

General terms and conditions for enterprise customers

Frontify AG, Version: January 2023

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1. Scope of application

These General Terms and Conditions (the “**GTC**”) govern the contractual relationship between Frontify and Customer in connection with the provision of software for use via the Internet (Software-as-a-Service) and constitute an integral part of the Agreement.

Customer’s Affiliates may either (i) receive Frontify Services under the Agreement signed between Customer and Frontify, in which case Customer is and will be responsible for such Affiliates’ compliance with the terms of the Agreement; or (ii) execute independent order forms governed by the same terms and conditions as the original Agreement signed between Frontify and Customer. If Customer’s Affiliate executes an independent order form with Frontify, this shall constitute a separate and independent new Agreement between Frontify and that Customer’s Affiliate. Any actions taken or initiated under an Agreement with a Customer’s Affiliate shall not affect the validity of the Agreement between Frontify and Customer or any Agreement entered between Frontify and other Customer’s Affiliates.

Any deviations and/or additional terms to these GTC shall require the express written approval of Frontify and Customer. Such deviating provisions shall only apply to the Agreement and shall have no prejudicial effects on any other agreements between the contractual Parties.

Any terms or provisions of Customer not incorporated expressly in the Agreement or not mutually agreed upon in writing between the parties are herewith objected to. Their application to the contractual relationship between Frontify and Customer is excluded.

2. Definitions

The following capitalized terms shall have the meaning given to them in this section. Any other capitalized term not included in this section or any other section of these GTC shall have the meaning given to it in the respective document that references these GTC. For clarity, any reference to the singular also includes the plural, and every reference to a gender also includes any other gender.

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by or is under common control with the subject entity. “**Control**”, for purposes of this definition, means direct or indirect ownership or control of more than fifty (50) % of the voting interests of the subject entity, or otherwise having the power to govern

the financial and the operating policies or to appoint the management of the subject entity.

“API” means Application Programming Interface.

“Basic Period” means the initial subscription term for which the Agreement is concluded (e.g., twelve (12), twenty-four (24), or thirty-six (36) months).

“CDN” means Content Delivery Network.

“Customer” means the legal entity signing the Agreement.

“Customer Data” means all data and content of Customer that are uploaded by the Users to the Frontify Services and/or created using the Frontify Platform.

“Customer Personnel” means the employees, independent contractors, agents, or sub-contractors of Customer and/or its Affiliates, and any other third party engaged by Customer and/or its Affiliates.

“Documentation” means manuals, instructions, or other documents or materials provided by Frontify and made available to Customer describing the functionality, components, features, or requirements of the Frontify Services.

“Extension Period” means the subscription term following the end of the Basic Period for which the Agreement is renewed.

“Fees” means the subscription fees owed and paid by Customer to Frontify during the entire duration of the Basic Period and any Extension Period. The Fees may, in particular, comprise a one-time setup fee, a fixed monthly basic fee (e.g., for products purchased, support, hosting, and maintenance services), and a monthly usage fee depending on the Usage Units purchased by Customer.

“Force Majeure” means an unforeseeable event beyond the control of Frontify that cannot be remedied or avoided by the exercise of reasonable diligence, including without limitation: (i) acts of God; (ii) acts of government; (iii) earthquakes; (iv) pandemics; (v) civil unrest; (vi) acts of terror; (vii) strikes; (viii) computer, telecommunications, internet service provider, or hosting facility failures; (ix) delays involving hardware, software, or power systems not within Frontify possession or reasonable control; and (x) denial of service attacks.

“Frontify” means Frontify AG.

“Frontify Platform” means the software supplied by Frontify to Customer for use via the Internet, namely the all-in-one web-based brand management SaaS solution, the mobile app, and the desktop app offered by Frontify.

“Frontify Services” means the services offered by Frontify and purchased by Customer, both currently and in the future, including the subscription to the Frontify Platform.

“Monthly Active Users” (“MAU”) means the number of Users who have accessed the Frontify Platform at least once in a calendar month.

“Offer” means the commercial arrangement between Frontify and Customer providing details of the services and products purchased, including the relevant Fees. The Offer constitutes an integral part of the Agreement.

“Party” means Frontify or Customer taken individually, whereas **“Parties”** means Frontify and Customer taken collectively.

