

# Podium Marketplace Terms of Service

Podium Corporation, Inc. (“**Podium**”) owns and operates an internet-based marketplace that enables users of the Services (as defined below) to browse, install, purchase (as applicable), and manage subscriptions to Apps, and to access applications purchased or installed in this manner through a single sign on system (the “**Marketplace**”). By using, installing, or accessing the Marketplace or Apps (as defined below), by signing or clicking to accept these terms or any Subscription Documentation (as defined below) referencing these terms, you agree to be bound by the following terms (the “**Marketplace Terms**”). To use the Marketplace and any Apps, you must have a current Subscription to use the Podium Services and have agreed to the [Podium Terms of Service](#) (“**Podium Terms of Service**”), which incorporate these Marketplace Terms. Any capitalized terms not defined herein will have the definition given in the [Podium Terms of Service](#). For the avoidance of doubt, all references in the [Podium Terms of Service](#) to the “Agreement” will include these Marketplace Terms.

If you are using the Marketplace on behalf of a company, organization, or other entity, then “Client” or “you” means that entity, and you are binding that entity to these Marketplace Terms and the Agreement. You represent and warrant that you have the legal power and authority to enter into these Marketplace Terms and that, if the Client is an entity, these Marketplace Terms are entered into by an employee, agent, or other authorized representative with all necessary authority to bind that entity to these Marketplace Terms.

## 1. DEFINITIONS.

- 1.1. “**App**” means each software as a service or general service application owned and operated by Podium or a Developer that has been built with the Podium API and/or the Podium Developer Platform.
- 1.2. “**Client**” means an individual user of the Marketplace, Services, or any portion thereof.
- 1.3. “**Developer**” means an individual or entity registered as a developer on the Podium Developer Platform.
- 1.4. “**Order**” means an order, purchase, installation, trial, download, or enablement of an App (including renewals and upgrades), whether through the Marketplace or other processes or interfaces Podium or a Developer makes available. All Orders are subject to these Terms.
- 1.5. “**Marketplace Content**” means any App, any content on the Marketplace, or any services made available through the Marketplace.
- 1.6. “**Podium Developer Platform**” has that meaning described in the [Podium Developer Terms](#).
- 1.7. “**Services**” has the meaning set forth in Section 2 of the [Podium Terms of Service](#).
- 1.8. “**Single Sign On**” means the ability of Client to access Apps purchased or installed through the Marketplace using a single set of Marketplace access credentials.
- 1.9. “**Third-Party App**” means an App developed by a third-party Developer.
- 1.10. “**Third-Party Products**” means any applications, integrations, add-ons, software, code, online services, systems, and other products that are not Podium Technology.
- 1.11. “**Usage Data**” means data generated in connection with Client access and use of the Marketplace, including log-in credential data and Single Sign On data generated in connection with Client access and use of Apps.

## 2. ACCOUNT; INTEGRATION; AND RESPONSIBILITIES.

- 2.1. [Account Registration](#). Client must have registered for a Podium account in order to access the Marketplace. Account information must be accurate, current, and complete, and will be governed by [Podium’s Privacy Policy](#) (“**Podium Privacy Policy**”) and may be amended from time to time. Client agrees to keep its account information up to date so that Podium may send notices,

statements, and other information by email or through Client's account. By using or accessing the Marketplace, Client agrees and consents to Podium's use of cookies in accordance with the terms of the [Podium Privacy Policy](#). You are solely responsible for all use of the Marketplace and the Marketplace Content. Podium will not be liable for any loss or damage arising from unauthorized use of Client's account.

2.2. [App Integrations](#). When you are logged into your Podium account, you can navigate to the Marketplace. You will then select the App icon you want to install. You will need to confirm your location in the drop down. Then you will click the connect button and provide the following information (depending on the App): App Key, Client ID, Client Secret, Subdomain, Username/Password (OAuth 2.0), Tenant ID, API Key, API Token, or API Access Token. Once your information is entered you may be prompted to set up prebuilt templates (depending on the App). A successfully configured and integrated App will appear with a green banner indicating it is installed.

