

# Terms of Use

**Version 2 , 2021**

**Updated on:- 07th December 2021**

**Effective from:- 01st January 2022**

This Terms of Use ("**Terms**" or "**Agreement**") governs your acquisition and use of services on **FrappeCloud.com** operated and governed by Frappe Technologies Pvt. Ltd. ("**Frappe**", "**We**", "**Us**" or "**Our**"), and any of Our other websites, products and/or services that explicitly indicate the applicability of these Terms (collectively, "**Service(s)**"), by all natural persons (humans) and juristic persons whether incorporated or not (companies, organisations, etc.). Collectively, such a natural or juristic person, as the case may be, is referred to below as ("**You**", "**Your**", "**User**", "**Customer**"). Frappe and Customer are each referred to below as a "**Party**" and together as "**Parties**".

Please read this document carefully and ensure that You understand its contents before using Our Service(s).

By undertaking any of the following actions, You demonstrate that You have read, understood and agree to the Terms or Agreement:-

- 1. By creating an account on or through the Service or a website operated by Frappe;**
- 2. By clicking a box indicating acceptance; and/or**
- 3. By signing this Agreement, whether digitally or physically.**

In addition, when using certain parts of the Service(s), you will be subject to additional terms and conditions, policies, rules, or guidelines, that may be posted on the relevant part of the Service from time to time. You agree not to use such parts of the Service without reading, understanding, and accepting such additional terms as may be provided. In case of a conflict between this Agreement

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and the terms posted for a specific part of the Service, the latter shall have precedence with respect to Your use of that part of the Service. In addition to any terms and conditions as provided for above or herein, the following terms and conditions, and policies, as updated from time to time, apply to your interactions on the Service:

1. **Acceptable Use Policy.** Certain restrictions apply to the Service to ensure that the Service is used in a manner that is fair and does not violate any law or third party rights. These restrictions are specified in the Acceptable Use Policy, available at <https://frappecloud.com/aupas> updated from time to time.
2. **Privacy Policy.** The collection, use, storage, processing and transfer and deletion of Your personal information is governed by the Privacy Policy, available at <https://frappecloud.com/privacy> as updated from time to time.
3. **Service Level Agreement.** Additional terms and conditions are applicable to **FrappeCloud.com** support and maintenance under the Service Level Agreement, incorporated herein by reference, and available at <https://frappecloud.com/support-sla> as updated from time to time.
4. **Reporting Security Vulnerabilities.** Security vulnerabilities found by You can be reported to Frappe by visiting <https://erpnext.com/security> , as updated from time to time. For more details regarding security vulnerabilities, please see "Scanning for Vulnerabilities" below.
5. **Backup Policy.** Backup Policy is governed according to the Backup policy set up by Frappe, available at <https://frappecloud.com/docs/sites/backups> as updated from time to time.

These Terms are effective between Customer (as defined below) and Frappe as of the date of Your accepting this Agreement.

You warrant that You possess the legal authority to accept these Terms and thereby enter into an agreement with Frappe under the applicable laws and to use the Service in accordance with all terms and conditions herein. If You are agreeing to use the Service(s) on behalf of a company or organisation, You agree that You represent such company or organisation and have the legal authority to accept this agreement on behalf of such company or organisation.

## 1. Definitions

1. “**Admin**” means a natural or legal person that has an Admin Account.
2. “**Admin Account**” is an account that is created on Frappe Cloud by Customer or on behalf of Customer for the purpose of administration of Sites and Team Members.
3. “**Affiliate(s)**” 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 50% of the voting interests of the subject entity.
4. “**Agreement**” means this Terms and Conditions agreement, as updated from time to time.
5. “**Customer Personnel**” means Customer, its agents, employees, contractors, affiliates, Admins, and Team Members.
6. “**Documentation**” means the information made available by Frappe regarding the Service, including user guides; help files; tutorials including written, audio and video; policies; procedures; and other information made available by Frappe regarding the Service(s), as updated from time to time.
7. “**ERPNext**” means the open source software named erpnext published or otherwise provided by Frappe under the terms of the GNU General Public License, version 3 or such other license as may be specified by Frappe.
8. “**Frappe Framework**” means the open source software framework named frappe published or otherwise provided by Frappe under the terms of the MIT license or such other license as may be specified by Frappe.
9. “**Frappe App**” means any application created using the Frappe Framework. For example, ERPNext is a Frappe App.
10. “**Frappe Cloud**” means the Website and Service available at <https://frappecloud.com/>.
11. “**Free Service**” means a Service provided without any charge.
12. “**Order Terms**” means additional terms and conditions specified in: (i) an Order Form; (ii) an annexure, exhibit, or similarly titled document attached to or provided with the Order Form; (iii) an annexure titled Order Form annexed with this Agreement; or (iv) Service

Specific Agreement. Order Terms shall be binding upon the parties to the Order Form for the products and services provided by Frappe under the Order Form.

