

# Terms of Use

The Pueblo of Laguna (“Laguna” or “we” or “our”) offers an information broadcast and messaging service that allows Users to receive alerts and short messages related to situations or circumstances affecting public safety on or near the Pueblo of Laguna (“ALERTS”). The services offered under ALERTS by Laguna include any Laguna-branded URL (the “Website”), Laguna mobile services, Laguna messages (e-mail or otherwise), and any other features, content, applications and services offered from time to time on or through the Website or otherwise by Laguna (collectively “Service” or “Services”).

These Terms of Use (“Terms of Use”) set forth the legally binding terms for your use of the Services. If you do not agree with these Terms of Use, your choice is not to use our Services. By using the Services, you (“User”) agree to be bound by these Terms of Use, Laguna’s Privacy Policy found [here](#), incorporated herein by reference, and the terms and conditions set forth in any Laguna registration or order form. These Terms of Use are applicable even if you subscribed to Services prior to availability and even if you were not aware their existence. This version of the Terms of Use is applicable for all purposes and supersedes any previous version.

In order to use or participate in certain Services, you may be notified that you are required to download software or content and/or agree to additional terms and conditions from Laguna. Unless otherwise provided by the additional terms and conditions applicable to the Services in which you choose to participate, those additional terms are hereby incorporated into these Terms of Use.

Laguna may modify these Terms of Use from time to time and such modification shall be effective upon posting by Laguna on the Website. Your continued use of the Services after Laguna makes changes is deemed to be acceptance of those changes, so please check these Terms of Use periodically for updates. Although Laguna personnel and contractors with responsibility to transmit ALERTS will always strive for accuracy, Laguna assumes no responsibility or liability for ALERTS transmitted. If you become aware of misuse of the Services by any person please report to [vsioiw@pol-nsn.gov](mailto:vsioiw@pol-nsn.gov).

Laguna reserves the right, in its sole discretion, to reject, refuse to post or remove any posting, or to deny, restrict, suspend, or terminate your access to all or any part of the Services at any time, for any or no reason, with or without prior notice or explanation, and without liability. Laguna expressly reserves the right to remove your profile and/or deny, restrict, suspend, or terminate your access to all or any part of the Services if Laguna determines, in its sole discretion, that you have violated these Terms of Use or pose a threat to Laguna and/or its Users.

## **1. Accessing the Services and Account Security**

Laguna reserves the right to withdraw or amend the Services, in its sole discretion without notice. Laguna will not be liable if for any reason all or any part of the Service is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Services, or the entire Service, to Users.

You are responsible for: (a) making any arrangements necessary for you to have access to the Services; and (b) ensuring that all persons who access the Services through your internet connection are aware of these Terms of Use and comply with them.

To access the Services or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Services that all the information you provide to Laguna is correct, current and complete. You agree that all information you provide to register with the Services or otherwise, including but not limited to through the use of any interactive features on the Services, is governed by our Privacy Policy, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

If you choose, or are provided with, a user name, password or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to the Services or portions of it using your user name, password or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You

also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any user name, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

## **2. Eligibility**

Use of the Services and registration for the Services is void where prohibited by law. By using the Services, you represent and warrant that (a) all registration information you submit is truthful and accurate; (b) you will maintain the accuracy of such information; (c) you are of a legal age to form a binding contract with Laguna; and (d) your use of the Services does not violate any applicable law or regulation. If you do not meet all of these requirements, you must not access or use the Services. Your profile may be deleted and your Services may be terminated without warning, if Laguna believes that you do not meet any of the foregoing requirements.

## **3. Fees**

### 3.1 Charges and Payment of Fees

Laguna does NOT currently charge a fee for the use of Services. We may revise Fees at any time.

## **4. Non-Reliance on Information Posted**

### 4.1 Non-Reliance on Information Posted

The information presented on or through the Service is made available solely for general information purposes. Laguna does not warrant the accuracy, completeness or usefulness of this information. Any reliance you place on such information is strictly at your own risk. Laguna disclaims all liability and responsibility arising from any reliance placed on such materials by you or any other User of the Services, or by anyone who may be informed of any of its contents.

### 4.2 Copyright Infringement

If you believe that any information violates your copyright, please send us a notice of the copyright infringement. It is the policy of Laguna to avoid repeat infringement.

