

# SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

## 1. INTRODUCTION

This Agreement sets out the general terms and conditions under which Front agrees to provide, and Customer and End User agree to receive and use, the Services. By accessing or using the Services, Customer and End User acknowledge that they have read, understand, and agree to be bound by this Agreement, Front's [Privacy Notice](#) and [End User Conduct & Content Policy](#) which are hereby incorporated into and made a part of this Agreement. Those who do not agree with the terms of this Agreement should not access or use the Services.

**1.1 Authority.** The individual agreeing to this Agreement represents to Front that they have the authority to bind Customer and any Affiliates to this Agreement.

**1.2 End Users.** To access or use the Services, an End User must sign up for an End User Account by registering for an account and providing their full legal name, a valid email address, and any other information required to complete the registration process.

**1.3 Relationship Between Customer and End User.** The administrator of Customer's Account can modify or re-assign roles of End Users and otherwise exercise the rights granted to the Customer pursuant to this Agreement. If a Customer elects to replace the administrator of its Customer Account, such administrator must agree to take any actions reasonably necessary and requested by Front or Customer to facilitate such transfer of authority. When utilizing the Services under a Customer Account, End Users may submit Customer Data in and to the Services, such as messages, conversations or files, and Customer may provide Front with instructions on what to do with it. For example, Customer may provision or deprovision access to the Services, manage permissions, retention and export settings and reassign inboxes. These choices and instructions of Customer's administrator may result in the access, use, disclosure, modification or deletion of certain or all Customer Data.

## 2. USE AND ACCESS TO THE SERVICES

**2.1 Accessing the Services.** Access to the Services may be procured via an Order Form entered into by and between Customer and Front, or Customer may procure the Services (including purchasing additional End User subscriptions) through Front's websites and Customer Settings. Customer must purchase a subscription for each End User who accesses or uses the Services.

**2.2 Customer's Responsibilities Regarding End Users.** Customer is responsible for the conduct of its End Users and for ensuring that End Users abide by the terms of this Agreement at all times in connection with their use of the Services. It is Customer's responsibility to (i) inform End Users of any relevant Front policies, practices and settings that Customer elects to enforce related to its End Users' use of the Services; (ii) obtain any rights, permissions or consents from its End Users that are necessary for Customer's lawful use of the Services and the collection and processing of Customer Data by Front in connection with Customer's use of the Services; and (iii) respond to and resolve any dispute between Customer and an End User related to or based on Customer Data and/or Customer's use of that Customer Data in connection with Customer's use of the Services.

**2.3 Login Credentials.** Customer and End User are responsible for all login credentials, including usernames and passwords, and Front shall not be liable for any damages or losses that may occur as a result of Customer's failure, or the failure of End Users, to maintain the confidentiality of their login credentials. End Users are not permitted to share or use the same login credentials to the Services. Front reserves the right to refuse registration of or cancel passwords it deems inappropriate, in which case it will notify Customer of such refusal. Customer is responsible for notifying Front at [support@frontapp.com](mailto:support@frontapp.com) if it becomes aware of any unauthorized use of or access to its Customer Account or any End User Account.

**2.4 Acceptable Use.** In addition to complying with the other terms set forth in this Agreement, Customer and End User agree to (i) use the Services in compliance with all applicable laws and regulations; and (ii) comply with the terms of Front's End User Conduct and Content Policy.

**2.5 Export Compliance.** Customer and End User may not remove or export from the United States or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and Documentation are "commercial products" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software Documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement. Customer represents that neither it nor any of its End Users are named on any U.S. government denied-party list. Customer shall not permit any End User to access or use the Services in a U.S. embargoed country or region or in violation of any U.S. export law or regulation.

**2.6. Equipment.** Customer shall be responsible for obtaining, maintaining and securing any Equipment used to access the Services.

### **3. CONFIDENTIALITY**

**3.1 Protection of Confidential Information.** The Receiving Party agrees (i) to protect Confidential Information using at least the same degree of care and discretion as it uses with its own Confidential Information, but in no event less than a reasonable degree of care; and (ii) not to sell, lease, rent, use or divulge (except in performance of the Services or as otherwise permitted herein) to any third person any such Confidential Information without the express prior written consent of the Disclosing Party. The Receiving Party may disclose Confidential Information to its Representatives on a strict need to know basis and only to those who are obligated to maintain the confidentiality of such Confidential Information under terms that are at least as protective as the terms set forth herein.

