

Apollo Service Terms

(last updated September 25, 2019)

The Apollo service is an online software-as-a-service that enables its users to define, manage, and analyze GraphQL APIs and infrastructure.

“Apollo”, “we” or “us” refers to Meteor Development Group, Inc., and “Customer” or “you” refers to the subscriber to the Apollo Service which has agreed to an Order Form or, in the case of the use of a free version of the Apollo Service, by creating an account to access the Apollo Service.

The following terms and conditions (the “Service Terms”) are a legal contract between Customer and Apollo, and governs the use of and access to the Apollo Service (as defined below) by you, your agents and your individual users. By selecting the “agree” or “accept” option or by using the Apollo Service that are offered subject to these Service Terms, you are agreeing to be bound by these Service Terms. Please read them carefully before proceeding. If you have any questions, please contact us using support@apollographql.com.

1. PARTIES

Customer may not use the Apollo Service unless it accepts these Service Terms and has the power and legal right to form a contract with Apollo. Any individual subscribing to or using the Apollo Service in the name of or as part of his or her responsibilities within a company or other organization, or who submits to the Apollo Service data controlled by such company or organization, represents and warrants that he or she is authorized and intends by those actions to bind the company or other organization to these Service Terms.

2. DEFINITIONS

- 2.1. “**Agreement**” means these Service Terms and (if applicable) an Order Form.
- 2.2. “**Apollo SDK/API**” means any software development kit and application programming interfaces provided by Apollo as a mechanism for access to and utilization of the Apollo Service.
- 2.3. “**Apollo Service**” means the Apollo hosted service for monitoring, management and analysis of GraphQL queries, to be supplied by Apollo as specified in the Order Form and delivered by Apollo’s cloud platform.
- 2.4. “**Authorized User**” means an individual employee or agent of Customer who has been assigned unique credentials to access and use the Apollo Service, whether or not that individual is accessing or using the Apollo Service at any particular time.
- 2.5. “**Customer Data**” consists of data Customer makes available for storage or processing by the Apollo Service and any results of the Apollo Service’ analysis of the Customer Data.
- 2.6. “**Order Form**” means Apollo’s online or written order form or account setup form or other written agreement, as submitted by Customer and accepted by Apollo, that specifies the pricing and any commercial terms for the use of the Apollo Service (including by reference to Apollo’s standard pricing), and that references these Service Terms.

3. APOLLO SERVICE

3.1. Authorization to Use. Subject to Customer’s compliance with the Agreement, including payment of all fees due, Apollo will provide Authorized Users with access to and use of the Apollo Service which Customer has purchased and for which Customer pays, solely for Customer’s internal business purposes and in accordance with Apollo’s relevant end-user documentation. The Apollo Service and Apollo SDK/API may be used only in accordance with the documentation and specifications provided by Apollo. Customer must establish one or more accounts for Authorized Users to use the Apollo Service. Customer must keep the registration information accurate and complete. Customer and its Authorized Users will access the Apollo SDK/API and Apollo Service using the login credentials and Apollo SDK/API key(s) assigned by Apollo. Apollo may monitor the use of the Apollo Service to ensure quality, improve Apollo products and services, and verify compliance with the Agreement. The use of the Apollo Service is further subject to any usage limitations indicated in the Order Form or in Apollo’s applicable service description referenced therein or otherwise provided by Apollo.

3.2. License to Downloadable Software, Apollo SDK/API. Any downloadable software made available by Apollo, including any software elements of the Apollo SDK/API, is subject to the license terms accompanying such software.

3.3. Restrictions. Customer may not: (a) copy, reproduce, modify, decompile, disassemble, or reverse engineer the Apollo Service or any associated or underlying software or materials (except to the extent that applicable law prohibits or restricts reverse engineering restrictions); (b) provide any third parties with direct access to the Apollo Service; (c) provide any third parties with access to, or use the Apollo Service for, time sharing or similar purposes for the benefit of any third party, including without limitation by selling, renting, licensing or otherwise disclosing any elements of the Apollo Service; (d) remove any copyright or proprietary notices contained in the Apollo Service; (e) breach, disable or tamper with, or develop, use or attempt any workaround for, any security measure or monitoring system provided or used by Apollo in connection with the Apollo Service or Apollo SDK/API; (f) access the Apollo Service via any automated system, web crawler or non-human user other than access through and as implemented in the Apollo SDK/API; (g) introduce into the Apollo Service any software, virus, worm, "back door," Trojan Horse, or similar harmful code; (h) access or use (or permit a third party to access or use) the Apollo Service for any unlawful purpose or for purposes of monitoring the availability, performance or functionality of the Apollo Service or for any other benchmarking or competitive purposes; or (i) interfere or attempt to interfere in any manner with the proper workings of the Apollo Service, or engage in any activities that adversely affect the functionality or performance of the Apollo Service. All rights in the Apollo Service not expressly granted herein are reserved.

