

## Data Protection & Privacy Review For ToplineChat

23 Nov 2022

Terms of Service are the rules, specifications, and requirements for the use of a product or service. They serve as a contract between the product or service provider and user. The phrase is sometimes used interchangeably with “terms of service” or “terms and conditions”.

### Terms of Service

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#### 1. Definitions

1.1 “Customer” shall mean any person who accepts this Agreement, and who uses our software, products, services, interact with our websites or mobile apps, unless that person accepts it on behalf of a company, in which case “Customer” designates this entity which can be a company, a government organization (non-exhaustive list). TOPLINECHAT and Customer are each referred to in this Agreement as a "Party" and collectively as the "Parties".

1.2 “End Users” means the customers of the Customer.

1.3 “ToplineChat Software” shall mean, collectively or individually, the chatbot technologies created/ designed by ToplineChat that the Customer can use to access the chatbot services provided by ToplineChat including ToplineChat Dashboard, the application program interfaces (APIs).

1.4 “ToplineChat Dashboard” shall mean the online portal through which the Customer controls settings, may select Customer’s Plan, any other Services and monitors usage of the Customer’s Account.

1.5 “ToplineChat Services” shall mean our software, mobile apps, products, services and websites.

1.6 “Updates” shall mean enhancements, bug fixes, updates and new versions made to the ToplineChat Software by ToplineChat and provided to the Customer by ToplineChat.

1.7 “Applicable Laws” shall mean all laws, regulations, regulations, orders, administrative directives, treaties, conventions and / or judicial or administrative decisions of any governing body having jurisdiction over the Services, the Customer and/or the Customer's use of the Services.

1.8 “Support” means the free, community-based online help forums sponsored by us and fee-based individualized help with the Services that may be available to you by email, calls or other communication modes available now or in the future, at ToplineChat’s sole option.

1.9 “Website” means the web site located at <https://toplinechat.com> or any successor URL.

## 2. Agreement Between You and ToplineChat

2.1 Please read the following Terms of Service (the “Terms”) carefully. By accessing our website and/or by using ToplineChat Services, you acknowledge that you have read, understood and agree to be bound by these Terms, and the terms and conditions of our [Privacy Policy](#), when using any ToplineChat Services (collectively, the “Services”) offered by **VANLIX Marketing**. A proprietary limited company organized and existing under the laws of Australia, or its parents, affiliates (collectively, either "TOPLINECHAT", "ToplineChat", "we", "us" or "our").

The term “you” (and “your”) for purposes of these Terms, means both you in your individual capacity, and if applicable, the company or other legal entity whom you represent and on whose behalf you use the Service.

2.2 In order to use the Service you must agree to these Terms. You may agree to the terms by clicking the “I Accept” box, or by actually using our Services.

You acknowledge and agree that ToplineChat will treat your use of the Service as acceptance of these Terms from the time you first use the Service.

2.3 If you choose to enable additional functionality or features made available through the Services (“Additional Features”), you may be presented with additional terms related to the use of such Additional Features (the “Additional Terms”). By using the Additional Features, you agree and accept the Additional Terms. In the event of a conflict between these Terms and the Additional Terms, the Additional Terms shall govern.

## 3. General Terms & Conditions

3.1 Our company is registered legally in Australia, and we have the required governmental permissions to provide our services.

3.2 If you are an individual in the EU, please read and accept the terms of [ToplineChat’s Data Processing Addendum](#), before using our services.

3.3 Our Services should only be used by adults, meaning you and your users must be at least 16-years-old or older to use it. We will delete any information we find was collected from a user under the age of 16 as quickly as possible. If you need to delete your account or delete the account of a child under the age of 16, please contact us at [ticket@toplinechat.com](mailto:ticket@toplinechat.com). By using our services, you represent and warrant that you are at least 16 years of age.

3.4 You are responsible for maintaining the security of your usage to our services. The Company cannot and will not be liable for any loss or damage from your failure to comply with this security obligation.

