

CLOUDFRAN™ SOFTWARE SUBSCRIPTION AGREEMENT

Last Updated: April 25, 2023

CLOUDFRAN™ INCORPORATED ("CLOUDFRAN™"), THROUGH ITS HOSTED SERVICE OR OTHERWISE, IS WILLING TO GIVE ACCESS TO THE CLOUDFRAN™ SOLUTION (DEFINED BELOW) TO YOU AS AN INDIVIDUAL OR COMPANY (REFERENCED BELOW AS "YOU" OR "YOUR" OR "USER") ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS IN THIS SUBSCRIPTION AGREEMENT ("AGREEMENT" OR "CONTRACT") OR OTHER LEGALLY BINDING ALTERNATE AGREEMENT (DEFINED BELOW). IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT OR THE ALTERNATE AGREEMENT, CLOUDFRAN™ IS UNWILLING TO PROVIDE ACCESS AND/OR USE OF THE CLOUDFRAN™ SOLUTION TO YOU, AND YOU SHOULD IMMEDIATELY DISCONTINUE THE USE OF THE CLOUDFRAN™ SOLUTION AND DESTROY ANY DOCUMENTATION (DEFINED BELOW) IN YOUR POSSESSION. IF YOU ARE AN EMPLOYEE OR AGENT OF A COMPANY (THE "COMPANY") AND ARE ENTERING INTO THIS AGREEMENT OR AN ALTERNATE AGREEMENT TO OBTAIN THE CLOUDFRAN™ SOLUTION FOR USE BY YOU AND/OR THE COMPANY FOR YOURS AND ITS OWN BUSINESS PURPOSES, YOU HEREBY AGREE THAT YOU ENTER INTO THIS AGREEMENT OR THE ALTERNATE AGREEMENT ON BEHALF OF THE COMPANY AND THAT YOU HAVE THE AUTHORITY TO BIND THE COMPANY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT OR THE ALTERNATE AGREEMENT (AS APPLICABLE).

BY CLICKING THE "ACCEPT" BUTTON BELOW, YOU ACKNOWLEDGE:

(1) THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY IT OR (2) THAT YOU HAVE READ THE ALTERNATE AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY THE TERMS OF THAT ALTERNATE AGREEMENT. IF YOU DO NOT AGREE TO ANY OF THE TERMS IN THIS AGREEMENT OR THE ALTERNATE AGREEMENT (AS APPLICABLE), CLOUDFRAN™ IS UNWILLING TO PROVIDE YOU WITH ACCESS AND/OR USE OF THE CLOUDFRAN™ SOLUTION, AND YOU SHOULD CLICK ON THE "DO NOT ACCEPT" BUTTON BELOW.

1. DEFINITIONS. For the purposes of this Agreement, the following terms shall have the following meanings:

1.1 "Alternate Agreement" means a legally binding subscription or license agreement executed directly with CLOUDFRAN™ or a similar agreement approved by CLOUDFRAN™ that is provided in place of this Agreement by one of CLOUDFRAN™'s accredited resellers or Original Equipment Manufacturer (OEM) partners that sets forth terms and conditions for Your access and use of the CLOUDFRAN™ Solution and which supersedes and replaces some or all of the terms and conditions of this Agreement.

1.2 "Authorized User Profile" means a profile associated with a user that authorizes access to the CLOUDFRAN™ Solution. A user may have multiple profiles and each such profile shall be counted towards the number of Authorized User Profiles. Authorized User Profiles are unique to individual users and cannot be shared or used by more than one user.

1.3 "Confidential Information" means all of the trade secrets, business and financial information, source code, machine and operator instructions, business methods, procedures, know-how and other information of every kind that relates to the business of either party and is marked or identified as

confidential or disclosed in circumstances that would lead a reasonable person to believe such information is confidential. CLOUDFRAN™'s Confidential Information includes, without limitation, the CLOUDFRAN™ Solution and Documentation related thereto.