13. **"Privacy Policy"** means the document or page described above, as updated from time to time.
14. **"Reporting Security Vulnerabilities"** means the document or page described above, as updated from time to time.
15. **"Subscriber"** means a User that has an active paid subscription for a Service. For clarification, the following are not included in active paid subscriptions: Trial; Free Service; and subscriptions or Service(s) that have not been paid for, not renewed, expired, terminated or discontinued.
16. **"Service", "Service(s)", "Services"** shall have the meaning assigned to it above.
17. **"Site(s)"** means an individual Frappe App and/or ERPNext instance that is accessed by a unique URL/domain/subdomain.
18. **"Team Member"** means a natural or legal person that has a Team Member Account.
19. **"Team Member Account"** means an account with limited privileges created by an Admin Account, or an account that is otherwise designated as a team member account.
20. **"Terms"** means this Terms and Conditions agreement.
21. **"Trial"** means access to Service(s) provided by Frappe to Customer, for the purpose of evaluation of such Service(s) by Customer, upon such terms as may be specified by Frappe.
22. **"Website"** means [FrappeCloud.com](https://frappecloud.com) or any other website owned and/or operated by Frappe that refers to this Agreement.
23. **"Your Personnel"** means Customer Personnel.

## 2. Access and Use of Service

1. **Legal Competence.** You warrant that You possess the legal authority to accept this Agreement and thereby enter into an agreement with Frappe under the applicable laws, and to use the Service(s) in accordance with all terms and conditions herein and in Order Terms.

2. **Use by Children.** The Service is not intended for children under 18 years of age. You affirm that You are more than 18 years of age and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Agreement, and to abide by and comply with this Agreement. If You are under 18 years of age, then please do not use the Service. Please contact us immediately if You have used our Service and are under 18 years of age or if You are the legal guardian of someone who has used our Service and is under 18 years of age.
  
3. **Usage Limits.** Frappe may, at its sole discretion and without any notification, place reasonable technical or non-technical limitations on the use of the Service(s) by Customer, including but not limited to allocation of storage space, bandwidth, computing power, backup space or any other limitation mentioned in Documentation or as specified in the Service. Frappe may, at its sole discretion and without any notification, change such usage limits from time to time. If Your application or usage exceeds allocated resources, you may receive a message indicating "**Quota Exceeded**" or another reasonable method of indicating that a usage limit has been reached or exceeded.
  
4. **Service Availability.** We will attempt to ensure that the Website remains uninterrupted. However, due to the nature of the Internet, Frappe does not warrant that the Website or Service will remain accessible and continue functioning as expected at all times. Additionally, Your access to the Website may be occasionally suspended or restricted to allow for repairs, maintenance, or the introduction of new facilities or services at any time without prior notice.
  
5. **Date of publication.** Documentation should only be considered current as of the date of initial publication appearing thereon, without regard to the date on which you may access the information.

6. **Accuracy and Reliability of Information.** The information, material or services included in or available through this site may include inaccuracies or typographical errors. Advice received via this site should not be relied upon for personal, medical, legal, financial, or business decisions.
  
7. **Third Party Content.** The Website or Service may include content posted or made available by third parties. Frappe performs the role of an intermediary that merely facilitates the availability of such content. You agree that Frappe is not responsible for any content sent using, posted on and/or otherwise made available on the Website or Service by any third party.
  
8. **Shared Hosting.** Your account may be hosted on a server shared with other customers, though each customer will have a separate database, storage space, and authentication files. Such servers may be hosted by Frappe or by a third party, as provided further in more detail in the Privacy Policy and our List of Subprocessors, each as updated from time to time.
  
9. **Protection of Customer Data.** Frappe will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Your Data, as described in detail in Our Privacy Policy. Those safeguards include, but are not limited to, measures designed to prevent unauthorized access to or disclosure of your personal data (other than by You, Your Admin(s), and Your Team Member(s)). If you require compliance with specific data protection laws or have other data protection requirements that are not included in this Agreement or the Privacy Policy, please contact us at [legal@erpnext.com](mailto:legal@erpnext.com) to request a copy of the Data Processing Addendum that can be executed by You and Us.

## 3. Customer Responsibilities

1. **Accounts.** The service provides the ability to create the following types of accounts: (i) Admin Account, and (ii) Team Member Account.

- 1.1. **Admin Account.** Admin:

- 1.1.1. must provide and maintain true, accurate, current and complete information about Customer and Customer Personnel;
- 1.1.2. can make payments for Sites;
- 1.1.3. can access Sites, and administer Sites, including but not limited to any data and content stored in such Sites;
- 1.1.4. must immediately notify Frappe of any unauthorized use of Admin or a Team Member's password or account or any other breach of security.
- 1.1.5. is responsible for providing all support services required by Team Members. You acknowledge that Frappe shall not be responsible for providing any support services to any Team Members.

- 1.2. **Team Member Account.** Team Member:

- 1.2.1. must approach its Admin for resolution of issues faced by Team Members. Frappe is not responsible for any issue faced by Team Members during use of the Service.
- 1.2.2. In case of any action or inaction by Admin, all disputes regarding such action must be resolved between Team Member and Admin only. Frappe shall not be liable or responsible for any action or inaction of Admin, and Frappe will not be party to any such dispute.

2. **Site Administration.**

- 2.1. Sites may be created by an Admin Account or a Team Member Account.
- 2.2. Admin Accounts may, at any time, log in as an administrator to any Site created and/or managed by them or their Team Members, access data stored in any Site,

delete any Site, or modify any Site. Admin Accounts may not require a password or any other credential in order to log in to a Site as an administrator, or perform any of the actions listed hereinabove.

