

NEXTDB LLC Hosted Database Agreement

This document constitutes a legal agreement between you ("Customer", "you", or "your") and NEXTDB LLC, a California limited liability company having its principal place of business at 408 Quintara St, 94116 ("NEXTDB") for your use of the NEXTDB hosted service located at NEXTDB's data center. BY USING THE SERVICE, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THESE TERMS, YOU MUST DISCONTINUE USE OF THE SERVICE AND NOTIFY NEXTDB IMMEDIATELY OF YOUR INTENT TO TERMINATE THIS AGREEMENT.

1. Definitions:

"Agreement" means these online terms of use, any Order Forms, whether written or submitted online, and any materials available on the NEXTDB website specifically incorporated by reference herein, as such materials, including the terms of this Agreement, may be updated by NEXTDB from time to time in its sole discretion.

"Content" means the audio and visual information, documents, software, products and services contained or made available to you in the course of using the Service.

"Customer Data" means any data, information or material provided or submitted by you or your end users to the Service in the course of using the Service.

"Effective Date" means the earlier of either the date this Agreement is accepted by selecting the "I Accept" option presented on the screen after this Agreement is displayed or the date you begin using the Service.

"Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

"Order Form(s)" means the form evidencing the initial subscription for the Service and any subsequent order forms submitted online or in written form, specifying, among other things, the number of licenses and other services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Order Form to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement shall prevail).

"NEXTDB Technology" means all of NEXTDB's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by NEXTDB in providing the Service.

"Service(s)" means the specific edition of NEXTDB online relational database, or other related services identified during the ordering process, developed, operated, and maintained by NEXTDB, accessible via <http://www.NEXTDB.net> or another designated web site or IP address, or ancillary online or offline products and services provided to you by NEXTDB, to which you are being granted access under this Agreement, including the NEXTDB Technology and the Content.

“User(s)” means your employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied user identifications and passwords by you (or by NEXTDB at your request).

2. Terms of Use:

As part of the Service, NEXTDB will provide you with use of the Service, including a browser interface and data encryption, transmission, access and storage. Your registration for, or use of, the Service shall be deemed to be your agreement to abide by this Agreement including any materials available on the NEXTDB website incorporated by reference herein, including but not limited to NEXTDB privacy and security policies. NEXTDB reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. When individual users initially log in, they may be asked whether or not they wish to receive marketing and other non-critical Service-related communications from NEXTDB from time to time. They may opt out of receiving such communications at that time or at any subsequent time by changing their preference at the customer registration/profile page. Note that because the Service is a hosted, online application, NEXTDB occasionally may need to notify all users of the Service (whether or not they have opted out as described above) of important announcements regarding the operation of the Service. NEXTDB may reasonably use your name and a description of your use of the Service for its investor relations and marketing purposes.

3. License Grant & Restrictions

NEXTDB hereby grants you a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by NEXTDB Corporation and its licensors.

You may not access the Service if you are a direct competitor of NEXTDB, except with NEXTDB prior written consent, which may be withheld in NEXTDB’s sole discretion. In addition, you may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet “links” to the Service or “frame” or “mirror” any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or © copy any ideas, features, functions or graphics of the Service.

You may use the Service only for your internal business purposes and shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks.

4. Your Responsibilities

You are responsible for all activity occurring under your account and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify NEXTDB immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to NEXTDB immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and (iii) not impersonate another NEXTDB user or provide false identity information to gain access to or use the Service.

5. Account Information and Data

NEXTDB does not own any data, information or material that you submit to the Service in the course of using the Service ("Customer Data"). You, not NEXTDB, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and NEXTDB shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store or retrieve any Customer Data. NEXTDB reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use Customer Data immediately ceases, and NEXTDB shall have no obligation to maintain or forward any Customer Data.

6. Intellectual Property Ownership

NEXTDB Corporation alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the NEXTDB technology, the Content and the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Service, the NEXTDB Technology or the Intellectual Property Rights owned by NEXTDB. The NEXTDB name, the NEXTDB logo, and the product names associated with the Service are trademarks of NEXTDB LLC or third parties, and no right or license is granted to use them.

7. Third Party Interactions

During use of the Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between you and the applicable third-party. NEXTDB and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third-party. NEXTDB does not endorse any sites on the Internet that are linked through the Service. NEXTDB provides these links to you only as a matter of convenience, and in no event shall NEXTDB or its licensors be responsible for any content, products, or other materials on or available from such sites. NEXTDB provides the Service to you pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third-party providers of ancillary software, hardware or services may require your agreement to additional or different license or other terms prior to your use of or access to such software, hardware or services.

8. Charges and Payment of Fees

You shall pay all fees or charges to your account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. Payments must be paid within 30 days after the last day of each month, unless otherwise agreed upon in an Order Form. All payment obligations are non-cancelable and all amounts paid are nonrefundable. NEXTDB reserves the right to modify its fees and charges and to introduce new charges at any time, upon at least 30 days prior notice to you, which notice may be provided by e-mail.

9. Billing and Renewal

NEXTDB will automatically renew and bill your credit card or issue an invoice to you each monthly billing cycle. Fees for other services will be charged on an as-quoted basis. NEXTDB fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on NEXTDB income.

You agree to provide NEXTDB with complete and accurate billing and contact information. This information includes your legal name, company name (if applicable), street address, e-mail address, and name and telephone number of an authorized billing contact and License Administrator. You agree to update this information within 30 days of any change to it. If the contact information you have provided is false or fraudulent, NEXTDB reserves the right to terminate your access to the Service in addition to any other legal remedies.