3.5 You are responsible for all content posted and activity that occurs under your identity.

3.6 You can seek removal of content posted on our website, by contacting us, We will endeavor to review such requests and to remove the content and users that we determine should be removed, in our sole discretion and in accordance with these Terms of Service and applicable law. However, by providing a mechanism for the submission of complaints, we make no promises that we will review all such complaints or that we will take any action in response to such complaints. Please be aware, however, that if the content has already been distributed to other websites or published in other media, we will not be able to recapture and delete it. Also, a back-up or residual copy of the content we remove from this website may remain on back-up servers.

3.7 Unless specifically requested, we do not solicit, nor do we wish to receive, any confidential, secret, or proprietary information from you through our email, or in any other way. Any materials submitted by you (including, without limitation, text, photographs, graphics, audio, visual, and audiovisual content), demos, ideas, suggestions, concepts, methods, systems, designs, plans, techniques, or other materials (including, for example and without limitation, content that you submit or post to any message boards, review/ratings boards, and/or our blogs, social media sites, or send to us via email) (collectively, "Submitted Materials") will be deemed not to be confidential or secret, and may be used by us in any manner consistent with the Privacy Policy.

By submitting or sending Submitted Materials to us, you agree that your Submitted Materials will not violate any right of any third-party, including Payments, trademark, privacy, personality or other personal or proprietary right. You further agree that your comments will not contain libelous or otherwise unlawful, abusive or obscene material, or contain any computer virus or other malware that could in any way affect the operation of the Service or any related website. You may not use a false e-mail address, pretend to be someone other than yourself, or otherwise mislead us or third-parties as to the origin of any comments. You are solely responsible for any comments you make and their accuracy. We take no responsibility and assume no liability for any comments posted by you or any third-party.

3.8 Verbal, physical, written or other abuse (including threats of abuse or retribution) of any Service customer, Company employee or officer will result in immediate action by the company.

3.9 The failure of the Company to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. The Terms of Service constitutes the entire agreement between you and the Company and governs your use of the Service, superseding any prior agreements between you and the Company (including, but not limited to, any prior versions of the Terms of Service).

3.10 The Company hereby grants you a non-exclusive, non-transferable, revocable, worldwide license to access and use the Services to interact with your end users ("End Users"). All rights not expressly granted to you are reserved by ToplineChat.

3.11 Access to the Services by an End User shall be governed by your End User terms of service ("Your Terms"), provided that you shall be responsible for ensuring that, as between an End User, you and ToplineChat:

(i) ToplineChat will at all times retain ownership of all of its intellectual property (as further described in the Section entitled "ToplineChat's Intellectual Property Rights" below) and End Users are granted no rights to such intellectual property, (ii) ToplineChat makes no direct or implied warranties to End Users, (iii) you shall not make any representation or warranties to End Users with respect to the Service, other than the representation that you have the necessary rights to allow End Users to use the Service, (iv) ToplineChat is the direct and intended beneficiary of Your Terms, and (v) ToplineChat will not be liable in any way to End Users, either directly or indirectly. As between ToplineChat and you, you are responsible for ensuring that End Users do not communicate information in violation of law using the Service, and for advising them against transmitting sensitive information using the Service, including but not limited to health/medical information or personally identifiable information of minors.

3.12 Free Trial. ToplineChat may offer at its discretion, a free trial of the ToplineChat Software for a specified time period. During such trial period, Customer shall be bound by the terms of this Agreement and any applicable law, regulation and generally accepted practices or guidelines in the relevant jurisdictions.

## **4. Accounts**

4.1 In order to use the Service, you must register with us to open a ToplineChat account (“Account”). By opening an Account, you represent and warrant that: (a) you are 16 years of age or older, and that if you are less than 16 years old, your parent or legal guardian has agreed to stand behind any agreement you enter into as a participant on ToplineChat; (b) all information you submit in connection with your opening and use of your Account is true, accurate, current, and complete; (c) you will promptly notify us if your information changes so that we can update our records; and (d) your use of the Service does not violate any applicable law, rule or regulation. You are responsible for maintaining this information.