**3.2 Compelled Disclosure.** The Receiving Party may access and disclose Confidential Information of the Disclosing Party to the extent legally required to do so in connection with any legal or regulatory proceeding; provided, however, that in such event the Receiving Party will, if lawfully permitted, provide the Disclosing Party with notice in a reasonable time prior to such access or disclosure so as to allow the Disclosing Party an opportunity to seek appropriate protective measures. The Receiving Party will furnish only that portion of the Confidential Information that is legally required to be disclosed, and any Confidential Information so disclosed shall maintain its confidentiality protection for all purposes other than such legally compelled disclosure. If Front is compelled by law to access or disclose Customer's Confidential Information as part of a civil proceeding to which Customer is a party, Customer will reimburse Front for the reasonable costs of compiling and providing secure access to such Confidential Information.

**3.3 Equitable Relief.** The Receiving Party acknowledges that the remedy at law for breach of this Section 3 may be inadequate and that, in addition to any other remedy the Disclosing Party may have, it shall be entitled to seek equitable relief, including, without limitation, an injunction or injunctions (without the requirement of posting a bond, other security or any similar requirement or proving any actual damages) to prevent breaches or threatened breaches of these confidentiality provisions by the Receiving Party or any of its Representatives and to enforce the terms and provisions of this Section 3 in addition to any other remedy to which the Disclosing Party is entitled at law or in equity.

**3.4 Usage Information and Feedback.** Notwithstanding anything to the contrary, Front shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies, (including, without limitation, information concerning Customer Data and data derived therefrom), and Front will be free during and after the Subscription Term to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Front offerings; and (ii) disclose such data solely in aggregate or

other de-identified form in connection with its business. By submitting any feedback or suggestions regarding the Services, or sharing such feedback with any Representative of Front, Customer grants to Front an unlimited, irrevocable, perpetual, sub-licensable, transferable, royalty-free license to use such feedback or suggestion(s) for any purpose and without any obligation or compensation to Customer, End User, or any other Customer Representative. No rights or licenses are granted except as expressly set forth herein.

#### 4. FEES

**4.1 Calculation of Subscription Charges.** Customer may purchase the Services either through Front's website or by executing an Order Form. If the Parties execute an Order Form, Customer will make payment to Front in accordance with the terms of such Order Form. Subscription Charges are billed in advance and are nonrefundable unless otherwise stated herein. If Customer's use of the Services exceeds the number of purchased End User Accounts set forth on an Order Form or otherwise requires the payment of additional Subscription Charges under this Agreement, Customer shall be charged for such usage and Customer agrees to pay the additional Subscription Charges from the date of first usage by End Users who were not paid for. Unless otherwise agreed upon in writing, the Subscription Charges for a renewal of the Subscription Term or for any additional subscriptions purchased by Customer shall be calculated according to the price(s) then specified on Front's website.

**4.2 Payment and Billing.** Unless otherwise expressly set forth in this Agreement or an Order Form, all Subscription Charges are due in full upon commencement of the Subscription Term. Unless a substitute payment mechanism has been agreed to by Front, a valid credit card is required to subscribe to the Services and Customer authorizes Front to automatically charge Customer's selected payment method for Subscription Charges on or after the starting date of each subsequent Subscription Term unless Customer's subscription to the Services terminates as set forth in Section 5.2 below. Front may choose to bill through an invoice, in which case, full payment for invoices must be received by Front within thirty (30) days after the mailing date of the invoice. If Customer fails to pay its Fees within five (5) days of Front's notice to Customer that payment is delinquent, or if Customer does not update payment information upon Front's request, in addition to Front's other remedies, Front may suspend access to and use of the Services by Customer and End Users. Unpaid amounts that are not disputed in good faith are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. Customer agrees to promptly update its Customer Account information, including payment information, with any changes that may occur (for example, a change in billing address or credit card expiration date).

**4.3 Taxes.** Unless otherwise stated in an Order Form, Front's charges do not include any Taxes. Customer is responsible for paying Taxes assessed in connection with Customer's subscription to the Services except those assessable against Front as measured by its net income. Front will invoice Customer for such Taxes if Front believes that Front has a legal obligation to do so, and Customer agrees to pay such Taxes if so invoiced. Front agrees to exempt Customer from any Taxes for which Customer provides to Front a tax exemption certificate; provided, however, that no such exemption shall be extended to Customer following written notice to Front from a taxing authority of appropriate jurisdiction that Customer does not qualify for the claimed exemption.

**4.4 Billing Disputes.** If Customer believes that Front has billed Customer incorrectly, Customer must contact Front no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared in order to receive an adjustment or credit. Inquiries should be directed to Front's customer support department at [billing@frontapp.com](mailto:billing@frontapp.com).