1.4 "Documentation" means the operating manuals, including a description of the functions performed by the CLOUDFRAN™ Solution, user instructions, technical literature, which may, from time to time, be supplied to You by CLOUDFRAN™ to facilitate the use and application of the CLOUDFRAN™ Solution.

1.5 "Evaluation Use" means use of the CLOUDFRAN™ Solution solely for evaluation and trial purposes only.

1.6 "Intellectual Property Rights" means all existing and future worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, moral rights, contract rights and other proprietary rights.

1.7 "CLOUDFRAN™ Solution" means the hardware, software, and development tools (in object code format only), including any APIs, Third Party Products, and Documentation included therewith, that CLOUDFRAN™ provides to You through its hosting services or otherwise pursuant to one or more orders accepted by CLOUDFRAN™, all under the terms of this Agreement and/or an Alternate Agreement (as applicable).

1.8 "Production Use" means use of the CLOUDFRAN™ Solution for internal business purposes only (excluding Evaluation Use). Production Use does not include the right to reproduce the CLOUDFRAN™ Solution for sublicensing, resale, or distribution. Without limiting the generality of the foregoing, Production Use does not allow any operation of the CLOUDFRAN™ Solution on a time-sharing service or service bureau basis or distributing the CLOUDFRAN™ Solution as part of an ASP, VAR, OEM, distributor, or reseller arrangement.

1.9 "Protected Health Information" or "PHI" shall have the meaning set forth in 45 C.F.R. 160.103, as recognized under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), as such may be amended.

1.10 "Third Party Product" means any software (in source code or object code format) or other materials of a third-party supplier or licensor that is licensed to CLOUDFRAN™ and incorporated or integrated into or delivered with the CLOUDFRAN™ Solution.

2. CLOUDFRAN™ Service.

2.1 Subscription to the CLOUDFRAN™ Solution. Subject to the terms of this Agreement or the Alternate Agreement (as applicable), including, without limitation, the payment of all applicable fees, CLOUDFRAN™ hereby grants to You a non-exclusive, non-transferable, non-sublicensable subscription to access and use the CLOUDFRAN™ Solution in accordance with the Documentation solely for Your internal business purposes and not for resale.

2.1.1 Evaluation Use. The terms of this Section 2.1.1 are applicable to You if You have obtained the CLOUDFRAN™ Solution for Evaluation Use. Subject to the terms of this Agreement or the Alternate Agreement (as applicable), and the Documentation, CLOUDFRAN™ grants to You a non-exclusive, non-transferable, non-sublicensable subscription to access and use the CLOUDFRAN™ Solution solely for Evaluation Use; provided, however, Third Party Products supplied by CLOUDFRAN™ as part of the CLOUDFRAN™ Solution, if any, may be subject to Your acceptance of additional terms and conditions applicable to such Third Party Products (see Section 6 below). This evaluation subscription begins upon

first access to the CLOUDFRAN™ Solution and ends on the earlier of the expiration of the subscription as specified by CLOUDFRAN™ or when terminated by CLOUDFRAN™ in accordance with this Agreement or the Alternate Agreement (as applicable). When the subscription terminates, you must stop using the CLOUDFRAN™ Solution. All rights not specifically granted to You herein are retained by CLOUDFRAN™ and its licensors.

2.1.2 Production Use. The terms of this Section 2.1.2 are applicable to You if You have purchased the CLOUDFRAN™ Solution for Production Use. Subject to the terms of this Agreement or the Alternate Agreement (as applicable), and the Documentation, CLOUDFRAN™ grants to You (i) a non-exclusive, non-transferable, non-sublicensable fee-bearing subscription to access and use the CLOUDFRAN™ Solution solely for Production Use, and (ii) the right to set up Authorized User Profiles for use in connection with the CLOUDFRAN™ Solution; provided, however, Third Party Products supplied by CLOUDFRAN™ as part of the CLOUDFRAN™ Solution, if any, may be subject to Your acceptance of additional terms and conditions applicable to such Third Party Products (see Section 6 below). All rights not specifically granted to You herein are retained by CLOUDFRAN™ and its licensors.