4.2 You are solely responsible for maintaining the security and confidentiality of the information you hold for your Account, including, without limitation, your username and password, and for any and all activity that occurs through your Account as a result of your failure to keep this information secure and confidential. You hereby agree to notify ToplineChat immediately if you become aware of any unauthorized use of your Account, user name or password, or any other breach of security in connection therewith. You may be held liable for losses incurred by ToplineChat or any third party due to someone else using your Account, username or password as a result of your failing to keep your Account information secure and confidential. You are strictly prohibited from using anyone else’s Account, username or password at any time and for any reason. ToplineChat is not liable to you or any third party for your failure to comply with your obligations under this paragraph.

## **5. Pricing & Payment**

5.1 Fixed fees. In order to benefit from the services offered by ToplineChat, the Customer is subject to payment of the applicable service charges, payable on a subscription basis. The fees vary depending on the services provided by ToplineChat. The Fee schedule and the available Subscription Plans are specified on the Site (<https://ToplineChat.com/pricing>) or communicated personally to the Customer. Fees are charged automatically on a recurring basis. By contracting with ToplineChat, the Customer agrees to pay the costs in accordance with these Conditions, and the other General Conditions in force at the time of the conclusion of the contract. The charges remain valid as long as they are indicated on the Website, or as long as the customer's subscription plan lasts.

5.2 Billing currency and exchange rate. The currency of invoicing will depend on the Client's billing address. The currency supported by ToplineChat is: AED. Thus, The Client will be billed in AED. the Usage Fee will be calculated on the basis of a conversion of the fee incurred by the Client into AED at the exchange rate applicable at the close of business on the last business day of the quarter preceding the applicable billing date.

5.3 Taxes. Unless otherwise stated, all Charges exclude VAT and any other taxes, levies or duties imposed by the tax authorities. Unless otherwise specified in the Fee Schedule, the Customer is responsible for the payment of all applicable taxes, levies and duties, excluding local taxes based solely on the Company's income. In addition, we are not responsible for covering Internet service fees, surcharges and other amounts incurred as a result of the Customer's use of ToplineChat and the Customer is solely responsible for covering such costs.

5.4 Modification of service charges. ToplineChat reserves the right to change fees at its sole discretion without notice. It undertakes to systematically inform the Customer within a reasonable time. The Customer in the event of non-satisfaction has the possibility of terminating the contract within eight (8) days from the

notification. If the Customer does not terminate the service contract within the time limit, he is considered to have accepted this new pricing.

5.5 Terms of payment. The Customer agrees to pay all invoices within thirty (30) days of the date of the invoice.

5.6 Means of payment. In contracting with ToplineChat, the Customer must provide valid credit or debit card information, and / or bank account information, and expressly agrees to authorize ToplineChat and / or any other company or person acting in its name, depending on the Subscription Plan and the billing frequency chosen, to carry out the monthly or annual debit of the Usage Fees as well as all other fees related to the Services.

5.7 Disclaimer. ToplineChat will not be held responsible for any expired credit / debit card, insufficient funds or other charges that the Customer has incurred due to attempted debits, or for other reasons.

5.8 Refunds. If despite the efforts made by ToplineChat to provide better service, Customers are not satisfied with the latter, and there is reason to believe that the quality of the services has been impaired by its doing, after having carefully evaluated the problem, ToplineChat may at its sole discretion issue partial or full refunds to Customers.

5.9 Upstream of any termination of the service contract relating to the quality of the Services provided, in order to be able to claim a refund, the Customer must contact ToplineChat and explain in detail the problems encountered. If after evaluation of the problem the Customer is entitled to a refund, the latter will be made using the same payment method as that used by the Customer to make the payment, unless the Customer expressly requests otherwise.

## **6. Service Availability & Support**

6.1 As part of the registration process for the Services, each User shall generate a username and password for its account (“Account”), Each User is responsible for maintaining the confidentiality of their username, password and Account and for all activities that occur under any such username or the Account. We reserve the right to access your and any User’s Account in order to respond to your and any Users’ requests for technical support. We have the right, but not the obligation, to monitor the Services, and Your Data.