3.4. Third Party Integrations. Apollo may offer Customers the option of sending data and information collected or processed for Customer by the Apollo Services to, and receiving data and information to be processed for Customer by the Apollo Services from, analytics or other services provided by third parties ("**Third Party Integration Providers**"). Such functionality may be subject to the payment of additional fees if not part of Apollo's standard offering. Customer is solely responsible for establishing a contractual relationship with any such Third Party Integration Providers and complying with the terms of such contractual relationship. Apollo shall not be responsible or liable for any loss, destruction, alteration, unauthorized disclosure or corruption of Customer Data or any other harm to Customer or any other party caused by any Third Party Integration Providers, including without limitation, by Apollo's integration with such Third Party Integration Providers and the use of any data or information received from such Third Party Integration Providers.

4. CUSTOMER OBLIGATIONS

4.1. Responsibilities in Using Apollo Service. Customer is responsible for: (a) maintaining the confidentiality of any user IDs, passwords and other credentials associated with its Apollo Service account, (b) all activities that occur with respect to Customer's account, (c) Customer's use of the Apollo Service and compliance with the Agreement, and (d) the Customer Data, and any other information Customer provides to Apollo through any mechanism. Customer is and shall remain liable for all actions and omissions of its Authorized Users hereunder or under any applicable separate agreement.

4.2. Compliance. Customer shall use the Apollo Service exclusively for proper and legal purposes. In connection with its use of the Apollo Service and all instructions to Apollo concerning the processing of data using Apollo Service, Customer will comply with all applicable laws, regulations, the rights of others, and all policies of and Customer agreements with the owner or operator of any platform with which Customer integrates (or requests that Apollo integrate) the Apollo Service. Customer shall not collect or process in the Apollo Service any data (a) consisting of personal data or personal information under the General Data Protection Regulation (Regulation (EU) 2016/679), the California Consumer Privacy Act or any other applicable data privacy law, or (b) that is subject to heightened restrictions relating to the transmission or processing of data for the jurisdictions in which Apollo and Customer operate, such as (by way of example only) the Health Insurance Portability and Accountability Act, the Children's Online Privacy Protection Act, and the standards promulgated by the PCI Security Standards Council. Without limiting the generality of the foregoing, Customer is prohibited from using the Apollo Services to collect or process transmit data that, if inadvertently disclosed, would trigger federal or state data breach notification laws (e.g., social security number, financial account access information, driver's license number) Customer shall not use the Apollo Service to transmit any bulk unsolicited commercial communications.

4.3. Use Obligations. Customer shall not directly or indirectly, in connection with the use of the Apollo Service: (a) facilitate or promote illegal activity, or distribute illegal content; or (b) infringe upon or violate any right of any third party, including, without limitation, any intellectual property, privacy, or publicity rights.

4.4. Correction; Suspension. If Customer's use of the Apollo Service is deemed by Apollo, in its sole discretion, to not meet the letter or spirit of the standards set forth in the Agreement, Apollo may request that Customer make changes to bring its practices into compliance. If Customer fails to make the necessary changes immediately upon request, and without limiting any of the other remedies available to Apollo at law or in equity, Apollo is authorized to suspend Customer's access to the Apollo Service, without liability to Customer. Customer agrees and acknowledges that Apollo shall have the right to monitor Customer's use of the Apollo Service from time to time. Apollo reserves the right to immediately suspend, in whole or in part, Customer's access to the Apollo Service and Apollo's provision of the Apollo Service in order to prevent imminent harm to Apollo or a third party.

5. DATA, CUSTOMER LICENSES AND OWNERSHIP

5.1. Apollo Service Account Data. Customer's Apollo Service account data (e.g., login ID, contact information, payment information) is subject to the Apollo Privacy Policy, as posted on Apollo's website, as it may be modified from time to time.

5.2. Customer Data. Customer hereby grants to Apollo a royalty-free, worldwide, perpetual, irrevocable and fully transferable right and license to use both (a) internal Apollo Service analytic and log data regarding the processing of Customer Data and use of the Apollo Service, and (b) Customer Data solely in a de-identified, aggregated form (in which neither an individual person nor Customer can feasibly be identified), to improve the Apollo Service, including in connection with the improvement of user interface and experience, and the creation and development of analytical and statistical analysis tools related to collected data.