“Permitted Use” means that Customer is entitled to use the Frontify Services exclusively for the exercise of its commercial or independent professional activity and strictly in accordance with the terms of the Agreement.

“Sensitive Personal Data” means the categories of sensitive personal data as defined in Art. 9 GDPR and any other applicable data protection legislation, even in cases such legislation uses a different terminology that encompasses a meaning substantially similar to that of Sensitive Personal Data as defined in the GDPR, including but not limited to any personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation.

“Service Level Agreement” (“SLA”) means the valid version of the Service Level Agreement between Frontify and Customer, which forms an integral part of the Agreement.

“Service Level Package” means the applicable SLA package made available to Customer under the SLA.

“Third-Party Products and Services” means independent third-party products and services not licensed directly by Frontify, including but not limited to web-based, mobile, offline, or other software functionalities that interoperate with the Frontify Services, that are provided by Customer or a third party, and that Customer can enable to extend the experience and functionality of the Frontify Services.

“Usage Units” means the portion of the Offer that includes MAU and storage, which can vary during the term of the Agreement depending on the needs of Customer.

“User” means the natural person authorized by Customer to use the Frontify Services and who has created an account and obtained the credentials to access the Frontify Platform. Users may include but are not limited to, Customer Personnel.

3. Services provided by Frontify

3.1. Right of Use

For the entire duration of the Agreement, Frontify shall provide to Customer and its Affiliates a limited, non-exclusive, non-transferable right to access, use, and benefit from the portion of the Frontify Services in the Offer, in accordance with the provisions of the Agreement (**“Right of Use”**). Customer and its Affiliates are not entitled to further rights associated with the Frontify Services, such as ownership, copyright, patent, trademark, or other usage rights not explicitly granted under the Agreement.

The Frontify Platform shall be operated by Frontify using the infrastructure of a trusted cloud hosting provider. Customer shall be responsible for the internet connection to access and use the Frontify Services and ensure that the hardware and software required for this purpose are in place (e.g., PC, network connection, browser).

Subject to sections 5.2 (“Increase and Decrease of the Frontify Services”) and 5.3 (“Increase and Decrease of Monthly Active Users”), the Right of Use is limited to the amount of Usage Units, and the portion of the Frontify Services licensed to Customer in the Offer. Any sub-licensing or further licensing of the Frontify Platform is prohibited without Frontify’s prior written consent.

Customer has no right to a copy and thus has no right to a backup copy of the source code of the Frontify Platform. All rights in the Frontify Services over and above the Right of Use defined under the Agreement remain entirely with Frontify.

3.2. Restrictions

Customer and Users shall not, directly or indirectly (i) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, or algorithms relevant to operate the Frontify Platform or any software, Documentation or data related to the Frontify Services; (ii) access or use the Frontify Services for purposes of competitive analysis or

development; (iii) copy, modify, translate, or create derivative works based on the specifications of the Frontify Platform (except to the extent expressly permitted by Frontify or authorized within the Frontify Services); (iv) remove, delete, alter, or obscure any proprietary notices or labels; (v) damage, disrupt, or impede the performance of the Frontify Services or of any Third-Party Products and Services in whole or in part; or (vi) bypass or breach any security devices or measures implemented by Frontify in connection with the performance of the Frontify Services.

Customer and its Affiliates shall exclusively use the Frontify Services for their internal business purpose. They shall be solely responsible for the accuracy, integrity, and legality of Customer Data and the use of the Frontify Platform by any User, including maintaining and updating Customer Data uploaded and available on the Frontify Platform. In particular, Customer and its Affiliates shall be responsible that any User will (i) abstain from uploading, transmitting, supporting, storing, inciting, promoting, or otherwise making available on the Frontify Platform (a) any Customer Data that is or could reasonably be viewed as unlawful (including the infringement of third parties intellectual property rights), racist, hostile, violent, discriminatory (including relating to race, religion, sex, sexual orientation, age, disability, ancestry or national origin), harmful, harassing, defamatory, vulgar, obscene or otherwise objectionable, (b) any Customer Data which contains libelous material, harmful code, software viruses, worms, Trojan horses or any other computer code, files, or programs designed to interrupt, destroy or limit the functionality of the Frontify Services, or (c) any Sensitive Personal Data and; (ii) not share User's login credentials among Customer Personnel. If any User breaches the terms of this section, Frontify shall have the right to immediately remove the respective User's Customer Data and/or suspend the User's account.