2.2 Service Levels. With respect to the CLOUDFRAN™ Solution licensed for Production Use, subject to the terms of this Agreement or the Alternate Agreement (as applicable), including, without limitation, the payment of all applicable fees, CLOUDFRAN™ shall use commercially reasonable efforts to (a) maintain the security of the CLOUDFRAN™ Solution; (b) provide the support services described at <https://cloudfran.com/legal/support/> and (c) make the CLOUDFRAN™ Solution generally available 24/7 (24 hours a day, 7 days a week), except for: (i) planned down time, which shall be any period outside of normal business hours for which CLOUDFRAN™ gives eight (8) hours or more notice that the CLOUDFRAN™ Solution will be unavailable; or (ii) down time caused by circumstances beyond CLOUDFRAN™'s reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, telecommunications failures or delays, computer failures involving hardware or software not within CLOUDFRAN™'s possession or reasonable control and acts of vandalism (including network intrusions and denial of service attacks), but only if such unavailability results notwithstanding the exercise of reasonable care and diligence to avoid or mitigate the same in anticipation of or in response to such causes ("CLOUDFRAN™ Solution Availability Commitment"). CLOUDFRAN™ reserves the right to modify the support services in its reasonable discretion from time to time, which modifications shall become effective upon posting to the above URL. You are solely responsible for providing, at Your own expense, all network access to the CLOUDFRAN™ Solution, including, without limitation, acquiring internet access and any end-point device such as a computer or laptop or tablet, and other equipment as may be necessary to connect to, access and use the CLOUDFRAN™ Solution.

2.3 Purging Inactive Authorized User Profiles. Notwithstanding anything contained herein to the contrary, CLOUDFRAN™ will not purge inactive user profiles without the request and or consent of the subscription purchaser, unless the account has been dormant for 12 months or more. CLOUDFRAN™ reserves the right to keep any applicable data that is meaningful to machine learning and artificial intelligence after specific user accounts are purged.

3. Your Use of the CLOUDFRAN™ Solution.

3.1 Access and Security Guidelines. Each Authorized User Profile will be assigned a unique profile with a user identification name and password ("User ID") for access to and use of the CLOUDFRAN™ Solution. You shall be responsible for ensuring the security and confidentiality of Your User ID. You will use commercially reasonable efforts to prevent unauthorized access to, or use of, the CLOUDFRAN™ Solution, and notify CLOUDFRAN™ promptly of any such unauthorized use. You will not use Your access to the CLOUDFRAN™ Solution to: (a) harvest, collect, gather or assemble information or data regarding other users without their consent; (b) access or copy any data or information of other users without

their consent; (c) knowingly interfere with or disrupt the integrity or performance of the CLOUDFRAN™ Solution or the data contained therein; or (d) harass or interfere with another user's use and enjoyment of the CLOUDFRAN™ Solution. You will, at all times, comply with all applicable local, state, federal, and foreign laws and regulations in using the CLOUDFRAN™ Solution, including without limitation, such laws and regulations relating to privacy, protected health information and export/import controls.

3.2 Data. You shall have sole responsibility for the accuracy, quality, integrity, legality and appropriateness of Your content and data. You are solely responsible for Your content and data and will not provide, post or transmit any content, data or any other information or material that: (a) infringes or violates any intellectual property rights, publicity/privacy rights, law or regulation; or (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information. CLOUDFRAN™ may take remedial action if any of Your content or data violates this Section, however, CLOUDFRAN™ is under no obligation to review such content or data for accuracy or potential liability. CLOUDFRAN™ may access Your account(s), including without limitation Your content and data, to respond to service or technical problems and for the sole purpose of using the content and data to correct any system problems with your account or performance related issues.