**4.5 Upgrades.** If Customer chooses to upgrade its Service Plan or increase the number of End Users authorized to access and use a Service during a Subscription Term, any incremental Subscription Charges associated with such upgrade will be charged in accordance with the Subscription Charges that exist between Customer and Front during the applicable Subscription Term. The subscription term for additional End Users shall be coterminous with the then-current Subscription Term for the existing End Users. In any subsequent Subscription Term, Customer's Subscription Charges will reflect any such upgrades. Any discount provided to Customer is applicable only to the initial Subscription Term detailed in an Order Form and will not be applied to any subsequent Subscription Terms.

**4.6 Downgrades.** Customer may not downgrade its Subscription Plan or reduce the number of End User subscriptions during any Subscription Term. If Customer desires to downgrade its Subscription Plan or reduce the number of End User subscriptions under any Subscription Plan for a subsequent Subscription Term, Customer must provide Front with thirty (30) days written notice prior to the end of Customer's then-current Subscription Term. Downgrading a Service Plan may cause loss of content, features, or capacity of the Services as available to Customer under its Customer Account, and Front is not responsible for such loss. No credits or refunds will be issued for usage that is less than the purchased number of subscriptions or for unused time on subscriptions.

**4.7 Payment Portals.** If Customer mandates Front to use a vendor payment portal or compliance portal that charges Front a subscription fee or a percentage of any uploaded invoice as a required cost of doing business, Customer shall be invoiced by Front for, and Customer is obligated to pay, the cost of this fee.

## 5. TERM AND TERMINATION

**5.1 Term.** Subject to termination provisions below, Front shall provide the Services to Customer for the initial Subscription Term, which shall then be automatically renewed and extended for the same duration as the previous Subscription Term. Either Party may request termination at least thirty (30) days prior to the end of the then-current Subscription Term, and Customer may submit such request for termination by notifying Front at [billing@frontapp.com](mailto:billing@frontapp.com).

**5.2 Termination.** Either Front or Customer may terminate this Agreement upon thirty (30) days' notice if the other Party materially breaches any of the terms of this Agreement. Customer may terminate its subscription if it ceases its business operations or becomes subject to insolvency proceedings and such proceedings are not dismissed within sixty (60) days. Upon any termination, Front may immediately deactivate the Customer Account and any associated End User Account; provided, however, that in no event shall any such deactivation relieve Customer of any obligation to pay Fees accrued or payable to Front or of any liability pertaining to Customer's use of the Services prior to such termination. In no event will Front's termination for cause relieve Customer of its obligation to pay any Fees payable to Front for the period prior to termination. Except for Customer's termination for Front's uncured material breach of this Agreement, Customer must pay any unpaid Subscription Charges and Fees incurred for the remainder of the then-current Subscription Term.

**5.3 Data Export.** Front will make all Customer Data available to Customer for electronic retrieval for thirty (30) days after termination. After such thirty (30) days, Front shall delete Customer Data in accordance with its [data deletion policy](#).

**5.4 Suspension and Other Remedial Action.** In addition to any other remedies that may be available, Front reserves the right to take that remedial action it deems necessary without liability to Front, including the immediate suspension or termination of a Customer Account or an End User Account, upon notice to Customer should Customer or an End User (i) fail to abide by the terms of this Agreement; or (ii) if in Front's sole discretion, such action is deemed necessary to prevent disruption to the Services or harm to others. Front reserves the right to notify Customer and/or the administrator associated with the Customer Account with respect to an End User's violation of the terms of this Agreement.

## 6. INTELLECTUAL PROPERTY RIGHTS

**6.1 Of Front.** As between Customer and Front, Front owns all intellectual property rights in and to (i) the Services (excluding only the Customer Data) and all trademarks, logos and service marks utilized by Front in connection with the delivery of the Services; (ii) all improvements, enhancements or modifications of the Services; and (iii) any Software, applications, inventions or other technology developed in connection with supporting the Services. Front grants Customer a non-sublicensable, non-transferrable, non-exclusive, limited license to use the object code version of the Services solely as necessary to use the Services in accordance with this Agreement.

**6.2 Of Customer.** As between Customer and Front, Customer shall own all intellectual property rights in and to the Customer Data. Customer grants to Front on behalf of itself and its End Users a worldwide, non-sublicensable,

non-transferrable (except in connection with the sale or transfer of its business), non-exclusive, limited license to access, use, copy, reproduce, process, adapt, distribute, publish, transmit, export and display the Customer Data as reasonably necessary (i) to provide, maintain and update the Services; (ii) to prevent or address service, security, support and technical issues; (iii) as required by law or as permitted by Front's [Law Enforcement Data Request Guidelines](#); and (iv) as expressly permitted by Customer in writing.