3.3. API and CDN

For the duration of the Agreement, Frontify grants Customer and its Affiliates a limited, non-exclusive, non-assignable, non-transferable, revocable license to access and use the API and the CDN offered by Frontify and to build integrations between them, the Frontify Services, and Third-Party Products and Services to enhance Customer's experience in using the Frontify Services. This license is subject to the limitations set forth in these GTCs, including the use in accordance with the Permitted Use.

Customer and its Affiliates shall have the right to use the API and the CDN for free up to a maximum of three (3) terabytes per month. Frontify will monitor the use of API and CDN and contact Customer if the usage exceeds such limits. In that case, Customer shall have the right to increase the maximum available limit of usable monthly terabytes by paying additional Fees or shall reduce its usage to remain within the limits of three (3) terabytes per month.

Provided Customer has not purchased additional terabytes and the service usage of the API and CDN has been exceeding such limits for more than three (3) months within one (1) subscription year of the Basic Period or any Extension Period, Frontify will take corrective action, including automatically invoicing additional costs to Customer or, if Customer does not accept any additional charge for the increasing usage of the API and CDN license, Frontify has the right to throttle the bandwidth of the service API, temporarily suspend the API and CDN service or, in the absence of any other available option, terminate Customer's API and CDN license.

3.4. Operation

Frontify shall take appropriate measures in accordance with the industry standards for similar products and services to make it possible for the Users to use the Frontify Services as interruption-free as possible. Frontify cannot guarantee the availability of the Frontify Services at all times and the absence of any other disruptions and interruptions to the functioning of the Frontify Platform but shall perform the Frontify Services in accordance with the applicable Service Level Package.

Customer shall notify Frontify of any disruptions to the Frontify Platform without delay and provide information and details regarding the circumstances of the issue. Frontify shall remedy such disruption in accordance with the resolution time in the applicable Service Level Package. Frontify is entitled to circumvent the disruption to the Frontify Platform by means of a workaround solution if the cause of the disruption itself is only to be remedied with inappropriate expenses and the usability of the Frontify Services under this workaround solution is not significantly negatively affected.

Customer acknowledges and agrees that in the course of the Agreement, Frontify may contact Customer or its Users to participate in research and development activities, including but not limited to using the feedback on current and future functionalities of the Frontify Services in an aggregate and anonymous form. Customer and Users may provide feedback to Frontify about the Frontify Services (e.g., technical support input, suggestions, or enhancement requests) and generate usage analytics (e.g., non-identifiable technical data and metadata from the usage of the Frontify Services). Frontify shall have the right to use any suggestion, enhancement request, recommendation, idea, or other feedback provided by Customer or its Users and compile statistical and other information related to the performance, operation, and use of the Frontify Services for (i) security and operations management; (ii) the improvement of the Frontify Services; and (iii) research and development purposes or other business purposes. Customer assigns to Frontify all right, title, and interest to the feedback and any ideas or suggestions contained in it.

3.5. Beta Services

From time to time, Frontify may provide Customer with access to "alpha," "beta" or other "early-stage" Frontify Services, (collectively, "**Beta Services**"), which are optional for Customer to use. The Beta Services are not generally available and may contain bugs, errors, defects, or harmful components. Frontify does not provide any indemnities, security commitments, service level commitments, or warranties, express or implied, including warranties of merchantability, title, non-infringement, and fitness for a particular purpose, in relation to the Beta Services. Frontify shall have no liability for any harm or damage arising out of or in connection with the Beta Services. Beta Services may be subject to additional terms which may supplement, but not supersede the terms in the Agreement. Customer or Frontify may terminate Customer's access to Beta Services at any time. The Beta Services, including without limitation Customer's assessment or feedback of any Beta Services, are the Confidential Information of Frontify.

3.6. Support

Upon commencement of the Basic Period, Frontify will assign to Customer a dedicated customer success team, which will be responsible for liaising with Customer during the entire duration of the Agreement.