## **5. Limited License**

### 5.1 Laguna Platform

Subject to the terms and conditions of these Terms of Use, during the period you have a valid subscription with Laguna, Laguna grants you, and you agree to comply with, a non-sublicensable, non-transferable, non-exclusive, revocable, limited license to use the Laguna ALERTS and the proprietary documentation generally made available by Laguna to you on or through the Services, solely for your own purposes.

### 5.2 Ownership

As between you and Laguna, you do not own any rights and interest to any patents, copyrights, moral rights, trade secrets, trademarks, service marks, publicity rights and other proprietary rights (whether or not perfected or perfectible and whether or not now known or hereafter discovered) ("Intellectual Property Rights") in and to the Services. Nothing in this Terms of Use grants you any rights whatsoever in or relating to source code. All ownership rights, title, and Intellectual Property Rights in and to the Services shall remain in Laguna and/or its licensors. Other than as expressly granted herein, Laguna does not grant you any other rights to the Services. You agree that Laguna has the right to

change, modify, add to or discontinue or retire any aspect or feature of the Services at any time. Laguna has no obligation to give you notice of any changes. From time to time, Laguna may, but is under no obligation to, release upgrades, fixes or new versions of the Services, although these upgrades may not be consistent across all platforms and devices. All such upgrades, fixes or new versions shall be considered part of the Services subject to the terms of these Terms of Use, unless we provide different terms at the time of release.

### 5.3 Restrictions

You agree not to, or to allow others to: (a) adapt, alter, modify, decompile, translate, make derivative works, disassemble, or reverse engineer the Services, including without limitation, the source code and any other underlying ideas or algorithms of the Services (except to the extent applicable laws specifically prohibiting such restriction or where in accordance with the API terms of service); (b) copy the Services; (c) transfer, sublicense, loan, sell, lease, use for timesharing or service bureau purposes, or otherwise commercially use or exploit the Services; (d) use the Services in violation of any applicable regulation or law; (e) ship, divert, trans-ship, transfer, export or re-export any Services or any component thereof into any country or use it in any manner prohibited by any export control laws, restrictions, or regulations administered by the U.S. Commerce Department's Bureau of Export Administration, the U.S. Department of Treasury's Office of Foreign Assets Control or any other applicable government agency, (f) use or attempt to use the Services for competitive analysis or benchmarking of the Services, or to develop a competitive service or directly compete with the Services; (g) to store or transfer any tortious, illegal or infringing materials, (h) use or attempt to use the Services, or provide us with any data, in violation of any third-party rights of any kind, including without limitation any privacy, intellectual property, confidentiality or contractual rights, or (i) to transfer any viruses, worms, trojans or other items of a similarly destructive nature.

You shall use no less than industry standard security measures with respect to its access and use of the Services. You shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, hardware, server, software, operating system, networking, communication services, web and hosted services and platforms, and any platforms, networks, services and/or websites where it distributes and runs its services and applications.

You agree to:

- use the Services for lawful purposes only and in compliance with any policies posted to the Website or otherwise conveyed to you by Laguna;
- not use the Services in a way that prevents or inhibits another User from enjoying the Services;
- not obtain the communications protocol for accessing the Services;
- not remove, obscure or alter any notices or indications of any Intellectual Property Rights, any trade names, trademarks, service marks, logos, trade dress, and any other distinctive or proprietary symbols, labels, designs or designations ("Branding"), or any electronic notices;
- not interfere with, or attempt to interfere with, compromise the system integrity or security, or decipher any transmissions to or from the Service servers; and
- not to challenge or assist others to challenge our rights in the Branding, or our Intellectual Property Rights or registration or applications thereof.

You agree to promptly notify Laguna of any violation of this section, or otherwise of these Terms of Use.

## 6. Confidential Information

"Confidential Information" means: (a) the Services; and (b) any Laguna business or technical information that is disclosed to you in connection with these Terms of Use, including without limitation any information relating to Laguna's plans, designs, costs, prices, finances, marketing plans, business opportunities, personnel or research and development. You will maintain all Confidential Information in strict confidence and will not disclose Confidential Information to any third party. You will not use Confidential Information, except as necessary for your performance of these Terms of Use.

You agree that any material breach of this section will cause irreparable injury and that injunctive relief in a court of competent jurisdiction will be appropriate to prevent an initial or continuing breach of this section in addition to any other relief to which Laguna may be entitled.