3.3 Use Restrictions. You are responsible for all activities that occur under Your User ID. You will not, and will not attempt to: (a) reverse engineer, disassemble or decompile any component of the CLOUDFRAN™ Solution; (b) interfere in any manner with the operation of the CLOUDFRAN™ Solution; (c) sublicense or transfer any of Your rights under this Agreement or the Alternate Agreement (as applicable), except as otherwise provided in this Agreement or the Alternate Agreement (as applicable), or otherwise use the CLOUDFRAN™ Solution for the benefit of a third party or to operate a service bureau; (d) modify, copy or make derivative works based on any part of the CLOUDFRAN™ Solution; (e) create Internet "links" to or from the CLOUDFRAN™ Solution, or "frame" or "mirror" any of CLOUDFRAN™'s content which forms part of the CLOUDFRAN™ Solution (other than on Your own internal intranets); or (f) otherwise use the CLOUDFRAN™ Solution in any manner that exceeds the scope of use permitted under this Agreement or the Alternate Agreement (as applicable).

3.4 Fees.

3.4.1 Payment and Taxes. In consideration of CLOUDFRAN™ allowing access and use of the CLOUDFRAN™ Solution, You agree to pay CLOUDFRAN™ (or CLOUDFRAN™'s accredited reseller or Original Equipment Manufacturer (OEM) partner from whom You purchased such access and use) the total applicable non-refundable and non-cancelable subscription fee(s) pursuant to the terms of the applicable invoice or Alternate Agreement (as applicable). Except as otherwise provided in an Alternate Agreement, CLOUDFRAN™ reserves the right to update fees upon thirty (30) days advance electronic notice on <https://cloudfran.com/cloudfran-announcements/>. Fees cannot increase within the current subscription twelve (12) month period by more than the USA Consumer Price Index (CPI) plus 3.5%, based on the prior 12 months of USA CPI data, and can only increase a maximum of one time within a year for the subscription. CloudFran™ reserves the right to adjust subscription fees for renewals and new subscriptions based on market conditions and the cost to support existing services. All fees are exclusive of sales, use, VAT and other taxes and duties. CLOUDFRAN™ may assess interest charges of twenty percent (20%) per month on late payments to CLOUDFRAN™, payments are due fifteen (15) days advance of the next billing cycle. If Your account is ten (10) days or more overdue, in addition to any of its other rights or remedies, CLOUDFRAN™ reserves the right to suspend Your access to the CLOUDFRAN™ Solution until such amounts are paid in full.

3.4.2 Foreign Taxes. Except as otherwise provided in an Alternate Agreement, if You access and/or use the CLOUDFRAN™ Solution from outside the United States, You agree that the amounts remitted to CLOUDFRAN™ (or CLOUDFRAN™'s accredited reseller or Original Equipment Manufacturer

(OEM) partner from whom You purchased access to the CLOUDFRAN™ Solution) are to be the actual amounts due without withholding taxes or other assessments by authorities anywhere in the foreign location, which withholding taxes or assessments You agree to pay. You will promptly furnish certificates evidencing payment of such amounts.

3.4.3 Cancellation. Cancellation with the CLOUDFRAN™, Inc. solution is governed by a signed contract for specific services or this online agreement, whereas the signed contract take precedence over online agreement terms, but in all cases, obligation for refunds for prior months of available services will not be provided, obligation for refunds for future months of service for the duration of the signed contract will not be provided, future customer payments for monthly and yearly commitments will not be removed in accordance with the contract terms. The online subscription agreement is 3 years, with an auto renewal after three users, unless cancelled with written notice post marked 60 days prior to renewal. Cancellation must be sent with the licensed customer name, company name, email, and address, with a written request to cancel the existing subscription at the end of the subscription period, with notices being sent to CloudFran Inc, 3070 WINDWARD PLAZA STE F #138, ALPHARETTA, GA 30005-9837. Cancellations that are within the terms of the contract and license agreement are restricted to the terms of the contract. Future obligations beyond the contractual period and under the license and contract agreement will not be billed when such cancellation is within the terms of the contract and/or license agreement for the customer.