Frontify will provide Customer with access to an onboarding plan with the purpose of guiding and educating Users on the functionalities of the Frontify Platform. The onboarding plan will include access to Documentation, and training for guidance through the configuration, adoption, and implementation of the Frontify Platform.

As an integral part of the Frontify Services, Frontify shall provide online support in accordance with the standards of the SLA. The support shall, however, not include any training, configuration, or implementation services, provision of customer-specific documentation, or individualized modification of the Frontify Platform.

Frontify shall provide the support services during working hours from Monday to Friday between 8:30 AM and 5:30 PM: (i) Central European Time (CET), excluding public holidays of St. Gallen, Switzerland; (ii) Eastern Standard Time (EST), excluding public holidays of New York, USA; and (iii) Greenwich Mean Time (GMT), excluding public holidays of London, United Kingdom. Inquiries received outside of these support times shall be regarded as received on the following business day.

3.7. Changes to the Frontify Platform

Frontify may modify the Frontify Platform to adapt it to technical or commercial market changes, to include new or disable obsolete products, to improve Customer's experience, and for good cause. In particular, such good cause shall be deemed to

exist if the modification is required due to: (i) a necessary adaptation to a new legal situation or case law; (ii) changed technical framework conditions (e.g., new browser versions); (iii) the protection of system security; or (iv) further development of the Frontify Platform.

Such modifications shall not substantially negatively impair the functionality of the Frontify Platform. If any modification has such a negative and substantial material impact on the functionality of the Frontify Platform, Frontify will make commercially reasonable efforts to communicate such changes to Customer in due time through one of its communication channels.

4. Involvement of third parties

Frontify may engage third-party sub-contractors for the purpose of meeting its contractual obligations towards Customer and its Affiliates, including but not limited to hosting services. Frontify shall be liable for its sub-contractors' conduct as far as legally permissible, but only to the extent that Frontify would be liable for its own conduct in accordance with the terms of these GTC. Frontify makes no representation or warranty and waives any liability in relation to any adverse impact on the usability of the Frontify Services that may arise from a request by Customer to disable certain functionalities provided by third parties.

Customer's use of Third-Party Products and Services shall be governed solely by the terms and conditions applicable to such Third-Party Products and Services, as agreed to between Customer and the Third-Party Products and Service provider. Frontify does not warrant, endorse, or support, is not responsible for, and disclaims all liability with respect to Third-Party Products and Services, including the privacy practices, data security processes, and other policies related to Third-Party Products and Services. Customer agrees to waive any claim against Frontify with respect to any Third-Party Products and Services. Customer may enable integrations between the Frontify Services and Third-Party Products and Services (each, an **"Integration"**). By enabling an Integration, Customer is instructing Frontify to share any information or data provided to Frontify by or on behalf of the Customer in connection with the Frontify Services, which is necessary to facilitate the Integration. Customer is responsible for providing all instructions to any Third-Party Products and Service provider relating to the Customer's Data or information. Third-Party Products and Service providers are not sub-contractors of Frontify.

5. Fees and payment terms

5.1. Fees and invoicing

For the use of the Frontify Services during the entire duration of the Agreement, Customer shall owe Frontify the Fees, which shall be paid in advance in accordance with the terms of the Agreement. Customer shall provide Frontify with complete and accurate billing contact information, including a valid email address.

Frontify's invoices shall be due for payment with a payment term of thirty (30) days strictly net from the invoice date, except for Fees subject to a reasonable and good faith dispute.

Unless otherwise specified in the Agreement, all Fees are non-refundable and no refunds shall be issued for Customer's partial use or non-use of the Frontify Services. Frontify reserves the right to adjust the prices of the applicable Fees at the beginning of each Extension Period.

5.2. Increase or decrease of Frontify Services

Any increase of the Usage Units and/or the addition of products that broaden the scope of the Frontify Services is possible at any time. The Fees for additional Usage Units and/or for additional products shall be invoiced on a pro-rata basis in the event of an increase within the Basic Period or any Extension Period. The prices pursuant to Frontify's price list applicable at the time of the increase of Usage Units and/or the purchase of new products shall apply.

A reduction of Usage Units and/or products is possible with effect as of the end of the Basic Period or any Extension Period, or prior thereto, with the agreement of Frontify.