## **7. Maintenance**

The Services, and any updates, are deemed accepted by User. Laguna is not obligated to provide maintenance, technical support or updates to User for the Services. Any maintenance or updates provided by Laguna, if any, shall be covered by these Terms of Use. User shall bear all costs of using the Services and any updates.

## **8. User Contributions**

### **8.1 User Contributions**

The Services do NOT allow Users to send notification messages.

Laguna is NOT responsible, or liable to any third party, for the content or accuracy of any User contributions posted by you or any other user of the Services.

### **8.2 Monitoring and Enforcement; Termination**

We have the right to:

- Remove or refuse to post any User Contribution for any reason or no reason in our sole discretion.
- Take any action with respect to any User Contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such User Contribution violates these Terms of Use, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of Users of the Services or the public or could create liability for Laguna.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation referral to law enforcement, for any illegal or unauthorized use of the Services.
- Terminate or suspend your access to all or part of the Services for any or no reason, including without limitation any violation of these Terms of Use.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Services. You waive and hold harmless Laguna and its affiliates, licensees and service providers from any claims resulting from action taken by any of the foregoing parties or any other third party during or as a result of its investigations and from any actions taken as a consequence of investigations by either such parties or law enforcement authorities.

## **9. User Disputes**

You are solely responsible for your interactions with other Users. Laguna reserves the right, but has no obligation, to become involved in any way with disputes between you and other Users.

## **10. Privacy**

All information we collect on the Services is subject to our Privacy Policy. By using the Services, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

## **11. Disclaimers of Warranties**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Services will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our Services for any reconstruction of any lost data. We will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the services or to your downloading of any material posted on it, or on any website linked to it.

Your use of the services is at your own risk. The services are provided on an "as is" and "as available" basis, without any warranties of any kind, either express or implied. Neither Laguna nor any person associated with Laguna makes any warranty or representation with respect to the completeness, security, reliability, quality, accuracy or availability of the services. Without limiting the foregoing, neither Laguna nor anyone associated with Laguna represents or warrants that the services will be accurate, reliable, error-free or uninterrupted, that defects will be corrected, that the services or the server that makes it available are free of viruses or other harmful components or that the services will otherwise meet your needs or expectations.

Laguna hereby disclaims all warranties of any kind, whether express or implied, statutory or otherwise, including but not limited to any warranties of merchantability, non-infringement and fitness for particular purpose.

The foregoing does not affect any warranties which cannot be excluded or limited under applicable law.

## **12. Limitation on Liability**

To the fullest extent permitted by law, in no event shall Laguna, its officers, directors, employees, agents, vendors or suppliers be liable (i) for any indirect, special, incidental, consequential, exemplary or punitive damages related to or arising from your use, misuse or inability to use the services, including but not limited to, damages for lost data, lost profits or cost of procurement of substitute goods or services, personal or bodily injury or property damage of any nature resulting from your use of the services, unauthorized access to our servers, server unavailability and any personal information stored therein, any delays or interruptions due to electronic or mechanical equipment failures, denial of service attacks, data processing failures, telecommunications or internet problems or utility failures, however caused under any theory of liability, including but not limited, to contract, tort, strict liability or negligence and whether or not Laguna was or should have been aware or advised of the possibility of such damage or even if a remedy fails of its essential purpose; or (ii) for any claim attributable to errors, omissions or other inaccuracies in the services or destructive properties of the service. In no event shall Laguna's aggregate liability under these terms of use exceed the total sum of monies paid from you to us as consideration for use of the services during the twelve (12) months immediately preceding the event giving rise to such liability.

## **13. Disputes**

### **13.1 Governing Law; Waiver**

These Terms of Use shall be governed by, and construed in accordance with, the laws of the Pueblo of Laguna, without regard to any conflict of law provisions. You and Laguna agree to submit to the exclusive jurisdiction of the Pueblo Court located within the Pueblo of Laguna to resolve any dispute arising out of this Terms of Use or the Services. Each of the parties hereby knowingly, voluntarily and intentionally waives any right it may have to a trial by jury in respect of any litigation (including but not limited to any claims, counterclaims, cross-claims, or third party claims) arising out of, under or in connection with these terms of use. Further, each party hereto certifies that no representative or agent of either party has represented, expressly or otherwise, that such party would not in the event of such litigation, seek to enforce this waiver of right to jury trial provision. Each of the parties acknowledges that this section is a material inducement for the other party entering into these terms of use.