6.2 We shall (i) make the Services available to you and your Users pursuant to this Agreement and the applicable Order; (ii) provide Support for the Services to you and your Users via our email or ToplineChat Website, and/or upgraded support if purchased by you as described in the applicable Order (“Support”); and (iii) use commercially reasonable efforts to make the Services available 24 hours per day, 7 days per week, except for: (x) planned downtime, and (y) any unavailability caused by any Force Majeure event, any Internet service provider failure or delay, or any denial of service attack, for which we may or may not provide notice.

6.3 We shall provide technical support during the working hours (9AM - 9PM AEST).

## **7. Privacy, Security and Confidentiality**

7.1 Privacy. We shall use Your Data only as permitted by Privacy Laws, our [Privacy Policy](#) and this Agreement. You acknowledge that you have read our [Privacy Policy](#) and understand that it sets forth how we will collect, store, use and disclose Your Data including personal data. If you do not agree with our [Privacy Policy](#), then you must stop using the Services immediately. We encourage you to periodically review our [Privacy Policy](#) as it may change from time to time.

7.2 Confidential Information. The parties to this Agreement undertake to retain in confidence all information disclosed to the other party in relation to this Agreement that the disclosing party has designated as being confidential in writing or if disclosed orally, or if, designated as confidential at the time of such disclosure and reduced to writing conspicuously marked as confidential and sent to such other party within thirty (30) business days thereof (“Confidential Information”). The terms and conditions of this Agreement including its Exhibits shall be considered Confidential Information.

7.3 Exclusions. “Confidential Information” will not include information that: (a) is or becomes generally known or available by publication, commercial use or otherwise through no fault of the receiving party; (b) the receiving party can demonstrate to have had rightfully in its possession and without restriction, prior to disclosure hereunder; (c) is independently developed by the receiving party without use of the disclosing party’s Confidential Information, as can be shown by the written records of the receiving party; (d) is lawfully obtained from a third party who has the right to make such disclosure; or (e) is released for publication by the disclosing party in writing. A receiving party also may disclose disclosing party’s Confidential Information to the extent required by a court or other governmental authority, provided that the receiving party promptly notifies the disclosing party of the disclosure requirement and cooperates with the disclosing party (at the latter’s expense and at its request) to resist or limit the disclosure.

7.4 Protection of Confidential Information. Each party agrees to protect the other party’s Confidential Information to the same extent that it protects its own confidential information of a similar nature and shall take all reasonable precautions to prevent any unauthorized disclosure of Confidential Information to third parties. A party may disclose other party’s Confidential Information to its directors, officers, employees and third party contractor(s) (“Representatives”) on a need to know basis and to the extent necessary for the purpose of this Agreement. If a party provides Confidential Information of the other party to its Representatives, then it will ensure that such Representatives have entered into a written confidentiality agreement with the party providing such information to the Representatives protecting such Confidential Information from unauthorized disclosure or improper use. Obligations of confidentiality under this Agreement shall survive the termination or expiration of the Agreement for a period of three (3) years; save for Confidential Information constituting trade secrets, in which event the obligations shall subsist indefinitely.

## **8. ToplineChat’s Proprietary Rights**

8.1 You hereby acknowledge and agree that ToplineChat owns all legal rights, title and interest in and to the Services, including, without limitation, any intellectual property or other proprietary rights which subsist in the Services (whether such rights are registered or unregistered, and wherever in the world those rights may exist). As between you and ToplineChat, all materials available through the Services, including, but not limited to, graphics, user and visual interfaces, images, software, applications, and text, as well as the design, structure, selection, coordination, expression, “look and feel”, and its content (except for your Content), and the domain names, trademarks, service marks, proprietary logos and other distinctive brand features found on the Services, are all owned by ToplineChat or licensors.

8.2 ToplineChat shall fully own and retain all rights to anonymous usage data derived from your use of the Services (“Usage Data”) as aggregated with usage data from ToplineChat’s other customers for its own business purposes such as support, operational planning, product innovation and sales and marketing of ToplineChat’s services. For purposes of clarification, such Usage Data may not include any data that could reasonably identify you.