5.3. Increase and decrease of Monthly Active Users

Customer is responsible for monitoring the number of MAU via the Frontify Platform. Frontify will provide support to Customer in checking the average MAU used. Before the beginning of the Basic Period and periodically during the entire duration of the Agreement, Frontify will support Customer in calculating the correct amount of MAU Customer needs to purchase in accordance with Customer's usage, including by analyzing the average MAU over the previous six (6) months of subscription.

5.4. Payment default

Customer shall be in default after the expiration of this payment term. Frontify is entitled to apply a default interest rate in the amount of five percent (5 %) p.a.

calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law.

Except for Fees subject to a reasonable and good faith dispute, if an invoice remains unpaid for more than twenty (20) days after the expiry of the payment term and Frontify has provided at least ten (10) days' written notice to Customer, Frontify may suspend access to the Frontify Platform until such payment deficiency is resolved and/or extraordinarily terminate the Agreement pursuant to section 13.2 ("Extraordinary Termination"), without liability to Customer. Frontify shall promptly restore access once the reason for default ceases. The non-payment of the Fees constitutes a material breach of the Agreement; thus, the remedial measures outlined in this section shall not be interpreted as constituting a limitation of Customer's liability under the Agreement.

5.5. Taxes

The Fees do not include any taxes, such as local, state, provincial, federal, or foreign taxes, withholding taxes, levies, duties, or similar governmental assessments of any nature, including, but not limited to, value-added taxes, excise, use, goods and services taxes, consumption taxes, or similar taxes (collectively "**Taxes**"). If applicable, Customer is responsible for all Taxes other than any taxes imposed on Frontify's income.

If Customer is based in Switzerland, the value-added tax will be paid by Frontify directly to the competent authority. Therefore, in such a case, Customer shall pay the amount corresponding to the value-added tax to Frontify. If the Customer is based outside Switzerland, and if applicable, the reverse charge mechanism shall apply with regard to the value-added tax.

6. Intellectual property

6.1. Intellectual property of Customer

Customer shall own and retain all right, title, and interest in and to Customer Data uploaded into the Frontify Platform, as well as any other Customer Data created or developed in connection with the use of the Frontify Platform by Customer and its Users.

For the entire duration of the Agreement, Customer grants Frontify a non-exclusive, worldwide, royalty-free, non-transferable, irrevocable right to use Customer Data as necessary or useful to enforce its rights under the Agreement and to perform the Frontify Services and all related obligations, including but not limited to (i) delivering,

monitoring, enhancing, and improving the Frontify Services in accordance with this Agreement or where required or authorized by law, and (ii) delivering and providing customer support services.

This section shall survive any termination or expiration of the Agreement.

6.2. Intellectual property of Frontify

Frontify shall own and retain all right, title, and interest, including, any intellectual property rights, without limitation, in and to (i) the Frontify Services; (ii) any software, applications, inventions, or other technology developed in connection with Frontify Services; (iii) the name, logo or other marks of Frontify ("**Frontify Marks**"); (iv) all Documentation; and (v) all modifications, enhancements, improvements, derivative works, and upgrades related to any of the foregoing. For the avoidance of doubt, the intellectual property of Frontify shall not include any Customer Data.

Customer agrees that it will not use or register any mark, business name, domain name, or social media account name which incorporates in whole or in part the Frontify Marks.

This section shall survive any termination or expiration of the Agreement.

7. Data protection

Both Parties acknowledge and commit that the use and processing of Customer Data that contain personal data ("**Customer Personal Data**") are in accordance with any relevant applicable data protection law, including but not limited to the Federal Act on Data Protection ("**FADP**") and the EU General Data Protection Regulation ("**GDPR**").

Frontify shall process Customer Personal Data solely on behalf of and according to the instructions of Customer exclusively to fulfill its contractual obligations to provide the Frontify Services and shall not sell any Customer Personal Data to third parties. Customer Personal Data is handled in accordance with Frontify's Privacy Policy (frontify.com/privacy) and the applicable Data Processing Agreement ("**DPA**"). Customer remains responsible for the lawfulness of the collection, processing, and use of Customer Personal Data in accordance with any applicable data protection law.

