

# API TERMS OF USE

Thank you for using the ClubReady Application Programming Interfaces (the “ClubReady API”). This API Terms of Use (“API TOU”), together with ClubReady’s Terms of Service and Privacy Policy, form a binding contract between you, or the company or legal entity that you represent, and ClubReady, LLC (“ClubReady” or “Company”). As used in this API TOU, “we,” “our,” and “us” refer to ClubReady, and “you” and “your” refer to the individual, company or legal entity that you represent. By accessing and using the ClubReady APIs, you agree to abide by the API TOU and any guidelines or other documentation provided by ClubReady for use in connection with the ClubReady APIs (the “API Documentation”). In the event of any inconsistency between this API TOU and the Terms of Service or Privacy Policy, this API TOU shall control. Terms not specifically defined herein shall have the meanings as set forth in Section 1 of the ClubReady Terms of Service.

**1. API LICENSE GRANT.** Subject to your compliance with the API TOU, in addition to our Terms of Service and Privacy Policy, we grant you a non-exclusive, revocable, non-transferrable and non-sublicensable license to (a) access and use the ClubReady APIs and API Documentation to receive, modify, use and display End User Data from the ClubReady System, including but not limited to ClubReady Payments™, leadSPEAK™ and Performance IQ™ in your website or native applications for mobile devices (“Your Application”) subject to the permissions of the relevant End User accounts; (b) use the ClubReady APIs, API Documentation, or End User Data to develop, test, and support Your Application; and (c) distribute Your Application to End Users and to allow such End Users to access your integration of the ClubReady APIs within Your Application. You may not use the ClubReady APIs for any other purpose without ClubReady’s prior written consent. If you are integrating with ClubReady APIs in Your Application, you may charge for Your Application; however, you may not sell, rent, lease, sublicense, redistribute or syndicate access to the ClubReady APIs.

**2. TRADEMARK LICENSE GRANT.** Subject to your compliance with the API TOU, we grant you a non-exclusive, revocable, non-transferrable and non-sublicensable license to reproduce and display the ClubReady name and logo (the “ClubReady Marks”) in accordance with our trademark guidelines and solely to promote or advertise your integration of the ClubReady APIs in Your Application.

**3. RESERVATION OF LICENSED RIGHTS.** All of our rights not granted by this API TOU are expressly reserved.

**4. LICENSEE OBLIGATIONS.** In connection with your use of the ClubReady APIs, you must: (a) obtain the explicit consent of End Users before collecting, using, posting or sharing any End User Data obtained through the ClubReady APIs on an End User’s behalf; (b) comply with the ClubReady Terms of Service and Privacy Policy; (c) comply with any requirements or restrictions imposed on usage of End User Data by the owner of such data. Although the ClubReady APIs can be used to provide you with access to End User Data, neither ClubReady’s provision of the ClubReady APIs to you nor your use of the ClubReady APIs overrides any requirements or restrictions place on such End User Data by the End User or a third party, including a ClubReady Subscriber, with a legal interest in the End User Data; (d) maintain a user agreement or terms of use and a privacy policy for Your Application, which is prominently identified or located where End

Users download or access Your Application. Your privacy policy must meet applicable legal standards and describe the collection, use, storage and sharing of End User Data in clear, understandable and accurate terms. You must promptly notify us in writing via email to [legal@clubready.com](mailto:legal@clubready.com) of any breaches of your user agreement or privacy policy that impact or may impact users of the ClubReady APIs, the ClubReady System or our websites; (e) obtain the consent of an End User prior to deleting or destroying any of the End User Data associated with their ClubReady account; and (f) provide attribution to ClubReady as the source of data in accordance with the following guidelines: (i) display a ClubReady Mark so it is clear to the End User that the data is from ClubReady; (ii) link the logo in such ClubReady Mark to [www.clubready.club](http://www.clubready.club); and (iii) comply at all times with trademark guidelines provided by ClubReady when using or displaying the ClubReady Marks.