### **13.2. Indemnity**

You hereby agree, at your expense, to indemnify, defend and hold harmless Laguna, its licensors, and their respective directors, officers, employees and agents from and against all demands, liabilities, losses, claims and expenses, including attorney's fees, arising out of or relating to (a) your use of the Services or any third party platform, including without limitation the service providers from whom we receive or to whom we submit data or instructions at your request, including without limitation that any claim that any of the foregoing violates any third party right, (b) services, products, information, data, processing instructions or content you submitted or used in connection with the Services, or (c) any actual or alleged negligence, willful misconduct, fraud, manipulation, or breach of these Terms of Use, by you. You will not enter into any settlement of, or agreement related to, any matter covered by this section without first obtaining Laguna's written consent. Laguna reserves the right, at its own expense and in its sole discretion, to participate in any defense, and to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and you shall fully cooperate with Laguna in such defense.

#### **14. Termination**

For Users, we may terminate these Terms of Use at any time, in whole or in part, for any reason, with or without notice. You may terminate these Terms of Use at any time by: (a) providing us with written notice; and (b) discontinuing your use of the Services and removing all Services from your website, application or service and destroying all other parts of the Service and Laguna Confidential Information in your possession.

Following any expiration, cancellation or termination of these Terms of Use, for any reason, the rights, license and any other services provided by us to you or granted herein to User, shall immediately and automatically terminate, and User shall no longer have the right to use or distribute the Services in any manner, network access to the Services will be stopped and User shall immediately (a) pay any outstanding balances and (b) cease any use of the Services and remove any Services from websites, applications or services, and destroy all other parts of the Services and Confidential Information in your possession. The following sections will survive any expiration or termination of this Agreement: Section 3 (with respect to any outstanding Fees and their collection), Section 4, (Non-Reliance on Information), Section 5.2 (Ownership), Section 5.3 (Restrictions), Section 6 (Confidential Information), Section 8 (User Contributions), Section 9 (User Disputes), Section 11 (Disclaimer of Warranties) through Section 15 (Miscellaneous), in addition to any other provisions which by their terms or sense are intended to survive.

We also may permanently or temporarily terminate, suspend or limit your usage, or otherwise refuse to permit your use of the Services without notice or liability, if in our sole determination, you violate these Terms of Use or the Privacy Policy, or in cases of emergency or to prevent violations of law or harm to Laguna or others. Termination of these Terms of Use, any license, or your access to the Services, shall not limit us from pursuing other remedies available to us against you, including, but not limited to, injunctive relief.

#### **15. Miscellaneous**

##### **15.1 Entire Agreement**

These Terms of Use are accepted upon your use of the Services and is further affirmed by you becoming a User. These Terms of Use constitute the entire agreement between you and Laguna regarding the use of the Services. The failure of Laguna to exercise or enforce any right or provision of these Terms of Use shall not operate as a waiver of such right or provision. The section titles in these Terms of Use are for convenience only and have no legal or contractual effect. Pueblo of Laguna is a trademark of the Pueblo of Laguna. These Terms of Use operate to the fullest extent permissible by law. If any provision of these Terms of Use are unlawful, void or unenforceable, that provision is deemed severable from these Terms of Use and does not affect the validity and enforceability of any remaining provisions.

##### **15.2 Assignment**

You may not assign, delegate, or otherwise transfer your rights or delegate your obligations under these Terms of Use, in whole or in part, and any attempted assignment by you shall be null and void. Laguna may assign, delegate or transfer these Terms of Use, its rights and obligations in its sole discretion.

### 15.3 Force Majeure

If either party's performance of any of its obligations hereunder is delayed by labor dispute, war, governmental action, flood, fire, explosion or other act of nature or any other matter not within such party's reasonable control, then the date for performance shall be extended by the time of such delay; provided, however, that the party subjected thereto shall pursue with reasonable diligence the avoidance or removal of such delay if reasonably feasible.

### 15.4 Costs and Expenses

Except as otherwise provided for in these Terms of Use, each party shall be responsible for and will bear all costs and expenses incurred by it in connection with the performance of its obligations under these Terms of Use.

### 15.5 Your Comments and Concerns

If you would like to communicate with us about these Terms of Use or the Services, please contact Laguna at:

Mail:

Pueblo of Laguna  
Public Safety Department  
P.O. Box 194  
Laguna, NM 87026