3.4.4 Upgrades. Upgrades for subscription services are allowable under the condition that a new contract period is started with the upgrade date of the new service and will be governed by the contractual and/or license agreement for the upgraded product. Any customer credits for the current month that is paid in advance for a monthly subscription will be prorated and refunded to the customer within thirty (30) days. Any customer credits for the remaining months under a yearly subscription payment plan, these are all paid in advance, will be prorated, and refunded to the customer within thirty (30) days. No license can be downgraded during the subscription term of the license.

3.4.5 Pay as You Go Communications Subscriptions. The Pay as You Go communications subscription are payments for communications with Voice, SMS, and Email messages that are used for general communications credits or CLOUDFRAN Campaign communications credits, depending on which plan you purchase. The Pay-as-You-Go Communication Subscriptions are short term, and last 60 days from the start of the service period. Any Pay-as-You-Go Communication Subscription funds that have not been used within the 60-day period will expire and not be available for usage.

3.4.6 Communications Subscriptions. The communications subscription are payments for communications with Voice, SMS, and Email messages that are used for general communications credits or campaign communications credits, depending on which plan you purchase. The Communication Subscriptions specify a monthly credit amount, and last for the duration of monthly period. Any Communication Subscription funds that have not been used within the monthly period will expire and not be available for usage. Yearly communications subscription plans will have a monthly allocation and will expire at the end of the monthly period. It should be noted that the yearly communications subscription options are discounted from the monthly rate and offer a higher number of communication credits than the monthly communications subscription plan and the monthly communication subscription plan offers a higher number of communications credits than the Pay-as-You-Go Communications Subscription. To maximize your credits, it is best to purchase yearly subscription plan for communications.

3.4.7 Phone Number Subscriptions. The phone number subscription is only available as a yearly subscription and paid in advance of the service period. No refunds will be provided for phone number subscriptions. Customers are required to be an existing CLOUDFRAN subscription customer to have access to phone number subscription.

4. TERM AND TERMINATION.

4.1 Term. The term of Your subscription to the CLOUDFRAN™ Solution shall be as set forth in the applicable order(s) accepted by CLOUDFRAN™. Such subscription, and this Agreement and/or the Alternate Agreement (as applicable) shall continue until such time as they are terminated by either party pursuant to this Section 4 or the terms of the Alternate Agreement (as applicable).

4.2 Termination by CLOUDFRAN™. CLOUDFRAN™ may terminate Your subscription and this Agreement immediately if You are in material breach of any term or condition of this Agreement or the Alternate Agreement. With respect to the CLOUDFRAN™ Solution provided for Evaluation Use, CLOUDFRAN™ reserves the right, in its sole discretion, to suspend or terminate access to the CLOUDFRAN™ Solution at any time and for any reason. CLOUDFRAN™ will return any prorated fees within the constraints outlined in the contractual and/or license agreement.

4.3 Termination by You. Except as otherwise provided in an Alternate Agreement or the applicable order accepted by CLOUDFRAN™, You may terminate Your subscription and this Agreement within the constraints of the contractual period obligation and fees upon thirty (30) days written notice to CLOUDFRAN™, notwithstanding any contractual obligations that might go beyond the standard 30-day notice for some product solutions. All license subscriptions are for one year minimum, with some subscription plans offering a 3-year term, these subscriptions can only terminate with written notice 30-days prior to the ending of the subscription plan.

4.4 Effect of Termination. In the event of termination or expiration of any subscription and/or this Agreement for any reason, Sections 1, 3.3, 3.4, 4.4, 5, 6, 7, 8, 9, 10 and 11 shall survive. Immediately upon any expiration or termination of this Agreement, You shall remove from Your system(s) and destroy any and all copies of the Documentation, Your subscription to the CLOUDFRAN™ Solution and Documentation shall terminate, and You shall cease all use of the same. Except as otherwise agreed to in writing by CLOUDFRAN™ or expressly provided in an Alternate Agreement or an order accepted by CLOUDFRAN™, You shall remain liable for all minimum or committed fees under an order regardless of any early termination of the applicable subscription(s). No refunds will be made available for early terminations.