5.3. Treatment of Customer Data. Customer is ultimately responsible for making and keeping current copies of all Customer Data. Apollo will retain Customer Data subject to any time or storage limitations set forth in Apollo's data retention policies, and may delete or decline to store Customer Data older than the prescribed age for deletion, or in excess of the disclosed storage limitation. Apollo will use reasonable industry standard security procedures to prevent unauthorized disclosure of or access to the Customer Data, and will not disclose the Customer Data to any third party except (a) as directed by Customer, (b) if such disclosure is made by Apollo in response to a court order, subpoena or other legal process, and provided that Apollo has given Customer reasonable notice of such court order, subpoena or other legal process, (c) if such disclosure is made to Apollo's service providers in order for such service providers to assist Apollo in the operation of the Apollo Service as provided to Customer, or (d) if such disclosure is in aggregate non-personally identifiable form.

5.4. Ownership; Feedback. Apollo agrees that as between Apollo and Customer, Customer will own the Customer Data. As between Apollo and Customer, the Apollo Service and all software, data and technologies embodied in or used to provide the Apollo Service, including data and information that is not Customer Data, and all intellectual property rights in or relating to any of the foregoing, is owned by Apollo. Customer and / or Authorized Users may choose to submit comments, suggestions, enhancement requests, or recommendations (collectively, "Feedback") about the Apollo Service or other Apollo offerings. Apollo shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate any Feedback into the Apollo Service or other Apollo offerings.

6. TERM AND TERMINATION

6.1. Duration and Renewal. The Agreement shall commence upon the earlier of Customer's first use of the Apollo Service or the establishment of Customer's first Authorized User account, and shall continue until terminated as set forth herein.

6.2. Termination. Customer may terminate this Agreement at any time by contacting Apollo customer service at support@apollographql.com or using the relevant Apollo Service interface (when such function is available) to terminate Customer's use of the Apollo Service and delete all Customer Authorized User Accounts. This Agreement terminates automatically if Customer breaches any term hereof. Apollo may terminate this Agreement at any time immediately upon written notice to Customer. Upon termination, Customer will immediately cease use of the Apollo

Service and promptly pay any outstanding fees for the use of the Service through the termination date. Nothing contained herein shall limit any other remedies that Apollo may have for Customer's default under this Agreement nor relieve Customer of any of its obligations incurred prior to such termination.

6.3. Survival. The following provisions will survive expiration or termination of the Agreement: Sections 1, 2, 3.3, 5, 7 (to the extent of any payments due), and 8 through 11.

7. FEES AND PAYMENT

7.1. Fees. In consideration for Apollo providing the Apollo Service, Customer shall pay to Apollo the corresponding fees set forth in the Order Form. Fees may include additional fees based on any use of the Services beyond the usage purchased, which may include use of additional seats, use overages beyond a pricing threshold, use of optional feature or third party integrations. Apollo may change the fees for the use of the Apollo Service upon 30 days prior notice.

7.2. Payment. Fees will be calculated and billed according to the Order Form, typically monthly or annually in advance. Apollo's preferred payment method is through a credit card. Other payment arrangements are subject to Apollo's approval which approval may be granted, withheld or withdrawn at Meter's sole discretion. Customer's credit card will be charged automatically for Customer's use of the Apollo Service. Apollo uses a third-party payment processor (the "Payment Processor") for credit card payments. Apollo's current Payment Processor is Braintree. The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to this Agreement. The terms and conditions of the Payment Processor may be found at Braintree's website [here](#); the Payment Processor's Privacy Policy may be found at Braintree's website [here](#). Apollo is not responsible for errors made by the Payment Processor, or otherwise in connection with the processing of transactions. Overdue payments will accrue interest at the rate of one and one half percent (1.5%) per month, but in no event greater than the highest rate of interest allowed by law. Late payments or nonpayment may result in suspension of Customer's access to the Apollo Service, as determined by Apollo in its sole discretion.

7.3. Taxes. The fees specified in these Service Terms are exclusive of taxes, duties, levies, tariffs, and other governmental charges (including, without limitation, VAT) (collectively, "Taxes"). Customer shall be responsible for payment of all Taxes and any related interest and/or penalties resulting from any payments made hereunder, other than Apollo's U.S. federal and state income taxes.