8.3 Nothing in these Terms gives you any right to use any of ToplineChat’s trade names, trademarks, service marks, logos, domain names, and other distinctive brand features. All rights not expressly granted by ToplineChat under these Terms are reserved.

8.4 During, and after the termination of, your use of the Service, you will not assert, nor will you authorize or assist any third party to assert, against ToplineChat or any of ToplineChat Parties (as defined below), any patent infringement claims with respect to the Service.

## **9. Service Use Restrictions**

9.1 You hereby represent and warrant that you will not, and will not permit any third party to: (a) attempt to disable or circumvent any security mechanisms used by the Services or otherwise attempt to gain unauthorized access to any portion or feature of the Services, or any other systems or networks connected to the Services, or to any ToplineChat server, by hacking, password “mining”, or any other illegal means; (b) use any “deep-link”, “page-scrape”, “robot”, “spider” or other automatic device, program, algorithm or methodology, or any comparable manual process, to access, acquire, copy, or monitor any portion of the Services; (c) use any device, software or routine to interrupt or interfere, or attempt to interrupt or interfere with, the proper operation and working of the Services or any transaction being conducted on our websites or through the Service, or with any other person’s use of the Services; (d) breach any security measures implemented on our websites or in the Service; (e) track or seek to trace any information on any other person who uses the Service; (f) forge headers or otherwise manipulate identifiers in order to disguise your identity, or the origin of any message or other communication that you send to ToplineChat in connection with the Service; (g) pretend that you are, or that you represent, someone else, or impersonate any other person; (h) use the Service in the design, development, production, or use of missiles or the design, development, production, stockpiling, or use of chemical or biological weapons; (i) use the Service for any illegal purpose, for soliciting the performance of any illegal activity, or as otherwise prohibited by these Terms or applicable laws, rules or regulations, including, without limitation, laws applicable to the export of software and data; (j) upload or otherwise process any malicious content to, or through, the Service; (k) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of any ToplineChat proprietary software used to provide, maintain, or otherwise applicable to, the Service, or made available to you in connection with the Service. You hereby agree that you will notify ToplineChat if you become aware that the Services is being used for any illegal or unauthorized purpose.

9.2 Workspace is designed to serve one business per workspace. You are only allowed to connect one Facebook user account and one Google account at each workspace. As per the WhatsApp channel, telegram, and future channels we introduce, each workspace is allowed only one WhatsApp number, one telegram chatbot, etc. We reserve the right to make the changes on the limits that we offer.

9.3 The messages sent from chatbot will be deleted if the record is more than 1 month old. The messages sent from the user will be kept on record for 6 months upon receiving in ToplineChat.

9.5 You hereby agree that you will notify ToplineChat if you become aware that the Services is being used for any illegal or unauthorized purpose.

## 10. Your Content

10.1 You hereby agree that you are solely responsible and liable for any and all information (collectively "Content") that you store, transmit, record, or otherwise use in connection with the Service, and for all activities that occurs under your account, whether done so by you or any End User of the Service who is interacting with you, and for the consequences of your actions in connection with such Content and your use of the Service. You agree that ToplineChat has no responsibility to you or to any third party in connection with such Content. You are solely responsible for any losses or damage suffered by ToplineChat in connection with your Content. You hereby represent and warrant that you will not store or otherwise use any Content in connection with the Service that: (a) violates these Terms; (b) is defamatory, libelous, abusive, illegal, profane, indecent, pornographic, obscene, hateful, offensive, harassing, or threatening in any way; (c) constitutes or encourages conduct that would be considered a criminal offense or give rise to civil liability, or otherwise intentionally or unintentionally violate any law, rule or regulation; (d) violates any third party's copyright, trademark, patent, trade secret, or other personal or proprietary right; (e) invades or interferes with the rights of privacy or publicity of any person; or (f) contains a virus, malicious code or any other harmful component.