5. OWNERSHIP. CLOUDFRAN™ and its respective suppliers and licensors shall retain all right, title and interest in and to the CLOUDFRAN™ Solution, Documentation and Third-Party Products, and all portions thereof, including, without limitation, all Intellectual Property Rights. You receive no right, title or interest in or to any of the foregoing. You agree that any input or suggestions provided to CLOUDFRAN™, its accredited reseller or OEM partner for new features, functionality, or performance improvements of the CLOUDFRAN™ Solution is the sole property of CLOUDFRAN™ and You relinquish any and all ownership of any Intellectual Property Rights, exclusivity, confidentiality, or claims for compensation to any idea implemented by CLOUDFRAN™.

6. THIRD PARTY TERMS. Certain of the Third-Party Products made available or distributed to You under this Agreement or the Alternate Agreement (as applicable) are subject to alternative terms and conditions that may vary from those set forth in this Agreement or the Alternate Agreement. Such alternative terms and conditions can be viewed at <http://www.cloudfran.com/legal>, if such terms exist (the "Third Party Product Terms and Conditions"). The Third-Party Product Terms and Conditions are hereby incorporated into this Agreement and the Alternate Agreement (as applicable) by reference. Your access to the Third-Party Products shall be limited by the restrictions in this Agreement or the Alternate Agreement (as applicable) and any additional restrictions specified in the Third-Party Product

Terms and Conditions. The Third-Party Product Terms and Conditions apply only to those Third-Party Products with which they are expressly identified and will have no effect on the terms and conditions of Your rights of use of any other Third-Party Products or other portions of the CLOUDFRAN™ Solution. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE THIRD-PARTY PRODUCT TERMS AND CONDITIONS, THE THIRD-PARTY PRODUCTS ARE PROVIDED "AS IS" AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE DISCLAIMED.

7. CONFIDENTIALITY AND PROTECTED HEALTH INFORMATION.

7.1 Confidential Information. The parties shall not disclose Confidential Information of the other to any third party or use such Confidential Information for any purpose other than as expressly permitted in this Agreement or the Alternate Agreement (as applicable). Each party agrees that it shall treat all Confidential Information of the other party with the same degree of care as it accords to its own confidential information, and in no event, less than reasonable care. The receiving party's confidentiality obligations under this Section 7.1 with respect to any portion of the disclosing party's Confidential Information shall terminate if and when the receiving party can prove by clear and convincing evidence that such information: (a) was publicly available at the time it was communicated to the receiving party by the disclosing party; (b) becomes publicly available after it was communicated to the receiving party by the disclosing party through no fault of the receiving party; (c) was in the receiving party's possession free of any obligation of confidence at the time it was communicated to the receiving party by the disclosing party; (d) was rightfully communicated to the receiving party free of any obligation of confidence subsequent to the time it was communicated to the receiving party by the disclosing party; or (e) was developed by employees or agents of the receiving party independently of and without reference to any Confidential Information of the disclosing party.

7.2 PROTECTED HEALTH INFORMATION. Notwithstanding anything contained herein to the contrary, CLOUDFRAN™ may use and disclose PHI only as required to satisfy its obligations under this Agreement and in compliance with all applicable privacy laws, including HIPAA and HITECH. Without limiting the generality of the foregoing, CLOUDFRAN™'s Solution provides multiple levels of securing and protecting data:

Network transport " The CLOUDFRAN™ Solution supports the Secure Sockets Layer (SSL) extension for the Hypertext Transfer Protocol (HTTP). This provides encryption of all message bodies for all communication from the user to the CLOUDFRAN™ Solution. All information submitted by CLOUDFRAN™ Solution clients are encrypted using SSL, and all text returned is also encrypted using SSL. In addition, the CLOUDFRAN™ Solution administrator which provides system configuration, usage views and usage reports is also hosted using SSL over HTTP.

