

HUAWEI Nearby Service Agreement

Last modified On: July 9, 2020

The following terms (hereinafter referred to as this "Agreement") constitute a legally binding agreement between you and Huawei regarding the HUAWEI Nearby Service. It is a supplementary agreement to the [Agreement on Use of Huawei APIs](#) signed by and between you and Huawei, which is itself supplementary to the [HUAWEI Developer Service Agreement](#). This Agreement stipulates your legal rights and obligations when using the HUAWEI Nearby Service. By checking the box next to "I have read and agreed" in the AppGallery Connect agreement pop-up window to agree to all applicable agreements to AppGallery Connect services (including this Agreement), or by checking the box next to "I have read and agreed to HUAWEI Nearby Service Agreement" below this Agreement, or by using the HUAWEI Nearby Service under this Agreement, it shall be deemed that you have fully understood and accepted the terms of this Agreement, the [HUAWEI Developer Service Agreement](#), and the [Agreement on Use of Huawei APIs](#) as of the date of your such acceptance and use ("Effective Date"). Any and all matters unaccomplished herein shall be subject to the [HUAWEI Developer Service Agreement](#) and the [Agreement on Use of Huawei APIs](#). If you do not agree to this Agreement, the [HUAWEI Developer Service Agreement](#), or the [Agreement on Use of Huawei APIs](#), you shall stop using the services under the respective agreement(s).

1. Definitions

Unless otherwise specified in this Agreement, the terms in this Agreement shall have the same meanings as those in the [Agreement on Use of Huawei APIs](#) and the [HUAWEI Developer Service Agreement](#). Unless otherwise stated, the following terms are defined herein as below:

1.1 "**HUAWEI Nearby Service**" (or "**Nearby Service**") means the short range communication services provided by Huawei through Nearby Kit and Nearby Platform for developers, which provide developers' apps with access to functions such as information releases, broadcasting, subscriptions, and message query.

1.2 "**Nearby Kit**" means the API/SDK/Kit of the HUAWEI Nearby Service that is provided by Huawei to developers.

1.3 "**Nearby Platform**" means the website, provided by Huawei, that can be used to configure and manage the Nearby Service.

1.4 "**Standalone SDK**" means a software development SDK integrated for using HUAWEI Nearby Service in apps developed for devices without Huawei Mobile Services Core (APK).

2. Rights and Obligations

2.1 Your rights and obligations

(1) You may use Nearby Kit and Nearby Platform provided by Nearby Service to send messages to nearby devices, but you may only use Nearby Service in apps that you have developed yourself. Huawei has assigned app IDs and API keys to your apps in order to identify them. You hereby agree not to share your app IDs and API keys with any third party.

(2) You shall ensure that End Users can reasonably expect that the HUAWEI Nearby Service has been enabled before it is activated. You shall incorporate prompts and interactions into your apps as you see fit, for example, requiring a user to perform a specific operation (such as clicking a button or other special switches, or entering a certain area of the app) to activate the HUAWEI Nearby Service. You shall not to publish information or subscribe on behalf of a user in the background without that user's knowledge.

(3) You shall help users understand what data your app will disclose to nearby users by providing them with relevant information in this regard.

(4) You shall ensure that users can easily stop publishing and subscribing to messages.

(5) You shall not use Nearby Service to send any obscene, pornographic, offensive, libelous, or otherwise illegal materials (including text, graphics, images, photos, and sounds).

(6) You shall not use Nearby Service to send "phishing" messages or junk information, including but not limited to messages containing forged websites, or apps that cheat users and obtain users' personal data.

(7) You acknowledge and agree that any and all messages and the services developed and operated based on the HUAWEI Nearby Service, are independently controlled, managed, and sent by you. Huawei only provides you with the fundamental capabilities, and does not provide any service to End Users. Huawei shall not be liable for any data or content that you transmit when you use Nearby Service.

(8) You shall at all times ensure that the content you send to End Users does not contain any sensitive personal data or users' confidential information. When the content that you

send to users contains any personal data, you represent and warrant that your collection, use, transmission, and processing of such personal data shall comply with any and all applicable data protection laws.

(9) You shall be responsible for complying with (and shall comply with) applicable data protection laws, including but not limited to obligations regarding the collection and processing of personal data, identifying users and fulfilling data subject rights. You acknowledge that compliance with said laws may require you to identify users.

(10) You shall provide Huawei with necessary usage scenarios of your Products so that Huawei may, at its own discretion, provide targeted solutions that conform to the market positioning of your Products.

(11) Nearby Service is not available in every country and region and Huawei does not represent or warrant that it can be used in a specific location. You shall choose the scope of your use of Nearby Service and comply with any and all applicable laws, including but not limited to any local laws.

(12) When using the Standalone SDK, Huawei will collect necessary API call data for service usage analysis. The collected data does not contain any personal data. The collected data includes but is not limited to the app package name, app ID, app version, HMS Core version, Nearby SDK version, Nearby Service name, API name, API call result, API response latency, API call time point, transaction ID, device model, country /region code, EMUI version, message publish result, message publish latency, message subscription result, message subscription latency, number of published messages, message time to live (TTL), beacon type, device discovery latency, connection result, connection latency, data pass result, passed data size, data pass latency, channel type, connection policy, and broadcast policy. In order to establish a connection between the End User's device and our server to report the data, we collect the IP address of the End user. The IP address will be deleted as soon as the connection has been established.