## 7. WARRANTY AND DISCLAIMER

**7.1 Providing the Services.** Front shall use reasonable efforts consistent with prevailing industry standards to make the Services available to Customer and maintain the Services in a manner which minimizes errors and interruptions in the Services. The Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Front or by third party providers, or because of other causes beyond Front's reasonable control, but Front shall use reasonable efforts to provide advance written notice of any scheduled service disruption. EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, THE SERVICES AND ALL RELATED COMPONENTS AND INFORMATION ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND FRONT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. FRONT DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, SECURE, ERROR-FREE, VIRUS-FREE OR FREE FROM HARMFUL COMPONENTS; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES.

**7.2 Protecting Customer Data.** Front will maintain industry-standard administrative, physical, and technical safeguards designed to prevent unauthorized access, use, modification, deletion or disclosure of the Customer Data and will ensure that third party service providers utilized by Front in connection with its delivery of the Services do the same. If Customer Data includes "personal data" defined by EU Regulation 2016/679 (the General Data Protection Regulation or "GDPR"), if such Customer Data is transferred outside the European Economic Area or Switzerland to any country not deemed by the European Commission as providing an adequate level of protection for personal data, and/or if Customer Data includes personal information as defined by the California Consumer Privacy Act of 2018 (the "CCPA"), then the terms of Front's Data Processing Addendum shall apply to such personal data and shall be incorporated into this Agreement upon the execution of the Data Processing Addendum by Customer in accordance with its terms. If Customer signed up to use the Services prior to July 1, 2020, or otherwise entered into a different data processing agreement with Front, the terms of Customer's existing data processing agreement will continue to apply unless and until Customer signs the updated Data Processing Addendum referenced herein.

**7.3 Data Portability and Deletion.** The GDPR and the CCPA provide individuals in certain circumstances with rights to, among other things, access, delete and make corrections to their personal data. Front's commitment to meeting these obligations can be found in its [Privacy Notice](#).

## 8. INDEMNIFICATION

**8.1 Front's Indemnification Obligations.** Front will indemnify Customer Parties from and against any third party claim alleging that the Services violate the intellectual property rights of such third party and will indemnify the Customer Parties for damages awarded against the Customer Parties in connection with or as a result of such claim or any amounts paid by Customer Parties under a settlement approved by Front, including reasonable attorneys' fees incurred in connection with the defense or settlement of such claim. Notwithstanding the foregoing, Front shall not be required to indemnify Customer Parties to the extent the claim against Customer Parties arises from (i) Customer or any End User's use of the Services in a manner that violates this Agreement; (ii) use of the Services in a modified form or in combination with any third party product, service or content not furnished to Customer by Front; (iii) portions or components of the Services made wholly or partially in accordance with Customer specifications; or (iv) instances where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement. This Section 8.1 states Front's sole liability with respect to, and Customer's exclusive remedy against Front Parties for, any such claim.

**8.2 Customer's Indemnification Obligations.** Customer will indemnify Front Parties from and against any third party claim, action, suit, proceeding or demand arising from or related to (i) Customer's or an End User's violation of this Agreement; and (ii) any third party claim alleging that Customer Data violates the intellectual property rights of such third party, and will indemnify Front Parties for damages awarded against the Front Parties in connection with or as a result of such claim or any amounts paid by Front Parties under a settlement approved by Customer, including reasonable attorneys' fees incurred in connection with the defense or settlement of such claim. This Section 8.2 states Customer's sole liability with respect to, and the Front Parties' exclusive remedy against Customer for, any such claim.

**8.3 Potential Infringement.** If due to a claim of infringement the Services are held by a court of competent jurisdiction or believed by Front to be infringing, Front may at its option and expense, (i) replace or modify the Services to be non-infringing provided that such modification or replacement contains substantially similar features and functionality; (ii) obtain for Customer a license at Front's expense to continue using the Services; or (iii) if neither of the foregoing are commercially practicable, terminate this Agreement and Customer's rights hereunder, in which case Front's sole liability (in addition to its indemnification obligations above) shall be to provide Customer with a pro-rated refund of prepaid but unused Subscription Charges applicable to the remaining portion of Customer's current Subscription Term. Sections 8.1 and 8.3 state Front's sole liability with respect to, and Customer Parties' exclusive remedy against Front for, any infringement claim.