8. Publicity

For the entire duration of the Agreement, Customer grants Frontify permission to use Customer's name and logo for marketing and sales purposes in accordance with Customer's brand guidelines.

Frontify shall only use Customer's name and logo for its own marketing and sales activities and will under no circumstances sell Customer Data to third parties for their marketing purposes. Any further reference rights agreed between Customer and Frontify shall be specified in the Agreement.

9. Indemnification

9.1. Customer's indemnification

Customer shall defend, indemnify, and hold harmless Frontify, its Affiliates, employees, and sub-contractors against any and all damages, losses, liabilities, settlements, and expenses (including without limitation legal expenses and attorneys' fees) suffered or incurred in connection with any third-party claim or action that might arise from (i) the unlawful use of the Frontify Services by Customer or its Affiliates and/or, with the consent of Customer, by third parties; (ii) any actual or alleged breach of data protection laws or intellectual property rights by Customer or its Affiliates; or (iii) other legal disputes associated with the use of the Frontify Services by Customer or its Affiliates contrary to the Permitted Use or in breach of the terms of the Agreement.

In the assertion of relevant third-party claims associated with any of the above-mentioned indemnification obligations ("**Claims**"), Frontify shall notify Customer in writing without delay and shall give Customer reasonable assistance and the opportunity to assume sole control over defense and settlement of the same. In the event Frontify determines or reasonably suspects that a Claim may be well grounded, Frontify is entitled, in its sole discretion, to suspend access to the Frontify Platform for Customer and its Users with prior written notice (email sufficing). Frontify will restore access to the Frontify Platform immediately after the Claim has been resolved or the grounds for suspicion have ceased to exist. Any compensation claims against and liability of Frontify asserted by Customer as a result of the suspension of the Frontify Platform are excluded.

9.2. Frontify's indemnification

Frontify shall defend, indemnify, and hold harmless Customer from liability to third parties resulting from the misappropriation of any trade secret or infringement by the

Frontify Services of any intellectual property right, including but not limited to any patent or any copyright, provided Frontify is promptly notified of any and all threats, claims, and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement. Frontify will not be responsible for any settlement it does not approve in writing.

The foregoing obligations shall not apply with respect to portions or components of the Frontify Services (i) not supplied directly by Frontify, including but not limited to any Third-Party Products and Services; (ii) made in whole or in part in accordance with Customer specifications; (iii) modified by Customer, Customer's Affiliate or Customer's Personnel after delivery by Frontify; (iv) combined with other products, processes or materials including Integrations, where the alleged infringement relates to such combination and/or is caused by the Integration; (v) where Customer fails to cease any activity in violation of the provisions of the Agreement or applicable law after being notified thereof or after being informed of reasonable modifications that would have avoided a violation; or (vi) where Customer's use of the Frontify Services, including of the license of the API and CDN, is not strictly in accordance with the Permitted Use.

If the Frontify Services are held by a court of competent jurisdiction to be or are believed by Frontify to be infringing, Frontify may, at its option and expense (i) replace or modify the Frontify Services to be non-infringing provided that such modification or replacement contains substantially similar features and functionality; (ii) obtain for Customer a license to continue using the Frontify Service; or (iii) if neither of the foregoing is commercially practicable, terminate the Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused Fees for the Frontify Service.

10. Liability

Notwithstanding anything to the contrary, Frontify, its Affiliates, and sub-contractors shall not be responsible or liable with respect to any subject matter of the Agreement under any contract, negligence, strict liability, or other theory (i) for error or interruption of use or for any loss, alteration, destruction, damage, corruption, or recovery of Customer Data; (ii) for any indirect, exemplary, incidental, punitive, special or consequential damages, including but not limited to cost of procurement of substitute goods, services or technology or loss of business; (iii) for damages caused by Force Majeure; or (iv) for any amounts that, together with amounts associated with all other claims, exceed the agreed amount of the Fee paid or payable by Customer in the previous twelve (12) months since the first claim arose, in each case, whether or not Frontify has been advised of the possibility of such damages.

The exclusions and limitations set forth above shall not apply to any claim, damages, or other liabilities arising out of or related to the death and/or personal injury of a person, fraud, gross negligence, and/or willful misconduct.