10. Non-Payment and Suspension

In addition to any other rights granted to NEXTDB herein, NEXTDB reserves the right to suspend or terminate this Agreement and your access to the Service if your account becomes delinquent (falls into arrears). Delinquent invoices (accounts in arrears) are subject to interest of 1.0% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of, and legal fees associated with collection. You will continue to be charged for User licenses during any period of suspension. If you or NEXTDB initiates termination of this Agreement, you will be obligated to pay the balance due on your account. You agree that NEXTDB may charge such unpaid fees to your credit card or otherwise bill you for such unpaid fees. You agree and acknowledge that NEXTDB has no obligation to retain Customer Data and that such Customer Data may be irretrievably deleted if your account is 30 days or more delinquent.

11. Termination for Cause

Any breach of your payment obligations or unauthorized use of the NEXTDB Technology or Service will be deemed a material breach of this Agreement. NEXTDB, in its sole discretion, may terminate your password, account or use of the Service if you breach or otherwise fail to comply with this Agreement. In addition, NEXTDB may terminate a free account at any time in its sole discretion. You agree and acknowledge that NEXTDB has no obligation to retain the Customer Data, and may delete such Customer Data, if you have materially breached this Agreement, including but not limited to failure to pay outstanding fees, and such breach has not been cured within 30 days of notice of such breach.

12. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this

Agreement. NEXTDB represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the online NEXTDB help documentation under normal use and circumstances. In the event of a breach of the foregoing warranty, NEXTDB's sole obligation, and your exclusive remedy, is NEXTDB's use of commercially reasonable efforts to repair or modify the Service to operate as warranted. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that your billing information is correct.

13. Indemnification

You shall indemnify and hold NEXTDB, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by you of your representations and warranties; or (iii) a claim arising from the breach by you or your Users of this Agreement, provided in any such case that NEXTDB (a) gives written notice of the claim promptly to you; (b) gives you sole control of the defense and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release NEXTDB of all liability and such settlement does not affect NEXTDB business or Service); (c) provides to you all available information and assistance; and (d) has not compromised or settled such claim.

NEXTDB shall indemnify and hold you harmless from and against any and all costs, damages and fees finally awarded or determined by irrevocable judgment by a court of law against NEXTDB which are attributable to a third party claim alleging that the Service directly infringes a copyright, a U.S. patent issued as of the effective date of this Agreement, or a trademark of a third party provided that you (a) promptly give written notice of the claim to NEXTDB; (b) give NEXTDB sole control of the defense and settlement of the claim; (c) provide to NEXTDB all available information and assistance; and (d) have not compromised or settled such claim. NEXTDB shall have no indemnification obligation, and you shall indemnify NEXTDB pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of non-NEXTDB products, service, hardware or business process(es). Should the Service become, or in NEXTDB's opinion, be likely to become the subject of a third party claim of infringement of a copyright, U.S. patent issued as of the effective date of this Agreement, or trademark, NEXTDB may, at its sole option substitute the Service or the relevant part thereof with non-infringing computer programs, and/or modify the Service or the relevant part thereof in such manner that such infringement is cured. THIS SECTION STATES THE ENTIRE LIABILITY OF NEXTDB WITH RESPECT TO INFRINGEMENT OF COPYRIGHTS, TRADE SECRETS, PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS BY THE SERVICE, AND NEXTDB SHALL HAVE NO ADDITIONAL LIABILITY WITH RESPECT TO ANY ALLEGED OR PROVEN INFRINGEMENT OR WITH RESPECT TO ANY OTHER SOFTWARE OR SERVICE.

14. Disclaimer of Warranties

NEXTDB AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. NEXTDB AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL

BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVICE OR THE SERVER THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY NEXTDB AND ITS LICENSORS.

15. Internet Delays

NEXTDB'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. NEXTDB IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

16. Limitation of Liability

IN NO EVENT SHALL NEXTDB'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE ONE (1) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL NEXTDB AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF NEXTDB'S OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

17. Local Laws and Export Control

This site provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies. The user of this site ("User") acknowledges and agrees that the site shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States, maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders

(collectively, “Designated Nationals”). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Service, you represent and warrant that you are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. You agree to comply strictly with all United States export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required.

NEXTDB and its licensors make no representation that the Service is appropriate or available for use in other locations. If you use the Service from outside the United States of America, you are solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United States law is prohibited. None of the Content, nor any information acquired through the use of the Service, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the United States government or appropriate European body for such purposes.

18. Notice

NEXTDB may give notice by means of a general notice on the Service, electronic mail to your e-mail address on record in NEXTDB account information, or by written communication sent by first class mail or pre-paid post to your address on record in NEXTDB’s account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to NEXTDB (such notice shall be deemed given when received by NEXTDB) at any time by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to NEXTDB at the following addresses: NEXTDB LLC, at 408 Quintara St, San Francisco, CA 94116

19. Modification to Terms

NEXTDB reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon posting of an updated version of this Agreement on the Service. You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

20. Assignment; Change in Control

This Agreement may not be assigned by you without the prior written approval of NEXTDB but may be assigned without your consent by NEXTDB to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of you that results or would result in a direct competitor of NEXTDB directly or indirectly owning or controlling 50% or more of you shall entitle NEXTDB to terminate this Agreement for cause immediately upon written notice.

21. General

This Agreement shall be governed by California law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located in San Francisco, California. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of

this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between you and NEXTDB as a result of this agreement or use of the Service. The failure of NEXTDB to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by NEXTDB in writing. This Agreement, together with any applicable Order Form, comprises the entire agreement between you and NEXTDB and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.