- 2.3. If a You choose to restore or migrate an existing Site, such as from a backup, You can log in to that Site using Your existing login credentials for that website.
3. **Acceptable Use.** Frappe is a service provider that provides tools and a platform for Your use. Customer shall be the sole responsible party to ensure that use of the Service(s) by or on behalf of Customer, or Customer Personnel, complies with all applicable laws, and third-party privacy and intellectual property rights. You agree to comply with the Acceptable Use Policy, and shall be responsible for compliance with the Acceptable Use Policy by Customer Personnel. In addition to any other remedy under this Agreement, Frappe may remove any information in violation of this clause at any time without prior notification and without assigning any reason.
4. **Scanning for Vulnerabilities.** We believe in the value of being open and transparent regarding the security of our Services. We value and appreciate Your help in improving Our security. Vulnerability reports submitted in the past by users such as You have helped Us improve security for everyone. Any and all vulnerability scans by You or any third-party on Your behalf must comply strictly with the policy on Reporting Security Vulnerabilities as provided in the Introduction above, as may be modified by Frappe from time to time. In particular, You agree not to undertake any of the following: (i) scan or probe the Website or any Service for any vulnerability or bug for any purpose other than the purposes provided in the policy on Reporting Security Vulnerabilities; (ii) use any vulnerability or bug found by you for any purpose except as explicitly provided in the policy on Reporting Security Vulnerabilities; and (iii) publish, or otherwise share with any third-party, any information regarding any bug or vulnerability found by You until the expiry of a period of six months from the date on which You report such vulnerability to Frappe, or until a period of one



month from the date on which Frappe releases a fix for the bug or vulnerability, whichever comes sooner.

5. **Information Extraction.** You shall not, without explicit prior written authorization from Frappe specifically permitting such an action, perform reverse look-up, trace or seek to trace any information on any other User or Customer of Service, including any account on the Service not owned by You, to its source, or exploit the Website, or any service or information made available or offered by or through the Website, in any way where the purpose is to reveal any information, including but not limited to personal identification or information, other than Your own information, as provided for by the Website.
6. **Backups.** The Services may provide the ability to create automated backups and manual backups. Frappe reserves the right to charge a fee for the ability to create, store, restore and/or access backups. You are solely responsible for ensuring that backups are set up correctly, include all relevant files, and are completely safe. You understand that Frappe can only recover or restore Your data or applications from backups created prior to the occurrence of any incident. In the absence of availability of such a backup, Frappe cannot help You in restoring or recovering any data or information. Frappe shall not be liable for any damaged, corrupt or missing backup, or lack of backup. You are responsible for downloading and maintaining offline copies of backups to ensure their safety, security and integrity, in order to ensure that restoration of a backup can take place in case of any incident or disaster.
  - 6.1. **Automated Backups.** Frappe may, at its sole discretion, create automated backups at regular intervals, or provide the ability for You, Your Admin or Your Team Members to enable or disable automated backups.
  - 6.2. **Manual Backups.** You may initiate the creation of a manual backup for any Site controlled by You at any time, subject to usage limits specified by Frappe in its sole discretion.
  - 6.3. **Off-Site Backups.** If specified explicitly in the description of a payment plan or service, such payment plans and services may include the ability to create off-site backups.

7. **Compliance with the Terms.** Customer shall be the sole responsible party for actions taken by Customer Personnel, and for ensuring that Customer Personnel comply with these Terms and all applicable policies.
8. **Legal Action by Frappe.** Frappe reserves the right to initiate and/or undertake any civil and/or criminal action for breach of this Section on Customer Responsibilities.

## 4. Support Requests

1. If you need assistance with Your account, please visit <https://frappecloud.com/support/tickets>. Frappe provides support for only the following issues: billing issues, issues with adding or creating a new site, issues with restoring a backup of an existing site, performance issues, custom domains, and issues related to the Frappe Cloud platform such as the analytics dashboard and account creation.
2. Unless explicitly agreed otherwise, Frappe shall not be liable for providing any support for management of any Site other than the issues specified here. Support for Sites, such as customizations for Sites, are not offered as a part of the Service. Such support services may be provided by Frappe upon payment of such additional fees and under such terms as may be specified by Frappe.

## 5. Payments and Refunds

1. **Payments.** You undertake to make all payments in a timely manner or as and when Invoice is generated according to the Service provided by Frappe. You understand that failure to make any payment on time may result in suspension or termination of this Agreement, Your account, or/and the Service. Frappe reserves the right to undertake any action permitted under these Terms or an applicable law for violation of this Section on “**Payments and Refunds**”.
2. **Payment information.** Customers agree to, at all times, provide Frappe with valid and updated credit card information or an alternative form of payment acceptable to Frappe.

Customer specifically authorizes Frappe to charge such payment methods (such as credit card) for all invoiced amounts.