11. Warranties

11.1. Frontify's warranties

Frontify warrants that:

1. it has the right and authority to enter into and to carry out the obligations contemplated in the Agreement.
2. Frontify either owns or has all rights, title, and interest to the Frontify Services.
3. upon delivery of the Frontify Platform, Frontify will not knowingly introduce any virus, worm, back door, Trojan horse, time bombs, software locks, or similar harmful, destructive, or disruptive code and follow industry standards to prevent the introduction of the aforementioned into the Frontify Platform.
4. during the entire duration of the Agreement, Frontify will maintain the insurance coverage in accordance with these GTC.

Except as set forth above, the Frontify Services are provided "as is". Frontify makes no other warranties, expressed or implied, and hereby disclaims all implied warranties, including any warranty of merchantability, fitness for a particular purpose, as well as any warranty of the Frontify Platform with specific hardware, software, and browser compatibility, and that the Frontify Platform will remain free of any virus, worm, back door, Trojan horse, time bombs, software locks, or similar harmful, destructive, or disruptive code, or will run interruption or error-free. The Frontify Services do not replace the need for Customer to maintain regular data backups or redundant data archives. Frontify also makes no representation or warranties of any kind for Third-Party Products and Services.

11.2. Customer's warranties

Customer warrants that:

1. it has the right and authority to enter into and perform its obligations under the Agreement.
2. during the entire duration of the Agreement, Customer, including its Affiliates and Customer's Personnel, will comply with the obligations under the Agreement and will not use the Frontify Services other than in compliance with the Permitted Use.
3. Customer Data does not and will not misappropriate, or otherwise violate any intellectual property right or other rights of any third party.

4. at the time of entering into the Agreement, Customer is not insolvent and knows of no circumstance which would entitle any creditor to appoint a receiver (or other insolvency practitioner), petition for winding-up, or exercise any other rights over or against its asset.

12. Insurance

During the term of the Agreement, Frontify shall maintain sufficient insurance coverage to meet its obligations towards Customer and the governing law. Frontify will maintain the insurance policy at its sole cost and expense. This insurance coverage shall at least encompass a worker's compensation liability coverage, comprehensive general liability coverage, including contractual liability for bodily injury, including death and property damage, professional liability coverage, and cyber liability coverage.

Neither the existence of nor the assent by Customer to the types or limits of insurance carried by Frontify shall be deemed as a waiver or release of Frontify's liability or obligations under the Agreement.

13. Term and termination

13.1. Term and ordinary termination

The Agreement is concluded for the Basic Period set forth between Frontify and Customer. It shall thereafter extend automatically for subsequent terms (each an Extension Period) unless a Party gives notice of termination to the other Party no later than sixty (60) days before the expiration of the Basic Period or an Extension Period. The termination shall become effective on the first calendar day following the expiration of the Basic Period or an Extension Period.

13.2. Extraordinary termination

Either Party may extraordinarily terminate the Agreement for good cause at any time and with immediate effect. Good cause entitling a Party to extraordinary termination shall include:

1. if a Party materially breaches its contractual obligations insofar as the breach was not cured by the breaching Party within twenty (20) days following the prior written warning by the other Party;
2. if insolvency proceedings are instituted against the other Party; or

3. for Frontify, if Customer defaults on the payment of Fees and the Fees are not paid within thirty (30) days after written notice by Frontify.

13.3. Customer Data at the end of the agreement

After expiration of the Agreement and upon written request by Customer, Frontify shall provide to Customer a copy of Customer Data on a customary data carrier or by electronic transfer in a format agreed between Customer and Frontify.

Ninety (90) days after the effective date of the expiration of the Agreement or upon Customer's request already prior to this date, Frontify shall delete all Customer Data except as otherwise required under statutory retention obligations.

Frontify is not obligated to provide Customer Data to Customer in deviation to these provisions (in particular relating to time, format, or migration). Any deviating provision of Customer Data shall require the prior written consent of Frontify as well as separate remuneration by Customer.

14. Confidentiality

As used herein, "**Confidential Information**" means all information disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information shall include, but is not limited to, Customer Data, the Frontify Services, the terms and conditions of the Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, business processes, and any other information expressly referenced as confidential in these GTC. However, Confidential Information shall not include any information that (i) was publicly available at the time of disclosure or that becomes publicly available other than by a breach of this provision by Receiving Party; (ii) was previously known by Receiving Party without access to the Confidential Information; (iii) Receiving Party rightfully obtains from a third party without restrictions on use and disclosure; (iv) is independently developed by Receiving Party without the use of the Confidential Information; or (v) is released from confidentiality by prior written consent of Disclosing Party.

