, or to communicate any content that is deemed unlawful, harassing, or obscene.
- 3.5. **Misrepresentation.** You shall not misrepresent your identity when using the Program, 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.
- 3.6. **Reverse Engineering.** You shall not modify, reverse engineer, decompile or otherwise decipher the code used in connection with the PubNub Service.
- 3.7. **Spam.** You shall not access or use the Program or PubNub 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. TERM AND TERMINATION

- 4.1. **Term.** This Agreement shall become effective as of the Effective Date and remain in full force and effect for one year (the "**Initial Term**") and shall automatically renew for additional one-year terms unless either party provides at least 30 days prior written notice of non-renewal. Notwithstanding the foregoing, either party may terminate this Agreement for convenience at any time upon thirty (30) days' prior written notice.
- 4.2. **Termination for Cause.** Either party may terminate this Agreement for cause (i) upon 30 days written notice; or (ii) immediately upon written notice if the other party becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding.

5. CONFIDENTIALITY

You shall not use or disclose any Confidential Information (defined below) of the other party for any purpose outside the scope of this Agreement, except with the other party's prior written consent. You shall protect the Confidential

other party'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 a party's confidentiality obligations, the non-breaching party 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. 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 disclosing party's expense, should disclosing party wish to contest the disclosure or seek a protective order, to the extent permitted by law).

6. REPRESENTATIONS AND WARRANTIES

- 6.1. **Mutual.** Each party represents and warrants that (i) it has the legal power to enter into and perform under this Agreement; (ii) it has obtained and will maintain any and all consents, approvals, licenses or other authorizations necessary for the performance of its obligations hereunder; (iii) it will comply with all applicable laws and regulations in its performance hereunder; and (iv) to the extent it handles personal data subject to the EU Data Protection Directive, it will comply with either (A) the Directive and all applicable implementing laws and regulations, or (B) the Safe Harbor framework administered by the U.S. Department of Commerce. Neither party shall make any representations or warranties on the other's behalf without the other's prior written consent.
- 6.2. **Warranty Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, BOTH PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. LIMITATION OF LIABILITY

- 7.1. **Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED 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.
- 7.2. **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS OWED TO PUBNUB HEREUNDER.
- 7.3. **Indemnification.** You agree to hold harmless and indemnify PubNub, its subsidiaries, affiliates against any third party claim arising from or related to your participation in the Program, including any liability or expense arising from claims, losses, damages, suits, litigation costs, judgments, attorneys' fees, of every kind and nature.

8. GENERAL

- 8.1. **Feedback and Recommendations.** PubNub shall have a royalty-free, fully paid-up, nonexclusive, perpetual, irrevocable, worldwide, transferable (only to a successor in interest by way of merger, reorganization or sale of all or substantially all assets or equity), sublicensable license to use, copy, modify or distribute, including by incorporating into the Service, any suggestions, enhancement requests, recommendations or other feedback provided by Ambassador.
- 8.2. **Compliance with Law.** Each party shall comply with all applicable laws and regulations relating to its performance hereunder.

- 8.3. **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship.
- 8.4. **No Third Party Beneficiaries.** Except as otherwise provided, there are no third party beneficiaries to this Agreement.
- 8.5. **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 jury trial in connection with any action or litigation relating to this Agreement.
- 8.6. **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.
- 8.7. **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.
- 8.8. **Assignment.** PubNub may assign this Agreement together with all rights and obligations hereunder, without 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.
- 8.9. **Governing Law.** This Agreement will be construed under the laws of the State of California, 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 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 and each party hereby consents to the jurisdiction of such courts for the resolution of any such action or proceeding.
- 8.10. **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, 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.
- 8.11. **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.

IN WITNESS WHEREOF, the participant has executed this Agreement as of the Effective Date.