2.3. [Beta Releases and Free Access Subscriptions](#). The Marketplace is currently a Beta Release and is subject to the terms of the [Podium Terms of Service](#) (including but not limited to Section 3.7). Additionally all Apps are provided as a Free Access Subscription (unless Developer requires payment independent of the Marketplace) and are subject to the terms of the [Podium Terms of Service](#) (including but not limited to Section 3.7).

### 3. USE RIGHTS; RESTRICTIONS.

3.1. [Use of the Marketplace and Restrictions](#). Sections 3.1, 3.3, 3.4, 3.5, and 3.6 of the [Podium Terms of Service](#) are hereby incorporated by reference, and use of the Marketplace is subject to those terms.

3.2. [Developer Terms](#). Without limiting the disclaimers, restrictions or other provisions in these Terms, usage of Apps is subject to the license or subscription terms, privacy policies and other applicable terms specified by the Developer ("**App Developer Terms**"), including any usage limits described therein. App Developer Terms are typically included on the App's listing page or presented through the process while making an Order. You may not use an App if you do not agree to the relevant App Developer Terms.

3.3. [Third-Party Apps and Terms](#). Third-Party Apps are subject only to the third-party Developer's Terms. Podium is not a party to, or responsible for compliance with, any third-party App Developer Terms, and does not guarantee that any third-party App Developer Terms meet your needs. By ordering, installing, integrating, or enabling any Third-Party App, you are entering into the App Developer Terms directly with the applicable third-party Developer.

3.4. [Podium Apps and Terms](#). If Podium is the developer of the App, the [Podium Developer Terms](#) are the App Developer Terms for such App (including the [Podium Privacy Policy](#)). If there is a conflict between these Terms and the [Podium Terms of Service](#), the [Podium Terms of Service](#) will control as to each party's rights and responsibilities related to the App itself, while these Terms will control as to the Marketplace in general.

3.5. [Availability of Marketplace Content](#). Marketplace features and Marketplace Content may become unavailable or be removed at any time and without notice by Podium or a Developer, and any data stored in connection with such Marketplace Content may be lost or become inaccessible. If your use of the Services is modified, terminated, or suspended, you may be prevented from accessing the Marketplace and any files or Marketplace Content associated with your account.

3.6. [Third-Party Links](#). The Marketplace may contain links to Third-Party Products. Such Third-Party Products may be subject to different terms and conditions and privacy practices. Podium is not responsible or liable for the availability or accuracy of such Third-Party Products, or the content, products, or services available from such Third-Party Products, including any Third-Party Apps. Links to such Third-Party Products are not an endorsement by Podium of such Third-Party Products.

3.7. [Reservation of Rights](#). Except for the rights explicitly granted to you in these Terms and in the App Developer Terms for each App, all right, title, and interest (including intellectual property rights) in the Marketplace are reserved by Podium, and all right, title, and interest (including intellectual property rights) in the Apps are reserved and retained by their respective Developers and licensors. Apps are provided on a license or subscription basis, not sold, and you do not acquire any ownership rights in the Marketplace or the Apps.

3.8. [Removal; Reinstatement of Client](#). Client may be removed by Podium, in its sole discretion, from the Marketplace if Client or any of its Authorized Users violate these Terms, the [Podium Terms of Service](#), or the Acceptable Use Policy. Client may have its access

reinstated if it cures the violation, subject to Podium's sole discretion.

3.9. Removal; Reinstatement of App Use. Client may have its access to any App revoked by Podium, in its sole discretion, if Client or any of its Authorized Users violate these Terms, the [Podium Terms of Service](#), or the Acceptable Use Policy. Client may have its access reinstated if it cures the violation, subject to Podium's sole discretion.

3.10. Removal; Reinstatement of Third-Party App Use. Client may have its access to any Third-Party App revoked by Podium, in its sole discretion, if Client or any of its Authorized Users violate these Terms, the [Podium Terms of Service](#), or the Acceptable Use Policy. Client may have its access reinstated if it cures the violation, subject to Podium's sole discretion. Additionally, Client and its Authorized Users may be subject to similar terms under the App Developer Terms.