8. DISCLAIMER

THE APOLLO SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, APOLLO DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE APOLLO SERVICE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. INDEMNIFICATION; LIABILITY

9.1. Indemnification by Customer. Customer will indemnify, defend and hold Apollo harmless against any with claims, demands, suits or proceedings made or brought by a third party and all associated losses, liability, damages, costs or expenses (including without limitation reasonable attorneys' fees) arising from or related to: (a) any Customer Data or the use of the Apollo Service by Customer or Authorized Users in violation of the Agreement, applicable laws, rules or regulations, or any applicable Apollo documentation or posted policies, or (b) any dispute between Customer and any third party.

9.2. Waiver of Certain Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APOLLO SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES, OR FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS OR INFORMATION, OR COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF THE AGREEMENT OR THE USE OF OR INABILITY TO USE THE APOLLO SERVICE, EVEN IF APOLLO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.3. Liability Cap. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APOLLO'S TOTAL LIABILITY FOR DAMAGES ARISING FROM OR RELATED TO THE AGREEMENT SHALL NOT EXCEED THE GREATER OF (A) \$100 OR (B)

THE AMOUNT OF FEES PAID BY CUSTOMER TO APOLLO UNDER THE AGREEMENT DURING THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

10. MARKS; PUBLICITY

10.1. Identification of Customer. Apollo may identify Customer, by name and logo, as a customer of the Apollo Service, all on Apollo's website and in Apollo's other marketing materials.

10.2. Case Study. Provided Customer is satisfied with the Apollo Service, Apollo may develop a case study for public dissemination and marketing use by Apollo describing the benefits Customer has derived from the Apollo Service. Customer will reasonably cooperate with such case study. Publishing shall be subject to Customer's prior written approval, not to be unreasonably withheld.

11. MISCELLANEOUS

11.1. Assignment. Neither party may assign the Agreement without the other party's prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, each party may transfer these Service Terms together with all Order Forms (and subject to any usage limitations therein) upon written notice to the other party: (a) to any entity controlling, controlled by, or under common control with, the transferring party, where "control" means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity; or (b) to any entity acquiring the transferring party, with which the transferring party is merging or to which the transferring party sells all or substantially all of its assets. Any attempt to assign the Agreement except as permitted under this Section, will be null and of no effect. Subject to the foregoing, these Service Terms will bind and inure to the benefit of each party's successors and permitted assigns.

11.2. Government End Users. The Apollo Service and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

11.3. Force Majeure. Neither party shall be liable for any delay or failure in performance (other than non-payment of amounts owing) due to causes beyond its reasonable control.

11.4. Export Compliance. Customer agrees to comply fully with all relevant export laws and regulations of the United States and other applicable jurisdictions to ensure that neither the Apollo Service, nor any direct product thereof, are: (a) exported or re-exported directly or indirectly in violation of such export laws and regulations; or (b) used for any purposes prohibited by the such export laws and regulations.

11.5. Severability. If any part of the Agreement is held to be unenforceable or invalid, in whole or in part, by a court of competent jurisdiction, the remaining provisions of the Agreement will remain in full force and effect, and the provision affected will be construed so as to be enforceable to the maximum extent permissible by law.

11.6. Waiver. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach of that or any other provision.

11.7. Notices. All notices permitted or required under the Agreement shall be in writing, will reference the Agreement, and shall be delivered in person, by overnight courier or express delivery service, or by first class, registered or certified mail, postage prepaid, or by confirmed email delivery, to the address of the party specified on the Order Form or such other address as either party may specify in writing. Such notice shall be deemed to have been given upon receipt.

11.8. Governing Law. The Agreement will be governed by both the substantive and procedural laws of California, excluding its conflict of law rules and the United Nations Convention for the International Sale of Goods. Any legal action or proceeding arising under the Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties irrevocably consent to the personal jurisdiction and venue therein.

11.9. Revisions to Service Terms. Apollo may change these Service Terms and its policies from time to time. We may inform you of any such changes by posting the revised version(s) to our website at the same URL as the original version(s), and providing notice to you by email or through the Apollo Service. Unless otherwise agreed by the parties, any such changes will take effect upon the following occurrence after Apollo has posted or otherwise informed Customer of the revision: (a) for Customers paying monthly or quarterly, as of the start of the second billing period after notice of the revision, or (b) for Customers paying less frequently than quarterly, as of the start of the next billing period after notice of the revision. Any other amendment or modification to the Agreement must be in writing signed by both parties.

11.10. Entire Agreement; Priority. These Service Terms together with the Order Forms and any documents expressly referenced herein constitute the entire agreement and supersedes all prior or contemporaneous oral or written agreements regarding the subject matter hereof.