3. **Credit Transfer.** If Customer obtains any services from Frappe under any other agreement, Frappe may, at its sole discretion, offer a choice to Customer to transfer unused amounts of fees paid by Customer for such other services provided under this Agreement (“**Credit Transfer**”). Credit Transfer can be used by Customers solely to pay for services provided under this Agreement. Amounts or credit transferred cannot be refunded. Credit Transfer, if provided by Frappe, is applicable only for Customer’s own accounts on services provided by Frappe. Credit Transfer is not available for transfer to or from third party accounts. Frappe may, at its sole discretion, refuse to provide Credit Transfer for credits obtained on another service provided by Frappe if such credits were obtained by way of a credit transfer to such service, or by a promotional offer or reduced price.
4. **Credit Purchase.** The Customer has the right to purchase Pre-paid Credits before the use of the Service. As per the usage and billing, the Pre-paid Credits shall be deducted against the Customer Account directly and automatically. Credit Purchase can be used by Customers solely to pay for services provided under this Agreement. Amounts or credit transferred cannot be refunded.
5. **Promotional or One-time Pricing.** In order to promote its services, Frappe may offer certain services at a reduced fee or without any fee. Any such promotional fee, reduced fee, or no fee for a service (as the case may be), shall be applicable only for the first billing cycle of such service, and shall not be applicable for subsequent billing cycles. All subsequent billing cycles shall be charged at the full price as specified for that service, unless agreed otherwise by Frappe in advance. For the purpose of this clause, the duration of a billing cycle shall be determined by Frappe in its sole discretion. In case of any dispute regarding the duration of a billing cycle under this clause, Frappe’s decision shall be final and binding upon Customer and Frappe.
6. **Usage-Based Billing.** Frappe may provide the ability to pay for certain services based on the usage of such services. Frappe shall regularly generate and provide invoices for such

services. The invoiced amount for all such services must be paid by Customer within ten (10) days of the date on which the invoice is provided by Frappe in the Customer's account on the Service.

7. **Suspension of Service.** If any charge owed by Customer under this agreement for services is 10 days or more overdue, Frappe may, without limiting its other rights and remedies, suspend Services until such amounts are paid in full, provided that, other than for customers paying by credit card whose payment has been declined, Frappe will give Customer at least 3 days' prior notice that payment is pending, before suspending services to Customer.
8. **Changes in Price.** Frappe reserves the right to, at any time, in its sole discretion, modify the price of any service offered by Frappe, or to require payment for any service that was previously provided by Frappe without any charge. Frappe shall notify such changes to Admins at least 30 days prior to the effective date of such change in price.
9. **Chargebacks.** Initiating a chargeback for any fees or payment made to or deducted by Frappe shall constitute a violation of this Agreement. Frappe reserves the right to: (a) disable or delete Your account(s) and all associated data, (b) revoke Your licenses, (c) refuse to provide Services in future, (d) charge late interest at the rate of 1.5% of the amount per month, or the maximum rate permitted by law, whichever is lower, (e) condition future subscription renewals and Order Forms on shorter payment terms, and / or (f) initiate appropriate legal action against You for violation of this clause.
10. **Cancellation of Subscription.** Customer or Frappe may cancel any active subscription in accordance with "Termination by Customer" or "Termination by Frappe" below.
11. **Reactivation Charges.** Any account that has been terminated, suspended or any subscription that has been cancelled under the terms of this Agreement, may be reactivated by the Customer and Frappe on mutually agreeable terms upon payment of such charges and fees as may be determined by Frappe in its sole discretion.

12. **Refunds.** Refunds may only be provided if they are applicable under the terms of this Agreement. Refunds, if applicable, will be made to the same payment method or issuing bank from where the initial payment was received. Frappe may, at its sole discretion, agree or refuse to provide refunds to an alternative account.
13. **Right to Refuse Service.** Prices and offers listed on the Service are provided as an invitation to offer and may not indicate the availability of the product or service. When You place an order for a product or service, You provide us an offer to acquire such product or service from Us. Payments made, and confirmation of receipt of payments, do not indicate acceptance of Your offer by Frappe. Frappe reserves the right to refuse to provide any product or service to You without assigning any reason. If Frappe refuses to provide any product or service to You, Frappe shall process refunds in accordance with the "Refunds" clause above.
14. **Taxes, charges and fees.** You shall be responsible for payment of all fees, costs, and charges, associated with the placement of any order for a product or service from Us and You agree to bear any and all applicable taxes, charges and fees including but not limited to any form of sales tax, use tax, value added tax, service tax, research & development tax, import or export tax, or any other form of taxation, duties and cesses, and payment gateway charges, among others. You agree to pay all such taxes, charges and fees without withholding or deduction.
  1. If You are not an Indian Customer and You are required to withhold or deduct any taxes from any amount payable to Frappe, then You agree to increase the amount payable to Frappe by the amount of such taxes so that Frappe receives the full amount of fees or payments.
  2. If You are an Indian Customer and You are required to withhold or deduct any taxes, then You must notify Frappe and wait for Frappe's approval prior to placing any order for a product or service. Frappe reserves the right to request for more information, request for proof of deduction or payment, or deny any approval under this clause.

15. **Limitations on Transactions.** Frappe may, in its sole discretion and without prior notification to You, impose limits on the number of transactions or transaction price received from a single Customer or payment method.
16. **Exclusive Remedy.** This Section on Payments and Refunds provides Your sole remedy and Frappe's sole responsibility for situations covered by this Section. You understand and agree that this Section forms an essential basis for the Agreement.