Receiving Party shall maintain the confidential nature of the Confidential Information by taking at least the same degree of care that it uses to protect the confidentiality of its own Confidential Information from unauthorized use, access, and disclosure, but in no event less than reasonable care. Receiving Party may disclose the Confidential Information to its own employees or the employees of its Affiliates, independent contractors, or sub-contractors only on a need-to-know basis and only

to the extent they are under confidentiality obligations no less stringent than those contained in this section. If Receiving Party is compelled by law, or a judicial, government, or agency order to disclose Confidential Information, it shall provide Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and shall comply with any applicable protective order or equivalent that applies to such disclosure.

Receiving Party shall be liable to Disclosing Party for any breach of Receiving Party's confidentiality obligations and for any breach by any person or entity to whom Receiving Party is permitted to disclose the Confidential Information. The Parties agree that remedies at law might be inadequate to protect Disclosing Party in the event of any actual or threatened breach of the provisions of this Agreement and that Disclosing Party shall be entitled to equitable relief, including in the form of injunctions and orders for specific performance (in each case, without the proof of actual damages), in addition to all other remedies available to Disclosing Party at law or in equity as a remedy for any such breach or threatened breach.

This section replaces and supersedes any confidentiality agreement entered into and between the Parties previously to the signature of the Agreement. The confidentiality obligations in this section shall continue to endure even after termination of the contractual relationship to the extent there is justified interest therein.

15. Final provisions

15.1. Offsetting and assignments of claims

The offsetting of each Party's claims against the other Party's counterclaims shall require the prior written consent of both Parties. Any deduction or set-off of any payment of the Fees by Customer is expressly prohibited.

Except as explicitly provided in the Agreement, Customer is not entitled, to assign any of its rights or obligations hereunder to third parties, in whole or in part, including to any Affiliates.

15.2. Place of performance

The place of performance shall be the registered office of Frontify in St. Gallen, Switzerland.

15.3. Severability clause

Should single provisions of the Agreement be invalid or incomplete or should performance be impossible, this shall not negatively affect the validity of the

remaining provisions of the Agreement. Invalid provisions shall be replaced by an admissible, valid provision that is as close as possible to the content of the original in terms of its intent.

15.4. Miscellaneous

The Agreement, its attachments, any amendments, and supplements, as well as all side and subsequent agreements, shall be set out in writing and signed by both Parties to be valid. These formal requirements may only be waived by means of a written agreement.

The Parties agree that signatures sent by electronic means (scanned and sent via e-mail or signed by electronic signature service) shall be deemed original signatures. The Parties consent to conducting business via electronic transactions and recognize the validity, enforceability, and admissibility of any electronic signature created in connection with this Agreement.

The Customer acknowledges and agrees that Frontify might from time to time update these GTC. Frontify will make reasonable efforts to notify Customer of such updates before their entry into force. Any updated version of the GTC shall replace the prior version and be binding upon the Parties from the beginning of the following applicable Extension Period.

16. Applicable law and place of jurisdiction

The contractual relationship between Frontify and Customer, including the Agreement, is governed by the laws of Switzerland, under the exclusion of its conflict of law provisions and any national or international treaties or agreements legally valid at the time of entry into force of the Agreement or a dispute (e.g., United Nations Convention on Contracts for the International Sale of Goods (CISG) or the Hague Convention on Purchases).

In the event of any differences of opinion in connection with the contractual relationship between Customer and Frontify, including the Agreement, the Parties agree to make efforts to settle the dispute by amicable means in good faith. If despite the joint efforts of the Parties, no agreement can be made by amicable means, the place of jurisdiction for all disputes, differences of opinion, or claims arising from or in connection with the contractual relationship between Frontify and Customer, including its validity, invalidity, violation, or dissolution, shall exclusively be the courts of St. Gallen, Switzerland. Irrespective thereof, Frontify is entitled to sue Customer at its general place of jurisdiction.