10.2 ToplineChat reserves the right, at any time in its sole discretion and without notice to you, to review, monitor, flag, filter, refuse or remove any or all Content from the Service, but ToplineChat has no obligation to do so. You agree to immediately take down, delete or modify any Content that is stored by you through the Service that violates these Terms or any applicable laws, rules, or regulations, including pursuant to a take down, deletion or modification request from ToplineChat. In the event that you elect not to comply with a request from ToplineChat to take down, delete or modify certain Content, ToplineChat reserves the right to directly take down, delete or modify such Content. ToplineChat assumes no liability or responsibility arising from your activities in connection with the Service, including, without limitation, Content that you store or otherwise use in connection with Service.

10.3 ToplineChat claims no ownership or control over your right, title and interest in your Content. You retain copyright and any other intellectual property and other proprietary rights you already hold in your Content, and you are solely responsible for protecting those rights, as you deem appropriate. By submitting, storing, recording, or otherwise using your Content in connection with the Service, you hereby grant ToplineChat a worldwide, royalty-free, fully-paid-up, non-exclusive license to reproduce, analyze, modify, distribute, and otherwise use such Content for the purpose of enabling ToplineChat to provide the Service to you, including, without limitation, storing and retrieving the Content, making the Content available through the Service, adapting the Content for technical display and transmission, conforming the Content to the limitation and terms of the Service, and any other use related to the maintenance, provision and improvement of the Service.

10.4 ToplineChat will not disclose any of your Content, except: (a) if you expressly authorize us to do so in connection with your use of the Service; (b) as necessary to provide the Service to you; or (c) to comply with the request of any governmental or regulatory body, subpoenas or court orders, or as otherwise required by applicable law, rule or regulation. If we receive a subpoena, court order, or other request from a governmental or regulatory body requesting the disclosure of any of your Content, we will use good faith efforts to provide you with reasonable notice to allow you to seek a protective order or other appropriate remedy (except to the extent ToplineChat's compliance with the foregoing would cause it to violate a court order or other legal requirement).

## 11. Feedback

11.1 If you send or transmit any communications or materials to ToplineChat by email, or otherwise ("Feedback"), suggesting or recommending changes to our Services, including without limitation, new features or functionality relating thereto, any comments, questions, suggestions, or the like, all such Feedback are, and will be treated as, non-confidential and non-proprietary. This means that you give up any



claim that the use of such Feedback by ToplineChat or its agents, violates any of your rights including moral rights, privacy rights, proprietary or other property rights, rights of publicity, rights to credit for material or ideas, or any other right, including the right to approve the way ToplineChat uses such Feedback.

11.2 You hereby assign all right, title, and interest in, and ToplineChat is free to use, without any attribution or compensation to you, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, whether or not patentable, for any purpose whatsoever, including but not limited to, developing, manufacturing, having manufactured, licensing, marketing, and selling, directly or indirectly, products and services using such Feedback. You agree and understand that ToplineChat is not obligated to use, display, reproduce, or distribute any such ideas, know-how, concepts, or techniques contained in the Feedback, and you have no right to compel such use, display, reproduction, or distribution.

## **12. Exclusion of Warranties**

12.1 YOUR USE OF SERVICES IS ENTIRELY AT YOUR OWN DISCRETION AND RISK. THE SERVICES ARE FURNISHED TO YOU "AS IS" AND WITHOUT WARRANTIES OR CONDITIONS, STATUTORY OR OTHERWISE, OF ANY KIND. TOPLINECHAT, ON BEHALF OF ITSELF, AND ON BEHALF OF ITS PARENTS, AFFILIATES, SUBSIDIARIES, LICENSORS AND THIRD PARTY SERVICES PROVIDERS, AND TOPLINECHAT'S AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS, (COLLECTIVELY, THE "GOOD PARTIES"): (A) EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE; (B) DOES NOT WARRANT THAT THE SERVICES, OR DATA PROVIDED THROUGH THE SERVICES, WILL MEET YOUR REQUIREMENTS, OR THAT ITS OPERATION WILL BE TIMELY, UNINTERRUPTED, SECURE, OR ERROR-FREE OR THAT ANY DEFECTS WILL BE CORRECTED; AND (C) DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS OR CONDITIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICES IN TERMS OF ITS ACCURACY, RELIABILITY, TIMELINESS, COMPLETENESS, OR OTHERWISE. YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE SERVICES.