**5. USE RESTRICTIONS.** You and Your Application may not: (a) access, store or share End User Data to which the End User has not granted you explicit access rights; (b) make requests that exceed our rate limit or use the ClubReady APIs in a manner that impacts the stability of ClubReady’s servers or impacts the behavior of other applications using the ClubReady APIs; (c) engage in any activity that compromises, breaks or circumvents any of our technical processes or security measures associated with the ClubReady APIs, the ClubReady System or our websites, or that poses a security vulnerability to any other End User; (d) request or publish information impersonating an End User or misrepresenting any End User or other third party in requesting or publishing information; (e) create or disclose metrics about, or perform any statistical analysis of the ClubReady APIs; (f) display ClubReady’s Marks or End User Data in a manner that could reasonably imply an endorsement, relationship or affiliation with or sponsorship between you or a third party and ClubReady, other than your permitted use of the ClubReady APIs; (g) display End User Data on any site that disparages ClubReady or its products or services, or infringes any ClubReady intellectual property or other rights; (h) copy, sell, rent, lease, transfer, assign, sublicense, disassemble, reverse engineer or decompile (except to the limited extent expressly authorized under applicable statutory law), modify or alter any part of the ClubReady APIs; (i) sell, rent, lease, share, transfer, assign, or sublicense any End User Data or other information or data obtained through the ClubReady APIs, directly or indirectly, to or with any third party, including any data broker, ad network, ad exchange or other advertising or monetization-related party; (j) use the End User Data in any advertisements or

for purposes of targeting advertisements (whether such advertisements appear in Your Application or elsewhere); (k) attempt to cloak or conceal your identify when requesting authorization to use the ClubReady APIs; (l) use the ClubReady API for any application that constitutes, promotes or is used primarily for the purpose of dealing in spyware or any other malicious programs or code, activities that violate any law or regulation, or any rights of any person including, but not limited to, intellectual property rights, and activities that, in ClubReady's sole judgment, are offensive or might harm ClubReady's business or its reputation; and (m) access the ClubReady APIs or API Documentation in order to replicate or compete with the ClubReady APIs, the ClubReady System, or our websites.

**6. USE LIMITATIONS.** ClubReady may limit the maximum End User Data that may be accessed, the rate at which such End User Data may be accessed, and/or the number of network calls that Your Application may make via the ClubReady APIs. ClubReady may change such usage limits at any time, and/or may utilize technical measures to prevent over-usage and/or stop usage of the ClubReady APIs by an application after any usage limitations are exceeded.

**7. FEES.** ClubReady reserves the right to charge you a fee per API call. Any fees associated with your access and/or use of the ClubReady APIs shall be provided to you in a separate API Fee Schedule.

**8. TERMINATION.** Your license to utilize the ClubReady APIs and ClubReady Marks shall continue until it is terminated by either party as set forth in this provision. You may terminate this license at any time by discontinuing use of the ClubReady APIs. ClubReady may suspend or terminate your right and license to use all or any of the ClubReady APIs or the API Documentation at any time, with or without cause, and with or without notice to you. Upon termination of your license for any reason, you shall destroy and remove from all computers, hard drives, networks and other storage media all copies of End User Data and ClubReady Marks.

**9. WARRANTY DISCLAIMERS.** ClubReady does not represent and warrant that any ClubReady APIs are free of inaccuracies, errors, bugs or interruptions, or are reliable, accurate, complete or otherwise valid. THE CLUBREADY APIS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH NO WARRANTIES OF ANY KIND AND CLUBREADY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, SECURITY, TITLE AND/OR NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE CLUBREADY APIS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. YOUR USE OF THE CLUBREADY APIS IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM THE USE OF ANY CLUBREADY APIS INCLUDING, BUT NOT LIMITED TO, ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA.

**10. LIMITATION OF LIABILITY.** CLUBREADY SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR

EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH USE OF THE CLUBREADY APIS, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR OTHERWISE), OR ANY OTHER PECUNIARY LOSS, WHETHER OR NOT CLUBREADY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS API TOU (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED \$100. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE LIMITATIONS IN THIS SECTION MAY NOT APPLY TO YOU.

**11. RELEASE AND WAIVER.** To the maximum extent permitted by applicable law, you hereby release and waive all claims against ClubReady, and its subsidiaries, affiliates, parent company, officers, agents, licensors, co-branders or other partners, and employees from any and all liability for claims, damages (actual and/or consequential), costs and expenses (including litigation costs and attorneys' fees) of every kind and nature, arising from or in any way related to your use of the ClubReady APIs, the End User Data or the ClubReady Marks. If you are a California resident, you waive your rights under California Civil Code 1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." You understand that any fact relating to any matter covered by this release may be found to be other than now believed to be true and you accept and assume the risk of such possible differences in fact. In addition, you expressly waive and relinquish any and all rights and benefits that you may have under any other state or federal statute or common law principle of similar effect, to the fullest extent permitted by law.