(13) You shall take all reasonable measures to inform your End Users of the processing activities carried out by Huawei as referred to in Clause 2.1 (13) above, and, if your app is distributed in the countries and/or regions listed in [Part 2 of Exhibit A](#), to redirect them to Statement About HUAWEI ID and Privacy.

2.2 Huawei's rights and obligations

(1) To protect End Users' rights, Huawei may limit the frequency of how often you send messages to End Users. In addition, Huawei reserves the right to delete or restrict your right to use Nearby Service based on valid complaints or other due causes when End Users' rights are or might (in Huawei's reasonably held opinion) be substantially harmed.

(2) Huawei may update Nearby Service and Nearby Platform as it sees fit, whilst complying with software design principles to ensure compatibility. However, in certain cases, you may need to modify or upgrade your apps before using the updated APIs and SDKs. You shall bear all costs associated with such app modifications and upgrades.

(3) Huawei may collect information about your use of Nearby Service to help improve Nearby Service for diagnostic purposes.

(4) If Nearby Service has to be suspended for system maintenance or Nearby Kit and Nearby Platform updates, Huawei will endeavor to notify you of such suspension on the website at the earliest possible opportunity.

the nearby service is provided to you 'as is'. Huawei gives no express or implied warranty or representation to you that it can provide Nearby Service without interruption or delay or that it is virus free or error free.

To the fullest extent permitted by law, Huawei disclaims any and all liability to you for any losses of any kind that you incur due to your or End Users' use of the nearby service or the suspension of the nearby service for system maintenance, or updates to Nearby Kit and Nearby Platform (whether or not you have been notified of same).

3. Privacy

3.1 When providing Nearby Service to you, you acknowledge and agree that Huawei shall act as your data processor, and process users' personal data in accordance with the [AppGallery Connect Data Processing Addendum](#) (which is an integral part of the HUAWEI Nearby Service Agreement and the [HUAWEI Developer Service Agreement](#)).

3.2 In order to comply with applicable data protection laws and Clause 7 of the [Agreement on Use of Huawei APIs](#), you shall ensure that your app (i) notifies the End user in advance of the types of personal data you collect or otherwise process, such as text, pictures, identifiers etc., from the End user or End user's device(s) and of any other aspects required under applicable law, and (ii) does not obtain or cache any data of the End user unless it obtains revocable consent from the End user, when required under applicable laws and regulations.

3.3 Notwithstanding Clause 3.1, if you use the Service Account functionality to allocate a service account key(s) to your own customer(s) and to enable them to use certain functions of the Nearby Service, the following shall apply:

3.3.1 Each of your customers using Nearby Service functionalities via the service account key (a "**Service Account User**") shall act as a data controller with respect to the personal data processed in the context of the service account and the beacons registered for the service account.

3.3.2 You shall act as a data processor for the personal data processed in the context of the service account and the beacons registered for the service account, and process the data on behalf of and in accordance with the instructions of the Service Account User which acts as a data controller.

3.3.3 Huawei shall act as your sub-processor for the personal data processed in the context of the service account and the beacons registered for the service account.

3.4 When you and/or the Service Account User use the Service Account functionality, the terms set out in AppGallery Connect Data Processing Addendum shall apply to Huawei's processing of personal data which the Service Account User submits, uploads, queries, requests or instructs you or Huawei to collect in the context of Nearby Service. Clause 3.1.1 of the [AppGallery Connect Data Processing Addendum](#) shall, however, not apply to the processing of personal data in the context of the Service Account functionality. In the event of a conflict between Clauses 3.3 to 3.4 of this Agreement and the [AppGallery Connect Data Processing Addendum](#), this Agreement shall prevail in relation to the processing of personal data in the context of the Service Account functionality.

3.5 You shall remain fully responsible for ensuring that the processing of personal data in the context of the Service Account functionality complies with all applicable data protection laws.

4. Agreement Termination

4.1 If either Party terminates the [Agreement on Use of Huawei APIs](#) or the [HUAWEI Developer Service Agreement](#), this Agreement shall automatically terminate on the same day.

4.2 You may terminate this Agreement by disabling Nearby Service for all your apps.

4.3 If Huawei decides to discontinue the Nearby Service or make major changes to it, Huawei reserves the right to terminate this Agreement after informing you in advance.

4.4 Termination of this Agreement does not entail automatic termination of the [HUAWEI Developer Service Agreement](#) and [Agreement on Use of Huawei APIs](#) signed by and between you and Huawei.

5. Distribution Area and Signing Huawei Entity

You acknowledge and agree that the provisions regarding the distribution area and the signing Huawei entity under this Agreement shall be subject to the Clause of "Contracting Entity" in the [Agreement on Use of Huawei APIs](#).

6. Governing Law and Dispute Resolution

You acknowledge and agree that the provisions regarding the governing law and dispute resolution under this Agreement shall be subject to the Clause of "Governing Law and Dispute Resolution" in the [HUAWEI Developer Service Agreement](#).