**8.4 Indemnification Process.** The Party seeking indemnification shall (i) provide prompt notice to the indemnifying Party concerning the existence of an indemnifiable claim; (ii) promptly provide the indemnifying Party with all information and assistance reasonably requested; and (iii) cooperate fully with the indemnifying Party in defending the claim. Failure to give prompt notice shall not constitute a waiver of a Party's right to indemnification and shall affect the indemnifying Party's obligations under this Agreement only to the extent that the indemnifying Party's rights are materially prejudiced by such failure or delay. The indemnifying Party shall have full control and authority over the defense of any claim; provided, however, that any settlement requiring the Party seeking indemnification to admit liability or make any financial payment shall require such Party's prior written consent, not to be unreasonably withheld or delayed.

## **9. LIMITATION OF LIABILITY**

**9.1 Exclusion Of Damages.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) SHALL EITHER PARTY TO THIS AGREEMENT, OR THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, SUPPLIERS OR LICENSORS, BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA (WHERE SUCH DATA IS LOST IN THE COURSE OF TRANSMISSION VIA CUSTOMER'S SYSTEMS OR OVER THE INTERNET THROUGH NO FAULT OF FRONT), BUSINESS INTERRUPTION, LOSS OF GOODWILL, COSTS OF COVER OR REPLACEMENT, OR FOR ANY OTHER TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES INCURRED BY THE OTHER PARTY OR ITS AFFILIATES IN CONNECTION WITH THIS AGREEMENT, THE SERVICES OR PROFESSIONAL SERVICES, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

**9.2 Limitation Of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, FRONT'S AGGREGATE LIABILITY TO CUSTOMER, ITS AFFILIATES, OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT, THE SERVICES OR PROFESSIONAL SERVICES, SHALL IN NO EVENT EXCEED THE SUBSCRIPTION CHARGES AND/OR PROFESSIONAL SERVICES FEES PAID BY CUSTOMER DURING THE TWELVE (12) MONTHS PRIOR TO THE FIRST EVENT OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE ESSENTIAL PURPOSE OF THIS SECTION 9.2 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SUBSCRIPTION CHARGES AND PROFESSIONAL SERVICES FEES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF FRONT WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. FRONT

HAS RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE CUSTOMER WITH THE RIGHTS TO ACCESS AND USE THE SERVICES AND/OR THE PROFESSIONAL SERVICES PROVIDED FOR IN THIS AGREEMENT. THE FOREGOING LIMITATIONS IN THIS SECTION 9.2 SHALL NOT APPLY TO CLAIMS OR DAMAGES ARISING FROM (1) THE BODILY INJURY OF A PERSON, (2) THE INDEMNIFICATION OBLIGATIONS HEREIN, OR (3) CUSTOMER'S NON-PAYMENT OF UNDISPUTED FEES DUE AND PAYABLE.

**9.3 Limitation of Liability in the Aggregate.** THE LIMITATION OF LIABILITY PROVIDED FOR HEREIN APPLIES IN AGGREGATE TO ANY AND ALL CLAIMS BY CUSTOMER AND ITS AFFILIATES, AND SHALL NOT BE CUMULATIVE.

**9.4 Jurisdiction-specific Exclusions.** Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages or for a Party's own fraud, willful injury to the person or property of another, or violation of law which means that some of the above limitations may not apply to Customer. IN THESE JURISDICTIONS, FRONT'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

**9.5 Enforceable Against Front.** Any claims or damages that Customer may have against Front shall only be enforceable against FrontApp, Inc. and not any other entity, nor any officers, directors or Representatives of Front or any other entity.

**9.6** The provisions of this Section 9 allocate the risk between the Parties under this Agreement and the Parties have relied on these limitations in determining whether to enter into this Agreement.

## **10. USE OF THIRD PARTY SERVICES**

The Services allow for various Third Party Services to be used in connection with the Services. Customer's use of such Third Party Services, and any exchange of Customer Data between Customer and the provider of such Third Party Service is solely between Customer and the Third Party Service provider. Front does not warrant or support any Third Party Service or other non-Front product or service, regardless of whether such Third Party Service is promoted or made available through the Services or is designated by Front as "certified" or "working with" the Services. Customer acknowledges that providers of such Third Party Services may have access to Customer Data in connection with the interoperation and support of such Third Party Service with the Services and that, as between Customer and Front, Customer is solely responsible for reviewing and complying with such Third Party Service provider's terms of use, practices and policies. To the extent Customer authorizes the access or transmission of Customer Data through a Third Party Service, Front shall not be responsible for any use, disclosure, modification, or deletion of such Customer Data by the Third Party Service provider or for any act or omission on the part of such Third Party Service provider.

