

Terms of Service

Nubo Cloud Subscription for Nubo Air

Latest revision: 12th March 2021

Introduction

The Nubo Cloud application (hereinafter referred to as “Cloud”) is owned and licensed by Sensirion AG (“Sensirion”, “we”, “our”, “us”). These Terms of Service (“Terms”) form an agreement between the Cloud user (“you”, “your”, “Customer”) and us. By creating an account and/or accessing or using any portion of our Cloud you agree to these Terms on behalf of yourself or the entity you represent in connection with the access and use of the Cloud.

In addition to the terms of this Agreement, all personal data that we collect, receive or process in connection with your use of the Services is governed by our *Privacy Policy for Nubo Cloud*, which you find at <http://www.nubo-air.com/document/privacy>.

These Terms only apply to sales and use of the Cloud and its features. For sales of all physical goods the usual Sensirion’s *General Terms and Conditions of Sale*, which you find at http://www.sensirion.com/file/terms_conditions, apply.

Grant of License

Subject to these Terms, Sensirion grants you a non-exclusive, non-transferable, non-sublicensable right and license to access and use the Cloud solely for use with your Nubo Air air monitoring products.

Use restrictions

You may not access or use the Cloud for any other purpose than for use with Nubo Air products. All other rights are expressly reserved to us. You must not:

1. copy, reproduce, translate, transmit, modify, reverse engineer, decompile, or disassemble the Cloud;
2. attempt to circumvent any software protection mechanisms in the Cloud, including any mechanisms used to restrict or control Cloud functionality;
3. remove any copyright, trademark, or proprietary rights notices included in or on the Cloud;
4. disrupt or interfere with the Cloud’s operation or other user’s use and enjoyment of the Cloud; or
5. use the Cloud to directly or indirectly breach any applicable law or regulation.

Intellectual Property

The Cloud is protected under copyright and other laws of Switzerland and other jurisdictions. All intellectual property rights in the Cloud (and any modifications or enhancements) shall belong to us or our licensors. You may not use or reproduce our trademarks for any reason. No title or ownership of software or data product or any third-party product licensed to you under this agreement is transferred to you under any circumstances.

Account and Password

Access and usage of our Cloud features requires a registration and the setup of a password for your account. You are responsible to choose a strong password and to keep it confidential. If in doubt, please use the possibility to reset the password as soon as possible. You will notify us immediately of any unauthorized password use. You release us from any claim arising from any reliance by us upon any use of your password, including us disclosing information relating to your registration and/or affairs.

Subscription Fees

Account creation and access are offered free of fees. We impose periodic fees (“Fees”) that you must pay to link and activate Nubo Air air monitoring products and thus gain access to data as specified by the product’s corresponding datasheet (the “Measurement Data”). In addition, you may have to pay extra fees if you choose to gain access to and get the usage rights of additional functionalities or data that we may add over time. You will pay such fees at the times and in the manner notified to you by us or our authorized representative. You can find the end of term dates of the subscriptions on our cloud. Additionally, we will inform you timely before the end of term. If a subscription is not renewed or the Fees not paid, you lose the right to access the data or the relevant feature. It is your responsibility to timely copy and export the Measurement Data from your Nubo Account if you do not plan to prolong your subscription. Even though you might be able to continue to access historic Measurement Data through your account for some time, such access may cease at any time without notice in case you have no subscription. Sensirion is not liable for data loss.

Data Access

Through your Nubo account, you can access Measurement Data from your Nubo device. Other parties may allow you to access Measurement Data from their Nubo devices.

In addition to the Measurement Data, each Nubo device sends sensor and device performance data to us as long as it is connected to electrical power. You acknowledge and agree that sensor and device performance data is Sensirion confidential information, and that we do neither share such information with you nor give you access to such data.

License to Measurement Data

Sensirion grants you a non-exclusive, perpetual, worldwide, irrevocable, royalty free, license to use and process the set of data to which you gain access through your subscription, and which is specified by the product’s datasheets (the Measurement Data). The license includes the timeframe for the period of an active and valid subscription with duly paid Fees. Any derivative works and data, derived from or otherwise using any of the licensed Measurement Data by you are considered to be in the sole ownership of you, the Customer. In other words, you are allowed to copy and export the Measurement Data from your Nubo account, and you are allowed to use those Measurement Data as you please. For the sake of clarity, in case you have access to another user account, you may have agreed to additional terms with that other user regarding use restrictions of the Measurement Data you can access in such other user account.

The Cloud has an option to allow access to Measurement Data from your Nubo device through other user accounts. If you have no other agreement with the other user you allow access, the Measurement Data license is extended to them.

With contract termination this license for already collected data persists, but no claim to data after or before the timeframe of subscription can be made. From the license no right to access these data after contract termination can be deduced. Creating a copy or backup of the Measurement Data before contract termination is recommended.

Sensirion retains all rights to use and process all data that is collected by the Nubo Air products during operation and transferred to the Cloud.

Confidentiality Agreement

Sensirion acknowledges and takes very seriously the need for confidentiality in certain applications. We thus agree to keep all data that has been collected by us during the period of an active and valid subscription with your Nubo Air product strictly confidential. Other than as set out in these Terms, we do not publish or share any of these data with 3rd parties except

1. with your explicit consent

2. if the data is made publicly available by you
3. to provide you with additional services of 3rd parties. If not stated differently, the 3rd parties are bound by similar confidentiality obligations.
4. in aggregate form or anonymized so that no reference to the exact location can be made

In case the Nubo Air products and subscription were loaned or offered free of charge by Sensirion we retain the right to use the data for our own purposes, including marketing.