## 6. Intellectual Property Rights

1. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Frappe, its Affiliates, its licensors and content providers reserve all of their rights, titles and interests in and to the Website, Service, content, logos, software, text, images, graphics, video, audio and other materials created by them, including all of their related intellectual property rights. Frappe owns all right, title, and interest in and to Frappe's registered and unregistered, domestic and foreign, trademarks, service marks, trademark applications, service mark applications, trade names, patents, patent applications, copyrights, copyright applications, discoveries, know-how and trade secrets of and relating to the Services, including any and all templates created by Frappe. No one may copy, reproduce, transmit, post, distribute or create derivative works from the Services without express, prior written authorization from Frappe. No rights are granted to You hereunder other than as expressly set forth herein.
2. **License by Frappe.** Subject to Your compliance with these Terms and payment of applicable fees, if any, Frappe grants a limited license to access and make personal use of the Website and Service.
3. **Restrictions on License by Frappe.** Unless explicitly permitted otherwise by Frappe, You shall not copy, transmit, sell, resell, license, sublicense, distribute, make available, rent or lease the Website, Service, any content, or their derivatives. You may not frame or mirror any part of the Website. Unauthorized use of the materials appearing on this site may violate copyright, trademark and other applicable laws, and could result in criminal or civil action.

4. **Ownership of Sites.** Customer owns its own Sites and content provided by Customer for such Sites.
5. **License by Customer.** Customer grants to Frappe and its Affiliates and sublicensees a non-exclusive, royalty-free, irrevocable, perpetual, worldwide and fully sublicensable right to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, and display any review, comment, feedback, testimonial, or other content or information provided by You above throughout the world in any media, and the right to use the name provided by Customer in connection with such content. You agree to waive Your right to be identified as the author of such content or information and Your right to object to derogatory treatment of such content. You agree to perform all further acts necessary to protect any of the above rights granted by You, including execution of deeds and documents at Frappe's request. Frappe may, but shall have no obligation to, use feedback provided by You to improve the Website or Service without notice and without any attribution.
6. **Registered TradeMarks.** ERPNext and Frappe are registered trademarks of Frappe Technologies Pvt. Ltd. These trademarks may not be used in any manner without prior written consent from Frappe.

## 7. Modifications

1. **Modification of this Agreement.** This Agreement may be modified by Frappe from time to time. If We do this, We will post the modified Terms on this page and will indicate the last updated date. Any such modifications will become effective no earlier than fourteen (14) days after they are posted, except that the following categories of modifications will be effective immediately: (i) modifications required to provide new features without negatively affecting your rights under these Terms; (ii) modifications made to correct typographical errors; and/or (iii) or modifications made to comply with legal obligations, including but not limited to Our or Your obligations under a law, regulation, court order or government order. You shall be responsible to review the Agreement from time to time in order to be aware of any such modifications to these Terms. We may, for Our convenience only and without

waiving Your obligation to periodically review the Agreement, attempt to notify You of significant modifications to this Agreement through the Service user interface, in an email notification or through other reasonable means. You understand and agree that Your continued access, registration or use of the Website or Service beyond the effective date of such modification shall be deemed to be Your acceptance of all modifications to the Agreement.

2. **Modification of Website or Service.** Frappe may, at any time and without prior notice, introduce new features, remove or stop offering old features, or modify existing features of the Website or Service. Frappe reserves the right to charge a fee to access any new feature or service. Frappe reserves the right to delete or modify information on the Website or Service without prior notice.
3. **Modification of Pricing.** For modification of pricing, please refer to the section on “Payments and Refunds” above.

## 8. Warranty Disclaimers and Limitation of Liability

1. **Warranty Disclaimers.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FRAPPE BE LIABLE TO CUSTOMER PERSONNEL AND/OR ANY OTHER THIRD PARTIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN, FRAPPE PROVIDES THE SERVICE "AS IS" AND "AS AVAILABLE" AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, REPRESENTATIONS, WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, SATISFACTORY CONDITION OR QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR QUIET ENJOYMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT, TRIAL, BETA SERVICES AND FREE SERVICES ARE PROVIDED "AS IS," AND "AS AVAILABLE" EXCLUSIVE OF ANY WARRANTY WHATSOEVER. FRAPPE AND ITS SUPPLIERS DO NOT REPRESENT OR WARRANT THAT THE FRAPPE PRODUCTS WILL BE UNINTERRUPTED, SECURE, ERROR-FREE, VIRUS-FREE, ACCURATE OR COMPLETE OR COMPLY WITH REGULATORY REQUIREMENTS, OR THAT FRAPPE WILL CORRECT ALL ERRORS. FRAPPE DOES