12.2 THIS LIMITATION OF REMEDIES IS A PART OF THE BARGAIN BETWEEN YOU AND TOPLINECHAT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY TOPLINECHAT OR ANY PERSON ON BEHALF OF TOPLINECHAT SHALL CREATE A WARRANTY OR CONDITION, OR IN ANY WAY CHANGE THIS EXCLUSION OF WARRANTY.

12.3 NOTHING IN THESE TERMS, THIS SECTION 12, OR SECTION 13 BELOW, SHALL EXCLUDE OR LIMIT TOPLINECHAT'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW.

## **13. Limitation of Liability**

13.1 Unless otherwise specified, to the maximum extent permitted by applicable law, ToplineChat and its partners, suppliers, licensors, content providers, or any of its or their directors or officers, can in no way be responsible for damages, including, but not limited to, indirect, consequential, incidental, special, punitive

or other damages, arising out of or in connection with the use of the ToplineChat Services by the Customer. The user agrees not to hold ToplineChat responsible for any loss resulting from any event.

13.2 If, despite the foregoing, ToplineChat's liability is retained towards the Users, and it must pay damages for any reason whatsoever and whatever the form of the action, ToplineChat's liability shall not exceed not the total of the sums paid or owed by the Customer during the twelve (12) months preceding the claim giving rise to such damages and interests.

13.3 The user acknowledges and is aware that ToplineChat services cannot be used as part of emergency services, and as such cannot engage the responsibility of the company for lack of access to the emergency number service through ToplineChat.

## **14. Indemnification**

14.1. You agrees to defend, indemnify and hold harmless ToplineChat, its subsidiaries, affiliates, suppliers, partners, contractors, agents, licensor, subcontractor, interns, employees, directors, officers and respective representatives, against any damage, liability, claim, demand, obligation, loss, fines, penalties and expenses, including attorneys' fees, incurred in connection with claims made or brought by a third party arising out of or relating to unauthorized use or prohibited from the Services, violation of these Terms, any law or the rights of a third party, by the Customer, its Affiliates or its or their End Users, employees, agents or subcontractors..

## **15. Changes to Service**

15.1. ToplineChat is constantly striving to provide the best possible experience for its Service users. You acknowledge and agree that the form and nature of the Service which ToplineChat currently provides may change from time-to-time without prior notice to you.

Changes to the form and nature of the Service will be effective with respect to all versions of the Service. Examples of changes to the form and nature of the Service include, without limitation, changes to security patches, prices, additional functionality, reduced functionality, and other enhancements.

15.2. The Service shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

## **16. Termination of Service**

16.1. Paid subscription service may be terminated anytime by the Customer through the ToplineChat Dashboard. Your account is not considered cancelled until you receive a confirmation email from us.

16.2. All of your content will be inaccessible from the Service immediately upon cancellation. Within 30 days, all data may be permanently deleted from all backups and logs. This information can not be recovered once it has been permanently deleted.

16.3. If you cancel the Service before the end of your current paid up month, your cancellation will take effect immediately, and you will not be charged again.

16.4. ToplineChat has the right to suspend or terminate your account and refuse any and all current or future use of the Service for any reason at any time. Such termination of the Service will result in the deactivation or deletion of your Account or your access to your Account, and the forfeiture and relinquishment of all

content in your account. The Service reserves the right to refuse service to anyone for any reason at any time.

16.5. ToplineChat reserves the right in its sole discretion to cease or suspend providing all or any part of the Services immediately without any notice to you, if: (a) you breach, or threaten or intend to breach, these Terms; (b) you test ToplineChat for vulnerabilities or load-testing or any other cause which is not related to its definition without agreement with us for these types of usages; (c) ToplineChat is required to do so under any applicable law, rule or regulation, including, without limitation, the applicable spam laws; (d) the Service relies on data, services or another business relationship between ToplineChat and a third party service provider, and such relationship terminates or changes in such a way that affects ToplineChat's ability to continue providing the Service; (e) continuing to provide the Service could create a substantial economic burden on ToplineChat as determined by ToplineChat in its sole discretion; or (f) continuing to provide the Service could create a security risk or material technical burden as determined by ToplineChat in its sole discretion.