The Cloud interface provides the option to give other users access to Measurement Data from your Nubo device. In that case, the responsibility to extend the confidentiality agreement to those users lies with you. Sensirion cannot be held accountable for any data being disclosed or published by users authorized by you.

3rd Party Providers

We use the Microsoft Azure cloud to provide our Nubo Air cloud services.

The Microsoft Azure Legal Information can be found on Microsoft's webpage or here:

<https://azure.microsoft.com/en-us/support/legal/>

There you can also find, for example, the 'Microsoft Online Services Data Protection Addendum (DPA)'.

The Measurement Data are stored on the InfluxDB Cloud for Azure.

Influxdata's Legal Information can be found on Influxdata's webpage or here:

<https://www.influxdata.com/legal/terms-of-use/>

Changes and Updates

We follow a continuous integration and delivery process and thus will continuously update the software of the Cloud without prior notice. We will inform you of any major changes by email to the primary email address.

You grant us the right to remotely access your Nubo Air product to upgrade and monitor the performance of it, the software contained within it, and the Cloud's operation with it.

We reserve the right to:

1. modify, or temporarily suspend providing the Cloud, or any information or feature in it, at any time without notice; and
2. change these Terms from time to time, and by continuing to access or use the Cloud following notification of the changes you accept the revised Terms. If we make material changes to the Terms, we will notify you by email to the primary email address specified in your account or an in-Solution notification to the updated Terms. On top of the Terms, you find the date of the last revision. You are responsible for ensuring we have an up-to-date active and deliverable email address for you and for periodically visiting these Terms to check for any changes.
3. cease providing the Cloud at any time with 30 days' prior notice by email to the primary address specified in your account.

Over time, we may provide you the possibility to directly share through your Nubo Account the Measurement Data of your Nubo device with certain parties outside of the Nubo Cloud sphere, e.g. with environmental data collection portals, modelling and visualization services. Such sharing will always require your explicit consent. You acknowledge that once the data is shared with such third party outside of the Nubo Cloud sphere, such third party will apply its own data policies to the data it received.

Warranty Disclaimer

To the fullest extent permitted by law, we exclude all liability in relation to the Cloud whether in contract, tort (including negligence) or otherwise, for any loss or damage however caused (including direct, indirect, consequential or special loss or damage, or loss of profits, loss of data, loss of savings and loss of opportunity).

We do not represent that the:

- use of the Cloud will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;
- the Cloud will meet your specific requirements or expectations, or that the Cloud, or any data or information, will be error-free, complete, correct or be kept and accessible for any period of time.

THE CLOUD AND ALL DOCUMENTATION IS PROVIDED 'AS IS' AND 'AS AVAILABLE'. SENSIRION, AND OUR LICENSORS AND SUPPLIERS, EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY AND NON-INFRINGEMENT.

Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN ADDITION TO THE WARRANTY DISCLAIMER AND OTHER DISCLAIMERS IN THESE TERMS, IN NO EVENT SHALL SENSIRION'S TOTAL AGGREGATE LIABILITY FOR ANY DAMAGES ARISING FROM OR RELATED TO THE CLOUD, THE SERVICES OR THE PRODUCTS, WHETHER IN CONTRACT OR TORT OR OTHERWISE, EXCEED THE AMOUNT OF THE FEES ACTUALLY PAID BY YOU TO SENSIRION OR SENSIRION'S AUTHORISED RESELLER FOR THE CLOUD SUBSCRIPTION IN THE PRIOR 12 MONTHS (IF ANY).

Termination

If you breach any of these Terms we may at our discretion suspend or terminate your account and your use of the Cloud, or particular features of it, effective immediately without prior notice.

You may terminate this Agreement anytime by contacting us. By termination you

1. forgo all rights to features or data paid for in advanced by subscriptions
2. you will lose all rights granted to you by these Terms, except that you can continue to use the Measurement Data you rightfully copied and exported from your Nubo Account

If the Terms are terminated by either party for any reason, we may (but are not obliged to) destroy the collected data without prior notice.

Deletion of Personal Data

Upon your request, we will delete your Personal Data (please see the [Privacy Policy for Nubo Cloud](#) for more details). Measurement Data you can access through your Nubo account is not Personal Data and Measurement Data will remain on our systems and in our databases together with all other Measurement Data and will be processed, stored, and eventually deleted together with other Measurement Data. Except as otherwise set out in these Terms, we will continue to keep Measurement Data confidential. Please note that once we delete your Personal Data, we will not be able to reconstruct which Measurement Data was related to your account. We recommend that you copy and export the Measurement Data to which you have access through your Nubo account before you send us a request to delete your Personal Data.

Law and Jurisdiction

This agreement is governed by the laws of Switzerland, excluding its conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. Any dispute arising out of or in connection with the contract shall be subject to the exclusive jurisdiction of the courts of the Canton of Zurich, Switzerland. We reserve the right to initiate court proceedings against you in any other court of competent jurisdiction.

General

Authority. You represent and warrant that you have the right and authority to accept and agree to these Terms on behalf of yourself or the entity that you represent, and that you are of sufficient age to do so.

Severability. If any term of these Terms is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of these Terms shall remain in full force.

Entire Agreement. These Terms constitute the entire agreement between you and Sensirion regarding the use of the Cloud.

No waiver. Any failure by Sensirion to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. No waiver shall be effective unless it is in writing and signed by the waiving party. The waiver by either party of any breach of these Terms shall not constitute a waiver of any other or subsequent breach.

Independent Contractors. Nothing in these Terms shall be construed to constitute an agency, partnership, joint venture, or other similar relationship between the parties.