**12. INDEMNIFICATION.** To the maximum extent permitted by applicable law, you agree to indemnify, defend and hold harmless ClubReady, and its subsidiaries, affiliates, parent company, officers, agents, licensors, co-branders or other partners, and employees from any and all third party claims arising from or in any way related to your use of the ClubReady APIs, including any liability or expense arising from all claims, losses, damages, liabilities, costs and fees (including reasonable attorneys' fees) of every kind and nature. Notwithstanding anything contained in the preceding sentence, (a) we will always be free to choose our own counsel if we pay for the cost of such counsel; and (b) no settlement may be entered into by you, without our express written consent (such consent not to be unreasonably withheld), if (i) the third party asserting the claim is a government agency, (ii) the settlement arguably involves the making of admissions, (iii) the settlement does not include a full release of liability, or (iv) the settlement includes terms other than a full release of liability and the payment of money.

**13. REMEDIES.** You acknowledge that your breach of these API TOU may cause irreparable harm to ClubReady, the extent of which would be difficult to ascertain. Accordingly, you agree that, in addition to any other remedies to which ClubReady may be legally entitled, ClubReady shall have the right to seek immediate

injunctive relief in the event of a breach of these API TOU by you or any of your officers, employees, consultants or other agents.

**14. PUBLICITY.** You grant us the right to use your company name and logo as a reference for marketing or promotional purposes on our website and in other public and private communications with our existing or potential developers and customers, subject to your standard trademark usage guidelines as provided to us from time to time.

**15. PARTY RELATIONSHIP.** You and ClubReady are independent contractors and these API TOU does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. You shall not have any authority to assume or create any obligation for or on behalf of ClubReady, express or implied, and you shall not attempt to bind ClubReady to any contract without its express consent.

**16. DISPUTE RESOLUTION.** Many concerns can be resolved by calling us at (404) 592-9963. If a dispute cannot be resolved informally, this provision explains how claims (whether by you against us, or by us against you) will be resolved. (a) **Definition.** "Claim" means any current or future claim, dispute or controversy relating in any way to the API TOU. Claim includes (i) initial claims, counterclaims, cross-claims and third-party claims; (ii) claims based upon contract, tort, fraud, statute, regulation, common law and equity; and (iii) claims by or against any third party using or providing any product, service or benefit in connection with our agreement, the Site or our Services. (b) **Claim Notice.** Prior to beginning a lawsuit, you and we agree to send a notice (a "Claim Notice") to each party against whom a Claim is asserted. The Claim Notice will give you and us a chance to resolve our dispute informally or in mediation. The Claim Notice must describe the Claim and state the specific relief demanded. Notice to you may be sent to your current mailing address or email address on file. You must provide your name, address and phone number in your Claim Notice. Your Claim Notice must be emailed to ClubReady, LLC, Subject Line: API Claim Notice, [legal@clubready.com](mailto:legal@clubready.com) and [api@clubready.com](mailto:api@clubready.com). (c) **Mediation.** In mediation, a neutral party helps parties resolve a Claim. The mediation does not decide the Claim but helps the parties reach agreement. Before beginning mediation, you or we must first send a Claim Notice. Within 30 days after sending or receiving a Claim Notice, you or we may submit the Claim for mediation. Mediation fees will be split equally, and the location for mediation shall be mutually decided between you and us. All mediation-related communications are confidential, inadmissible in court and not subject to discovery. All applicable statutes of limitations will be tolled until termination of the mediation. Either you or we may terminate the mediation at any time; the process is non-binding. The submission or failure to submit a Claim to mediation will not affect your or our rights to elect to litigate. (d) **Exception.** If a Claim has an aggregate value of \$5,000 or less, or the Claim seeks injunctive relief, then either party may proceed directly to court and shall not be obligated to attend mediation as part of a dispute resolution process.

**17. SEVERABILITY.** If any provision of these API TOU is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision and that the other provisions remain in full force and effect.

**18. GOVERNING LAW AND VENUE.** These API TOU and the relationship between you and ClubReady will be governed by the laws of the State of Missouri without regard to its conflict of law provisions. You and ClubReady agree to submit to the personal jurisdiction of the courts located within the city and county of St. Louis, Missouri.

**19. NO WAIVER.** ClubReady's failure to exercise or enforce any right or provision of these API TOU shall not constitute a waiver of such right or provision.

**20. SURVIVAL.** Sections 3, 9, 10, 11, 12, 13, 16, 18 and 21 will survive the termination or expiration of these API TOU.

**21. ENTIRE AGREEMENT.** These API TOU, together with the ClubReady Terms of Service and Privacy Policy, constitute the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. In the event of any inconsistency between these API TOU and the ClubReady Terms of Service and/or Privacy Policy, these API TOU shall control.

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