## **11. MISCELLANEOUS**

**11.1 Governing Law; Venue.** This Agreement and any disputes arising under it will be governed by the laws of the State of California without regard to its conflict of laws provisions, and Front, Customer and End User consent to the personal jurisdiction and venue of the state or federal courts located in San Francisco, California. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

**11.2 Arbitration.** Any dispute arising out of or in any way relating to this Agreement shall be resolved according to California law and exclusively by binding arbitration before a single arbitrator with the Judicial Arbitration and Mediation Service (JAMS) and pursuant to the then existing arbitration rules at JAMS. If the Parties cannot agree upon selection of an arbitrator, then JAMS shall appoint an arbitrator experienced in the enterprise software industry. The place of the arbitration will be San Francisco, California unless otherwise agreed upon by the Parties. The arbitration will be conducted in English. The arbitrator shall provide detailed written findings of fact and conclusions of law in support of any award. Judgment upon any such award may be enforced in any court of competent jurisdiction. The Parties further agree that the arbitration shall be conducted in their individual capacities only and

not as a class action or other representative action, and the Parties expressly waive their right to file a class action or seek relief on a class basis. If any court or arbitrator determines that the class action waiver set forth herein is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the portions of this section mandating arbitration shall be deemed null and void in their entirety and the Parties shall be deemed to have not agreed to arbitrate disputes. Customer may opt out and not be bound by the arbitration and class action waiver provisions by sending written notice to Front within thirty (30) days of the Effective Date of this Agreement between Customer and Front. Written notice should be sent to the address shown below. If Customer opts out of arbitration, Front will also not be bound to arbitrate. Notwithstanding the foregoing, either Party shall be entitled to seek injunctive relief as set forth in the Confidentiality section above to stop unauthorized use of any Confidential Information or the Services or infringement of a Party's intellectual property rights. Disputes, claims, or controversies concerning either Party's intellectual property rights or claims of piracy or unauthorized use of the Services shall not be subject to arbitration. The Parties further agree that the prevailing Party in any action or proceeding to enforce any right or provisions under this Agreement, including any arbitration or court proceedings, will be entitled to recover its reasonable costs and attorneys' fees.

**11.3 Legal Notices.** Front may provide general notices related to the Services that are applicable to Customer via email or notification within the Services and such notices shall be deemed to satisfy any legal requirement that notice be made in writing. Legal notices (including all legal notices from Customer) must be sent via email, first class mail, airmail, or overnight courier to the address of the Customer provided via an Order Form. Legal notices will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. Legal notices to Front shall be sent to:

FrontApp, Inc.  
Attn: Legal Department  
1455 Market Street, Floor 19  
San Francisco, CA 94103

If Email: [legal@frontapp.com](mailto:legal@frontapp.com)

General support-related inquiries to Front can be sent to [support@frontapp.com](mailto:support@frontapp.com).

**11.4 Publicity; Use of Customer's Marks.** Front shall have the right to use Customer's name and logo in a factual manner for marketing or promotional purposes on Front's website and in other communication with existing or potential Front customers. The Parties shall work together in good faith to issue at least one mutually agreed upon press release upon Customer's launch of the Services, and Customer otherwise agrees to reasonably cooperate with Front to serve as a reference upon request.

**11.5 Severability; No Waiver.** In the event that any provision of this Agreement is found to be invalid or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the Agreement shall otherwise remain in full force and effect and remain enforceable between the Parties. No waiver of any provision of this Agreement shall be deemed a further or continuing waiver of such provision or any other provision, and a Party's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.

**11.6 Assignment.** Neither this Agreement nor any of the rights or licenses granted hereunder may be transferred or assigned by either Party without the other Party's express prior written consent (not to be unreasonably withheld or delayed); provided, however, that either Party may assign this Agreement and all Order Forms related to Customer's use of the Services upon written notice (if by Customer via email to [legal@frontapp.com](mailto:legal@frontapp.com)) without the other Party's consent to an Affiliate or to its successor in interest in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets; provided, however, that should Customer assign this Agreement to any competitor of Front, then Front shall have the right to terminate this Agreement and Customer's use of the Services upon notice, in which case Front shall provide Customer's assignee with a pro-rata refund of any



prepaid but unused Fees. To effectuate an assignment of a Customer Account after receiving Front's consent, Customer ("Assignor") must submit an email to [legal@frontapp.com](mailto:legal@frontapp.com) and execute a form provided by Front with the subsequent Customer ("Assignee") which conveys all interests, rights, and obligations in this Agreement and active Order Forms from the Assignor to Assignee. Upon review by Front's Legal Department and execution by all Parties, the Agreement previously entered into by and between Assignor and Front, pursuant to which Assignor purchased a subscription to the Services, will be assigned as requested to the Assignee as of the assignment effective date. Any other attempt to transfer or assign this Agreement or a Customer Account will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors, and permitted assigns.