16.6. Any of your obligations under these Terms which by their nature are intended to survive the termination of your use of the Service, shall continue to apply to you after you cease to use the Service.

16.7. ToplineChat may notify the relevant law enforcement authorities or other third parties, of any illegal or other prohibited conduct by you, including, without limitation, your violation of these Terms or unauthorized use of the Services.

16.8 Termination of Free Accounts for Non-Use. In the case of a free trial or our otherwise providing the Services at no cost to you, we shall have, upon your or any of your Users failing to use the Services for more than two (2) consecutive months, the right, in our sole discretion, to (i) terminate all of your Accounts and your User Accounts and terminate your and all your Users' access to and use of the Services; and (ii) permanently delete all of Your Data from the Services without notice.

16.9 If your use of the Services is terminated or suspended, except to the extent prohibited by any applicable law, rule or regulation, you will immediately lose access to, and the ability to export, your Content.

16.10 In the event ToplineChat decides to stop offering any or all Services, ToplineChat shall provide a notice in writing or email to you of not less than sixty (60) days.

## **17. Governing Law and Disputes**

17.1. Governing Law. These Conditions are governed by Australia.

17.2. Dispute resolution. The parties agree that all disputes relating to the conclusion, validity, interpretation, execution or termination of this agreement shall be the subject of an amicable resolution. In the event that the amicable resolution fails, the Dispute will be subject to the exclusive jurisdiction of the Montpellier Commercial Court. 17.1. Governing Law. These Conditions are governed by Australia.

17.3. Severability. To the extent that any provision or part of the provisions of this Agreement would be deemed illegal, void or unenforceable, this provision must be replaced by a valid and enforceable provision the effect of which would approximate as closely as possible to the expected economic effect of the provision deemed inapplicable or invalid. Therefore the other provisions will not be affected and will remain in force and enforceable.

17.4. Amendment. ToplineChat may at any time modify the terms of these conditions, taking into account in particular the technical and factual evolution of the regulations and technologies associated with the service.

The Customer will be systematically informed by any means, and he agrees to read the new terms of the Terms of Service.

## **18. Third Party Websites**

18.1. Our Services may provide links to other websites that are not owned or operated by ToplineChat (“Third Party Websites”). ToplineChat provides these links to you as a convenience only, and ToplineChat does not verify, make any representations concerning, or take responsibility for, such Third Party Websites, or the products or services offered through such third party websites, including, without limitation, the truthfulness, accuracy, quality, or completeness of the content of, or activities conducted on, such Third Party Websites. You should use your own independent judgment before accessing and using such Third Party Websites, or products or services offered through such third party websites.

## **19. Miscellaneous Legal Terms**

19.1. Any notice or other communications by ToplineChat relating to the Service may be made by e-mail or posting on our website, and you hereby consent to receive notices and other communications in electronic form to the extent permitted by applicable law.

19.2. These Terms shall not be interpreted or construed to confer any rights or remedies on any third parties, except that each Indemnified Party shall be a third-party beneficiary hereunder and accordingly, shall be entitled to directly enforce and rely upon any provision of these Terms that confers a right or remedy in favor of it.

19.3. ToplineChat may assign or transfer its rights, or delegate any performance, under these Terms to a third party in its sole discretion. You may not assign or otherwise transfer your rights, or delegate your performance, under these Terms to any third party without in each and every case, ToplineChat’s express prior written consent.

19.4. ToplineChat will not be liable for failing or delaying performance of its obligations resulting from any condition beyond its reasonable control, including but not limited to, governmental action, acts of the common enemy, earthquake, fire, flood or other acts of God, the elements, epidemics, labor conditions, power failures, and Internet disturbances.

## **20. Questions**

If you have any questions about this website or these Terms of Service, please contact us at: [ticket@ToplineChat.com](mailto:ticket@ToplineChat.com).

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