#### **4. DATA AND SECURITY.**

4.1. Order Information. If you order an App through the Marketplace, Podium may provide the Developer with the information you provide in completing the Order, such as your name, company name (if any), addresses (including email address), and phone number.

4.2. Third-Party Developer Use of Data. If you place an Order for a Third-Party App, you authorize Developers to access or use certain data in the applicable Podium Services or the Marketplace. This may include transmitting, transferring, modifying or deleting such data, or storing such data on Developer or third-party systems. Any third-party Developer's use of accessed data (whether data in the Podium Services, the Marketplace, or separately collected from you or your device) is subject to the applicable App Developer Terms. Podium is not responsible for any access, use, transfer, or security of data or information by third-party Developers or by Third Party Apps, or for the security or privacy practices of any third-party Developer or such Developer's Third-Party Apps and third-party processors. You are solely responsible for your decision to permit any third-party Developer or Third-Party App to access or use data to which you've granted access.

4.3. Podium Use of Marketplace Data. Any data that Podium collects from you based on your use of the Marketplace and your Orders, or that Podium receives from third-party Developers on your behalf, is subject to the [Podium Terms of Service](#) and the [Podium Privacy Policy](#).

4.4. Analytics and Usage Data. In addition, you authorize the Developer and Podium (if Podium is not the Developer) to collect and use technical data and related information (including technical information relating to your device, system, and the App), in non-personally identifiable form, to facilitate the provision of software updates, product support, marketing efforts, and other services to you related to the App. Developer and Podium (if Podium is not the Developer) may each use this information, as long as it is in a form that does not personally identify individual users, to improve their respective products or to provide services or technology to you (including with respect to Podium, the Marketplace, and the Podium Services).

**5. SUPPORT.** Podium does not provide support for Developer's App or Marketplace Content. For any support-related needs, you should contact the Developer or App publisher directly. Podium provides support for Marketplace Content expressly created or developed by Podium only, and then only in accordance with the [Podium Terms of Service](#). A Developer's failure to provide any support or maintenance does not entitle you to any refund. Podium is not responsible for any support and maintenance for Third-Party Apps.

**6. FEEDBACK.** By submitting ideas, suggestions, documents, and/or proposals ("**Feedback**") to Podium, you acknowledge and agree that: (a) your Feedback does not contain confidential or proprietary information; (b) Podium is under no obligation of confidentiality, express or implied, with respect to the Feedback; (c) Podium shall be entitled to use or disclose such Feedback for any purpose, in any way, in any media, worldwide; (d) Podium may already be developing a solution or solution component related to the Feedback; and (e) you grant Podium a non-exclusive, worldwide, royalty-free, irrevocable, sub-licensable, perpetual license to use and publish the Feedback for any purpose, without compensation to you.

**7. PRIVACY.** The Marketplace is a Podium Service and your use of the Marketplace is subject to these Terms, the [Podium Terms of Service](#), and the [Podium Privacy Policy](#). Podium's collection, use, and sharing of personal data in connection with the Marketplace and Marketplace Content are described in the [Podium Terms of Service](#) and [Podium Privacy Policy](#).

**8. MODIFICATION OF THE MARKETPLACE TERMS.** Podium will exercise commercially reasonable efforts to provide notice to you of any material changes to these Marketplace Terms. Any updates to these Terms will be immediately binding upon your next use of the

Marketplace, any App, or any Marketplace Content. If you do not agree with the changes, you should discontinue using the Marketplace and any Marketplace Content and terminate these Marketplace Terms immediately. If you continue using the Marketplace and/or any Marketplace Content, you will be deemed to have accepted the changes to these Marketplace Terms.

## 9. TERM AND TERMINATION

9.1. Term. These Marketplace Terms will apply and remain in effect for as long as you use the Marketplace or any Marketplace Content.

9.2. Termination and Suspension. Podium may terminate these Marketplace Terms and/or suspend your access to the Marketplace immediately if you: (i) violate any of the terms of the Agreement, (ii) use the Marketplace in a way that has or may negatively reflect on or affect Podium, our prospects, or our clients, (iv) violate the Acceptable Use Policy, or (v) if we determine it to be necessary or desirable in our sole discretion. Podium is not obligated to provide you with any of your content used in connection with the Marketplace after termination. Termination or expiration of these Marketplace Terms shall not automatically cause your Subscription or partner agreement to be terminated if you have one.