**11.7 Force Majeure.** Neither Party shall be liable for delayed or inadequate performance of its obligations hereunder to the extent caused by a Force Majeure Event. The Party experiencing such Force Majeure Event shall be relieved from its obligations (or part thereof) as long as the Force Majeure Event lasts and hinders the performance of said obligations (or part thereof); provided, however, that the Party experiencing such Force Majeure Event shall promptly notify the other Party of such event and shall make reasonable efforts to mitigate the effects of the Force Majeure Event. For the avoidance of doubt, a Force Majeure Event shall not include Customer's financial inability to perform its payment obligations hereunder.

**11.8 Relationship of the Parties.** The Parties are and shall be independent contractors with respect to all Services provided under this Agreement. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties, and Customer does not have any authority of any kind to bind Front in any respect whatsoever. There are no third party beneficiaries to this Agreement. Without limiting this section, Customer's End Users are not third party beneficiaries to Customer's rights under this Agreement.

**11.9 Extension of Rights to Affiliates.** Customer may extend its rights, benefits and protections provided herein to its Affiliates provided that Customer remains responsible and liable for such Affiliate's compliance with this Agreement.

**11.10 Trial Subscriptions.** Front may, at its option, offer new customers a limited free trial of the Services, subject to this Agreement. Notwithstanding anything to the contrary herein, Front shall have the right to terminate a Customer free trial at any time and for any reason.

**11.11 Beta Access.** Select Customers may be invited to participate in the review and testing of pre-release versions of new tools and enhancements within the Services which may be identified as "beta," "early access," "evaluation," "preview," "test," "pre-release," or a similar term. Customer acknowledges and understands that its participation in such pre-release testing is (i) not required and is at Customer's own risk; (ii) made available on an "as is" basis; and (iii) may be subject to additional terms related to its use.

**11.12 English Version Controls.** Non-English translations of this Agreement may be provided for convenience only. In the event of any ambiguity or conflict between translations, the English version is authoritative and controls.

**11.13 Entire Agreement.** This Agreement, including all attachments, policies, exhibits, addendums, and any Order Form(s) related hereto, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes and replaces any prior or contemporaneous representations, understandings and agreements, whether written or oral, with respect to its subject matter. To the extent of any conflict or inconsistency between the provisions of this Agreement and any Order Form, the Order Form shall prevail. No terms or conditions stated in any Customer purchase order or similar documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be considered null and void.

**11.14 Updating this Agreement.** Front reserves the right to update or modify this Agreement from time to time as its business evolves by posting an updated version of this Agreement on its website. If, in Front's sole discretion, it believes that the modifications being made are material, Front will notify Customer and End User prior to the change taking effect. By continuing to utilize the Services after the effective date of any update to this Agreement, Customer and End User will be deemed to have accepted such update.

## 12. DEFINITIONS

**12.1 “Affiliate”** means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby “control” (including, with correlative meaning, the terms “controlled by” and “under common control”) means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such Party, whether through the ownership of voting securities, by contract or otherwise.

**12.2 “Agreement”** means this Software-as-a-Service (SaaS) Agreement, consisting of the terms and conditions stated herein as well as all Order Forms, policies, addenda, exhibits, attachments and amendments (if any).

**12.3 “Confidential Information”** means all information provided or made available by the Disclosing Party to the Receiving Party in connection with this Agreement that is either identified as, or should reasonably be understood by the Receiving Party to be, proprietary or confidential, including, but not limited to, non-public information regarding features, functionality and performance of the Services, the terms of this Agreement, Personal Data, Customer Data, business plans, product plans, roadmaps, strategies, forecasts, projects and analyses, the results of any audit related to the Services (including but not limited to security audits), financial information and fee structures, business processes, methods and models, and technical Documentation, but does not include any information that the Receiving Party can demonstrate (i) was generally available to the public at the time of disclosure; (ii) was in its possession or known by it without restriction prior to receipt from the Disclosing Party; (iii) was rightfully disclosed to it without restriction by a third party; or (iv) was independently developed without the use of any Confidential Information of the Disclosing Party.