NOT REPRESENT OR WARRANT NON-INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS BY THIRD-PARTY COMPONENTS. FRAPPE DOES NOT GUARANTEE, REPRESENT OR WARRANT CONSULTATION RESULTS, IDENTIFICATION OF ALL ISSUES, OR THAT ALL ERRORS AND BUGS WILL BE CORRECTED TO CUSTOMER'S SATISFACTION. FRAPPE SHALL NOT BE LIABLE FOR CUSTOMER'S CONTENT, MATERIAL OR THIRD PARTY MATERIAL, INCLUDING BUT NOT LIMITED TO LINKS TO THIRD PARTY WEBSITES AND ACTIVITIES. FRAPPE SHALL NOT BE RESPONSIBLE FOR CUSTOMER'S FAILURE TO STORE, DOWNLOAD, OR BACKUP ITS DATA. CUSTOMER SHALL REMAIN RESPONSIBLE TO EVALUATE THE ACCURACY, RELIABILITY, COMPLETENESS AND USEFULNESS OF ANY AND ALL CONTENT DELIVERED THROUGH THE SERVICES. FRAPPE IS NOT RESPONSIBLE OR LIABLE FOR ANY FAILURE TO PERFORM OR DELAY IN PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT TO THE EXTENT THAT THE FAILURE OR DELAY IS CAUSED BY CIRCUMSTANCES BEYOND FRAPPE'S REASONABLE CONTROL (SUCH AS EVENTS MENTIONED UNDER "FORCE MAJEURE" BELOW). FRAPPE SHALL NOT BE LIABLE FOR ANY INDIRECT DAMAGE, INCLUDING FINANCIAL LOSS, SUCH AS LOSS OF PROFIT. THE ABOVE SHALL APPLY EVEN IF FRAPPE WAS ADVISED OF THE POSSIBILITY OF SUCH EVENTS OR THEY WERE FORESEEABLE.

- 2. Limitation of Liability.** AS FAR AS PERMITTED BY APPLICABLE LAW, FRAPPE AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS AND ASSIGNS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LITIGATION OR THE LIKE) ARISING OUT OF (A) THE USE OF THE SERVICE, (B) THE CONTENT ON THE SERVICE, (C) WEB SITES LINKED TO THE SERVICE AND THE CONTENT, GOODS AND/OR SERVICES PROVIDED THEREIN (D) ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE UPON THE INFORMATION WITHIN, OR CONTENT OF, THE SERVICE, AND/OR (E) THE INABILITY TO USE THE SERVICE AND CONTENT CONTAINED THEREIN (INCLUDING, BUT NOT NECESSARILY LIMITED TO, LOSS OF PROFITS, GOODWILL OR SAVINGS, DOWNTIME, DAMAGE TO OR REPLACEMENT OF PROGRAMS AND DATA), WHETHER BASED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE EVEN IF ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES. IF THE FOREGOING LIMITATION IS PROHIBITED BY AN APPLICABLE LAW, FRAPPE'S LIABILITY FOR DAMAGES UNDER THIS AGREEMENT IS LIMITED TO RE-PERFORMANCE OF THE SERVICES OR LIQUIDATED DAMAGES. IN NO EVENT WILL FRAPPE BE LIABLE FOR PROVIDING SUBSTITUTE SERVICES. IN NO SITUATION SHALL FRAPPE'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "PAYMENTS AND REFUNDS" SECTION ABOVE.

3. **Exclusive Remedy.** IN THE EVENT OF A BREACH OF THE WARRANTIES SET FORTH IN THIS AGREEMENT, CUSTOMER'S EXCLUSIVE REMEDY, AND FRAPPE'S ENTIRE LIABILITY, WILL BE THE RE-PERFORMANCE OR RE-DELIVERY OF THE DEFICIENT SERVICE, OR IF FRAPPE CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALY REASONABLE MANNER, TERMINATION OF THE RELEVANT SERVICE, IN WHICH CASE CUSTOMER MAY RECEIVE A PRO RATA REFUND OF THE SUBSCRIPTION FEE PAID FOR THE DEFICIENT SERVICE AS OF THE EFFECTIVE DATE OF TERMINATION.
4. **Essential Basis.** CUSTOMER ACKNOWLEDGES THAT FRAPPE HAS SET ITS PRICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE ON THE DISCLAIMERS OF WARRANTIES AND LIMITATION OF LIABILITY AND THE SAME FORM AN ESSENTIAL BASIS FOR THE BARGAIN BETWEEN THE PARTIES.

## 9. Confidentiality

1. **Definition of Confidential Information.** "**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 of Frappe includes the Services and Content, and the terms and conditions of this Agreement, and all orders placed under this Agreement (including pricing), any software or documentation related to the Services, Frappe samples and templates, trade secrets, technical know-how, inventions, materials, product development plans, marketing plans, customer lists and email addresses, the know-how, proprietary strategy on communications, reports, and findings. Confidential Information of each Party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. For the avoidance of doubt, the non-disclosure obligations set forth in this "Confidentiality" section apply to Confidential Information exchanged between the Parties under this Agreement and in connection with the evaluation of additional Frappe services.

- 2. Protection of Confidential Information.** As between the Parties, each Party retains all ownership rights in and to its Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither Party will disclose the terms of this Agreement or any order placed under this Agreement to any

third party other than its Affiliates, legal counsels and accountants without the other Party's prior written consent, provided that a Party that makes any such disclosure to its Affiliate, legal counsels or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section. Notwithstanding the foregoing, Frappe may disclose: (a) the terms of this Agreement and any applicable Order Form to a subcontractor or Non-Frappe Application Provider to the extent necessary to perform Frappe's obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein; and (b) information in accordance with the Section on "License by Customer" above.