**10. WARRANTIES.** YOU UNDERSTAND AND AGREE THAT THE MARKETPLACE AND MARKETPLACE CONTENT ARE PROVIDED "AS IS" AND PODIUM, ITS DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, SUBSIDIARIES, AGENTS, CONTRACTORS, AFFILIATES, PARTNERS, SUPPLIERS, AND RESELLERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. PODIUM, ITS DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, SUBSIDIARIES, AGENTS, CONTRACTORS, AFFILIATES, PARTNERS, SUPPLIERS, AND RESELLERS MAKE NO WARRANTY OR REPRESENTATION REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE MARKETPLACE OR MARKETPLACE CONTENT, REGARDING THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE MARKETPLACE OR MARKETPLACE CONTENT, OR THAT THE MARKETPLACE CONTENT WILL MEET ANY USER'S REQUIREMENTS, OR BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE. USE OF THE MARKETPLACE AND MARKETPLACE CONTENT IS AT YOUR SOLE RISK. ANY MATERIAL AND/OR MARKETPLACE CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE MARKETPLACE OR MARKETPLACE CONTENT IS AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOU RESULTING FROM THE USE OF THE MARKETPLACE OR MARKETPLACE CONTENT. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE MARKETPLACE OR MARKETPLACE CONTENT REMAINS WITH YOU. PODIUM CANNOT GUARANTEE AND DOES NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE MARKETPLACE OR MARKETPLACE CONTENT.

**11. INDEMNIFICATION.** Client will indemnify and hold harmless Podium and its officers, directors, employees, consultants, affiliates, subsidiaries, and agents (together, the "**Podium Entities**") from and against any third-party claims and related costs, damages, liabilities, and expenses (including reasonable attorney's fees) arising from or pertaining to: (a) your unauthorized use of, or misuse of the Podium Marketplace and Podium API, as; (b) your violation of, any claim that you have violated, any applicable Law or third party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; (c) any dispute or issue between you and any third party (including but not limited to your Customers, any Developer Partners, and any Third-Party Service Providers); (d) any Client Data; (e) Podium's use, as contemplated in this Agreement, of any information provided to Podium by you or your Customers; (f) breach or alleged breach of this Agreement, including Client's warranties and obligations; or, (h) if applicable, alleged breach or breach of Client's obligations contained in the BAA. Client also agrees to defend the Podium Entities against these claims at Podium's request, but Podium may participate in any claim through counsel of its own choosing and the parties will reasonably cooperate on any defense. In the event Podium assumes exclusive defense of such claims, Client agrees to cooperate with our defense of any such claims. Client may not settle any claim without Podium's prior written consent if the settlement does not fully release Podium from liability or would require Podium to admit fault, pay any amounts, or take or refrain from taking any action.

## 12. DISCLAIMERS.

12.1. EXCEPT AS PROVIDED EXPRESSLY HEREIN, THE PODIUM MARKETPLACE, ANY APPS, AND ALL RELATED SERVICES, MATERIALS, AND CONTENT AVAILABLE THROUGH THE MARKETPLACE ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. NEITHER PODIUM NOR ITS SUPPLIERS MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. PODIUM MAKES NO REPRESENTATION, WARRANTY, OR GUARANTEE THAT THE MARKETPLACE OR ANY APP