**12.4 “Customer”** means the individual or entity represented by the individual(s) entering into this Agreement with Front and includes Customer’s Affiliates.

**12.5 “Customer Account”** means the account or instance within the Services created on behalf of Customer by a representative of Customer that has administrative rights on the Customer Account to take certain actions and make certain changes on behalf of the Customer.

**12.6 “Customer Data”** means information provided, created, processed, uploaded, submitted, stored, sent and received by Customer or End User, or transmitted and/or uploaded by Front on behalf of Customer or End User, in connection with Customer or End User’s use of the Services.

**12.7 “Customer Parties”** means Customer and its Affiliates, subsidiaries, officers, employees and agents.

**12.8 “Customer Settings”** means the portion of the Services which Customer can access by creating a Customer Account and where Customer can perform administrative functions, such as adding and deleting users.

**12.9 “Data Processing Addendum”** means Front’s data processing addendum made available to Customers.

**12.10 “Disclosing Party”** means a Party to this Agreement which may make Confidential Information available to the other Party.

**12.11 “Documentation”** means any written or electronic documentation, images, video, text or sounds specifying the functionalities or limitations of the Services or describing Service Plans, as applicable, provided or made available by Front including in the applicable Front help center(s).

**12.12 “End User”** means an individual accessing the Services through permissions granted in a Customer Account.

**12.13 “End User Account”** means the account or instance within the Services created by an End User who completes the registration process by providing their full legal name, a valid email address, and any other information requested.

**12.14 “End User Conduct and Content Policy”** means Front’s policy found at <https://help.front.com/t/g9hj4fq/fronts-end-user-conduct-and-content-policy>.

**12.15 “Equipment”** means any equipment and ancillary services needed in order to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like.

**12.16 “Fees”** means dollar amounts due and payable to Front by Customer as compensation for Customer’s use of the Services, including Subscription Charges and fees for Professional Services.

**12.17 “Force Majeure Event”** means a condition that is beyond a Party’s reasonable control, including but not limited to natural disasters, civil disturbances, epidemics, pandemics, quarantines, acts of terrorism or war, labor conditions, governmental actions, interruptions or failure of the internet or any utility service, failures in third party hosting services, and denial of service attacks.

**12.18 “Front”** means FrontApp, Inc.

**12.19 “Front Parties”** means Front and its Affiliates, subsidiaries, officers, employees and agents.

**12.20 “Law Enforcement Data Request Guidelines”** means Front’s guidelines found at <https://front.com/law-enforcement-guidelines>.

**12.21 “Order Form”** means the written instrument signed by both Parties to this Agreement which specifies the Fees associated with Customer’s use of the Services as well the Subscription Term.

**12.22 “Parties”** means Customer and Front.

**12.23 “Privacy Notice”** means Front’s policy found at <https://front.com/privacy-notice>.

**12.24 “Professional Services”** means consulting or professional services (including any training, success and implementation services) provided by Front. Professional Services may also be referred to as consulting services in the Documentation or statement of work.

**12.25 “Receiving Party”** means a Party to this Agreement which may receive Confidential Information from the other Party.

**12.26 “Representatives”** means the employees, Affiliates, consultants, contractors, subcontractors, agents, or advisors of a Party.

**12.27 “Services”** means the software-as-a-service application and technical support services owned or operated by Front, including mobile applications, Software, websites or other properties. “Services” excludes third party services.

**12.28 “Software”** means the source code, object code or underlying structure, data, ideas, know-how, algorithms, systems, programs or other operating information used by a computer to display the Services.

**12.29 “Subscription Charges”** means dollar amounts due and payable to Front by Customer under this Agreement as compensation for Customer’s use of the Services.

**12.30 “Subscription Plan”** means the packaged service plan(s) and the functionality and Services associated therewith (as detailed on Front’s website and in Documentation applicable to the Service).

**12.31 “Subscription Term”** means the time period during which Front shall agree to provide and Customer shall agree to purchase the Services as specified in an Order Form or as agreed to by Customer upon signing up through Front’s websites or Customer Settings.

**12.32 “Taxes”** means all taxes, levies, duties or similar assessments of any nature, including but not limited to, value-added, sales, use or withholding taxes, assessable by any jurisdiction.

**12.33 “Third Party Services”** means the various third party applications and services which Front makes available for use in connection with the Services.

IN WITNESS WHEREOF, the undersigned who are duly authorized by Front and Customer have caused this Agreement to be executed as of the last date of signature (the “Effective Date”).

**FrontApp, Inc.:** \_\_\_\_\_:

By: \_\_\_\_\_ By: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_