- 3. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, including but not limited to obligations under a local, state or federal law, provided that the Receiving Party gives: (a) prior notice of the compelled disclosure to the Disclosing Party (to the extent legally permitted); and (b) reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 10. Indemnification

- 1. Indemnification by Customer.** Customer shall indemnify and hold Frappe and its directors, officers, agents, employees, contractors and assigns harmless from and against any claim, suit, proceedings, losses, expenses incurred, attorneys' fees, damages or costs awarded, or amounts paid in a settlement, arising out of (i) unauthorized access by persons using Customer's login credentials, (ii) data or content provided by Customer and/or Customer Personnel; (iii) a breach of the terms of this Agreement or the applicable policy

document(s) by Customer and/or Customer Personnel; or (iv) use beyond the scope of the intended use by Customer and/or Customer Personnel.

2. **Indemnification by Frappe.** Frappe shall indemnify and hold Customer harmless from and against any claim, suit, proceedings, losses, expenses incurred, damages or costs awarded, or amount paid in a settlement approved by Frappe, arising out of a breach of the terms of this Agreement solely by Frappe, limited to the extent of fees received by Frappe from Customer, or due from Customer to Frappe in the term during which the breach occurred, for the service in which the breach occurred.
3. **Exclusive Remedy.** This "Indemnification" section states the indemnifying Party's sole liability to, and the indemnified Party's exclusive remedy against, the other Party for any claim described in this section.

## 11. Term and Termination

1. **Term of Agreement.** This Agreement commences on the date Customer first accepts it and continues until it is terminated in accordance with '**Termination by Customer**' or '**Termination by Frappe**' below.
2. **Term of Purchased Subscriptions.** The term of each subscription shall be as specified at the time of placing the order for the subscription.
3. **Termination by Customer.** The Customer may terminate this Agreement by sending a thirty (30) days' written notice of termination to Frappe without assigning any reason. For the purpose of this clause, written notice shall be sent to [support@frappecloud.com](mailto:support@frappecloud.com) CC [legal@erpnext.com](mailto:legal@erpnext.com) with the subject line "**Notice of Termination of Frappe Cloud Agreement**".
4. **Termination by Frappe.** Frappe may terminate this Agreement and/or subscription(s) or Service(s) purchased or paid for under this Agreement and/or any account under this Agreement: (a) immediately upon written notice for failure to comply with the Acceptable Use Policy; (b) upon thirty (30) days' written notice to Customer for any or no reason; (c) immediately and without notice for failure to make timely payment;; or (d) immediately,

without notice and without assigning any reason, in case of a free account and/or trial account. For the purpose of this clause, written notice, if required, will be sent to the Customer's registered email address.

- 5. Effect of Termination.** Frappe will retain Your data for a minimum period of thirty (30) days from the date of termination of this Agreement, during which time it may be available for You to download. After this period of thirty (30) days from the date of termination of the Agreement, Frappe may delete Your data without prior notice and without assigning any reason. You shall be the sole liable party for any damage or loss incurred by You or a third party as a result of destruction or loss of access to such data.
- 6. Refund or Payment upon Termination.** If this Agreement is terminated by Frappe in accordance "Termination by Frappe" above, and Customer has complied with these Terms, then Frappe shall refund to Customer any prepaid fees covering the remainder of the term of active yearly/annual subscriptions after the effective date of termination on a pro-rated basis. In no situation will Frappe be liable to provide any refund for the termination of: (i) any Trial account; (ii) free service(s); and/or (iii) subscriptions that are valid for less than 365 days (for example monthly, weekly or daily). In no circumstance shall Frappe be liable to refund any amount to Customer for termination of this Agreement or any Service by Customer. Upon termination of this Agreement by either Party, Frappe shall provide invoice(s) to Customer for services provided by Frappe, and Customer shall pay to Frappe any unpaid fees, dues or amounts for Service(s) that have been provided by Frappe prior to the effective date of termination of the Agreement or Service, regardless of whether such Service(s) were actually used by Customer, regardless of which Party terminated the Agreement or Service, and regardless of the reason for termination of the Agreement or Service.
- 7. Surviving Provisions.** The sections titled "Payments and Refunds", "License by Customer", "Confidentiality", "Warranty Disclaimers and Limitation of Liability", "Indemnification", "Refund or Payment upon Termination", "Surviving Provisions", "General Provisions", and any other section or clause which by its nature survive termination or expiration of this

Agreement shall survive the termination of the Agreement until such time till the obligations are fulfilled and/or those sections or clauses are no longer applicable.

## 12. Disputed Accounts

1. **Ownership of Data.** In case of a paid subscription, the data is owned by the company or organisation in whose name the invoice is made out and not the account holder.
2. **Disputes Regarding Ownership of Account.** In case of dispute about ownership of the account, Customer must provide a government registered document or government registered document number (as requested by Frappe) with the name of the company/organisation and address to prove the ownership/control of the company/organisation to Frappe's satisfaction. Frappe reserves the right to ask for a court order, and/or additional documentation and/or proof of ownership or control over the company/organisation. In case there is no government authorized registration of the company/organisation, then Frappe will not transfer the account to any other party, and the account will remain in the possession of the person that has valid credentials to access such account. If there is a government website that shows the official address and registered owners of the company/organisation and if the registered owner does not have access to the account, then Frappe will block access to the existing users and re-issue password to one user that will be sent to the registered address via post/courier.
3. **Costs Associated with Account Disputes.** All costs associated with this Section on "Disputed Accounts" must be borne by the company, organisation or person that wishes to gain access to such disputed account.
4. **Legal Orders.** If there is an ongoing legal dispute regarding any account or data, then, subject to a relevant court, government or law enforcement order, we will keep the account frozen until relevant directions are received from a court, government or law enforcement.
5. **Loss or Deletion of Data During Dispute.** In order to avoid loss or deletion of such disputed data, Frappe requests the parties to a dispute to amicably decide, at the beginning of the dispute, which party shall be responsible to pay for the disputed data and account