WILL MEET CLIENT'S REQUIREMENTS OR EXPECTATIONS, THAT CLIENT DATA WILL BE ACCURATE, COMPLETE, OR PRESERVED WITHOUT LOSS, OR THAT THE MARKETPLACE OR ANY APP WILL BE SECURE, TIMELY, UNINTERRUPTED, OR ERROR-FREE, AND PODIUM DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED. PODIUM WILL NOT BE RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY CLIENT PROPERTIES, THIRD-PARTY PRODUCTS, THIRD-PARTY CONTENT, OR NON-PODIUM SERVICES (INCLUDING FOR ANY DELAYS, INTERRUPTIONS, TRANSMISSION ERRORS, SECURITY FAILURES, AND OTHER PROBLEMS CAUSED BY THESE ITEMS), FOR THE COLLECTION, USE, AND DISCLOSURE OF CLIENT DATA AUTHORIZED BY THIS AGREEMENT, OR FOR DECISIONS OR ACTIONS TAKEN (OR NOT TAKEN) BY CLIENT BASED UPON THE MARKETPLACE, ANY APP, OR PODIUM'S RELATED SERVICES (INCLUDING CHANGES TO CLIENT PROPERTIES). THE DISCLAIMERS IN THIS SECTION 12.1 WILL APPLY TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN. CLIENT MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, ANY STATUTORILY REQUIRED WARRANTIES UNDER APPLICABLE LAW, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD AND MAXIMUM EXTENT PERMITTED BY LAW.

12.2. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE THE MARKETPLACE OR ANY APP OR PODIUM ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE THE MARKETPLACE OR ANY APP WILL CREATE ANY WARRANTY REGARDING ANY OF THE PODIUM ENTITIES OR THE SERVICES THAT IS NOT EXPRESSLY STATED IN THESE TERMS. PODIUM DOES NOT PROVIDE ITS CLIENTS WITH LEGAL ADVICE REGARDING DATA PRIVACY OR COMPLIANCE WITH RELEVANT LAW IN ANY JURISDICTION, AND ANY STATEMENTS MADE BY PODIUM TO ITS CLIENT(S) DO NOT CONSTITUTE LEGAL ADVICE. USE OF THE MARKETPLACE DOES NOT GUARANTEE COMPLIANCE WITH APPLICABLE LAWS IN ANY JURISDICTION.

**13. LIMITATIONS OF LIABILITY.** TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT WILL PODIUM OR ITS SUPPLIERS BE LIABLE FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, INTERRUPTION OF BUSINESS, LOST PROFITS, COSTS OF DELAY, REPUTATIONAL HARM, OR ANY INDIRECT, SPECIAL, INCIDENTAL, COVER, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, EVEN IF INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PODIUM'S OR ITS SUPPLIERS' TOTAL LIABILITY EXCEED IN AGGREGATE FIVE THOUSAND U.S. DOLLARS (\$5,000.00). FOR FREE ACCESS SUBSCRIPTIONS OR BETA RELEASES, PODIUM'S TOTAL LIABILITY WILL NOT EXCEED IN AGGREGATE FIFTY U.S. DOLLARS (\$50.00 US). NOTWITHSTANDING THE FOREGOING, NONE OF THE LIMITATIONS IN THIS SECTION 13 EXCLUDES EITHER PARTY'S LIABILITY FOR FRAUD OR FOR DEATH OR PERSONAL INJURY TO THE EXTENT CAUSED BY A PARTY'S NEGLIGENCE. IN ADDITION, THE LAWS IN SOME JURISDICTIONS MAY NOT ALLOW SOME OF THE LIMITATIONS OF LIABILITY IN THIS SECTION 13. IF ANY OF THESE LAWS IS FOUND TO APPLY TO THESE TERMS, THIS SECTION 13 WILL APPLY TO THE MAXIMUM EXTENT NOT PROHIBITED BY SUCH LAW. EACH PARTY ACKNOWLEDGES AND AGREES THAT THIS SECTION 13 IS A FUNDAMENTAL BASIS OF THE BARGAIN AND A REASONABLE ALLOCATION OF RISK BETWEEN THE PARTIES AND WILL SURVIVE AND APPLY TO ANY CLAIMS ARISING OUT OF OR RELATED TO THESE TERMS, ANY PODIUM TECHNOLOGY, OR ANY RELATED SERVICES, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE), EVEN IF ANY LIMITED REMEDY IN THESE TERMS IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 13 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**14. DISPUTE RESOLUTION AND GENERAL TERMS.** Sections 15 and 16 of the [Podium Terms of Service](#) are hereby incorporated by reference.