until such a dispute is resolved. Frappe reserves the right to undertake any action permitted under these Terms, including termination of any subscription, account or this entire Agreement, for non-receipt of any subscription fee in time. Frappe shall not be responsible for the loss or deletion of any or all data following termination of any subscription, account or this Agreement by Frappe due to non-payment of dues during the pendency of any dispute under this Section on "Disputed Accounts".

## 13. General Clauses

- 1. Third-Party Websites, Apps or Services.** The Website or Service may contain links to external third-party websites, apps or services. Frappe does not guarantee, approve or endorse the information or product available on such third-party websites, apps or services, nor does a link indicate any association with or endorsement of the linked website, app or service. We do not operate or control and have no responsibility for the information, products and/or services found on any external sites. Nor do We represent or endorse the accuracy or reliability of any information, products and/or services provided on or through any external sites, including, without limitation, warranties of any kind, either express or implied, warranties of title or non-infringement or implied warranties of merchant-ability or fitness for a particular purpose. You assume complete responsibility and risk in your use of any external website, app or service. Frappe shall not be responsible for any loss or damage incurred by You while dealing with any third party. You should direct any concerns regarding any external link to the relevant website's, app's or service's administrator, owner or webmaster. You are hereby informed to exercise utmost caution when visiting any third-party website, app or service.
- 2. Entire Agreement.** This Agreement constitutes the entire agreement between Frappe and Customer pertaining to the subject matter hereof and supersedes in its entirety all written or oral agreements between the Parties.
- 3. Severability.** The Parties agree that if any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law or otherwise unenforceable, the Parties will



attempt in good faith to make the least amount of changes necessary to this Agreement in order to restore the original intention or approximate the original intention behind the removed clause. If such modification is not possible, such provision will be deemed null and void in such jurisdiction, and the remaining provisions of this Agreement will remain in effect.

4. **Force Majeure.** You understand that there may be an occurrence of an event or effect that cannot be reasonably anticipated or controlled, which even by the exercise of reasonable diligence cannot prevent non-performance, and in particular, performance of the Service or fulfilment of an Order or Instruction. These occurrences and events include, but are not limited to: acts of God; acts of government; acts of war; acts of public enemies; acts of terror; strikes or other labour problems; pandemic; epidemic; floods; fires; earthquakes; civil unrest; riots; explosions; outages; general Internet brown-outs or black-outs or shortage of bandwidth; hardware failures; hacking, denial of service or ransomware attacks; actions of the elements; or other causes beyond the control of Frappe in the performance of this Agreement. Upon the occurrence of such event or effect You agree to excuse performance under this Agreement and not hold Frappe liable for the delay in or failure of performance under this Agreement. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages.
5. **Assignment.** You may not assign any of Your rights or obligations hereunder, whether by operation of law or otherwise, without Frappe's prior written consent. Frappe may assign this Agreement in its entirety, without Your consent, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
6. **Relationship between Parties.** The Parties to this Agreement are independent and nothing in this Agreement shall make them partners, employees, agents, or other representatives of the other Party hereto. Neither Party shall make any representation that suggests otherwise.

7. **Third Party Beneficiaries.** This Agreement is between Frappe and Customer only. There are no third party beneficiaries under this Agreement. Customer Personnel are not third-party beneficiaries under this Agreement.
8. **Arbitration, Governing Law and Jurisdiction.** Both Parties shall make every effort to resolve all differences amicably taking into consideration the cause for which the Parties have purposed to work together. In the event of any unresolved dispute the same shall be settled in accordance with The Arbitration and Conciliation Act, 1996 by appointing a sole arbitrator with mutual consent. The decision of the arbitrator shall be final. The Parties shall bear their own individual costs and the costs of the arbitration shall be borne equally by the Parties. The venue of arbitration and the seat of arbitration shall only be at Mumbai in India. The language of the arbitration shall be English. This Agreement shall be governed by and construed in accordance with the laws of India.
9. **Waiver.** No failure or delay by Frappe in exercising any right under this Agreement will constitute a waiver of that right.
10. **Interpretation.** In this Agreement, the singular includes the plural and the plural the singular; headings and subheadings in this Agreement are for convenience only and do not affect the meaning of the relative section / clause; words importing any gender include the other genders; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; the word "or" shall be deemed to include "and/or", the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to articles, sections (or subdivisions of sections) or exhibits or schedules are to those of this Agreement; and references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by the terms of this Agreement.
11. **Contact Information.** If You have any questions or comments about our Terms of Use, You can contact us at [support@frappecloud.com](mailto:support@frappecloud.com) CC [legal@erpnext.com](mailto:legal@erpnext.com) .