Data storage " All persisted data is stored in a SQL database, and this database is password protected. The password for access to this database is available only to system administrators of CLOUDFRAN™ who are responsible for the health of the CLOUDFRAN™ Solution and customer administrators and licensed users with role based protected access.

Viewing of data " Viewing of data in the database is made available with the CLOUDFRAN™ Solution administrator and customer administrators and licensed users with role based protected access. Accounts for the administrator are issued on a tenancy basis. A customer who has a customer administrator account is only able to view data from the CLOUDFRAN™ Solution transactions for their users.

If, and only if, the parties are sharing PHI, CLOUDFRAN™'s Business Associate Agreement which is available at <https://cloudfran.com/legal/business-associate-agreement/> shall apply, and your acceptance of this Agreement shall be deemed to also constitute your acceptance of such Business Associate Agreement.

8. WARRANTY AND DISCLAIMER.

8.1 Warranty. With respect to the CLOUDFRAN™ Solution licensed for Evaluation Use, You acknowledge and agree that (i) the CLOUDFRAN™ Solution is for evaluation purposes only, (ii) Your use of the CLOUDFRAN™ Solution is entirely at Your own risk, and (iii) the CLOUDFRAN™ Solution IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND WHATSOEVER. With respect to the CLOUDFRAN™ Solution licensed for Production Use, CLOUDFRAN™ represents and warrants that the CLOUDFRAN™ Solution will function in substantial conformance with the specifications contained in the Documentation for a period of thirty (30) days from Your first access to the CLOUDFRAN™ Solution (the "Warranty Period"). CLOUDFRAN™ does not warrant that the CLOUDFRAN™ Solution will be uninterrupted or error-free or will operate without loss of data.

8.2 Limited Remedy. CLOUDFRAN™ will, at its own expense and as its sole obligation and Your exclusive remedy for any breach of the warranty set forth in Section 8.1, use commercially reasonable efforts to correct any material error that You can demonstrate and reproduce, and that You report to CLOUDFRAN™ in writing during the Warranty Period, or replace the defective portions of the CLOUDFRAN™ Solution. If CLOUDFRAN™ determines that it is unable to correct the error or replace the defective portions of the CLOUDFRAN™ Solution, CLOUDFRAN™ will refund to You all fees actually paid, in which case this Agreement and the Alternate Agreement (if applicable) and Your right to use the CLOUDFRAN™ Solution will be terminated. Any such error correction or replacement provided to You will not extend the original Warranty Period.

8.3 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN SECTION 8.1, CLOUDFRAN™ SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND WITH REGARD TO ANY SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED OR STATUTORY.

9. INDEMNITY.

9.1 Indemnity by CLOUDFRAN™. CLOUDFRAN™ shall, at its own expense, indemnify, defend, and hold You harmless from and against any and all costs, fees (including reasonable attorneys' fees), damages, liabilities and expenses arising from any third-party claim, action, suit or proceeding to the

extent such claim arises out of an allegation that the CLOUDFRAN™ Technology (defined below) infringes any third-party Intellectual Property Right. Notwithstanding the foregoing, CLOUDFRAN™ shall have no obligations under this Section 9.1 or otherwise with respect to any infringement claim based upon any use of the CLOUDFRAN™ Solution not in accordance with this Agreement or for purposes not intended by CLOUDFRAN™. For purposes herein, "CLOUDFRAN™ Technology" shall mean the CLOUDFRAN™ Solution, excluding any Third-Party Products.

9.2 Indemnity by You. You shall, at Your own expense, indemnify, defend and hold CLOUDFRAN™ harmless from and against any and all claims, costs, fees (including reasonable attorneys' fees), damages, liabilities and expenses to the extent such arise out of Your access to and/or use of the CLOUDFRAN™ Solution and/or Your breach of this Agreement and/or the Alternate Agreement (as applicable); provided, however, You shall not have any indemnity obligations hereunder to the extent any claim is covered by CLOUDFRAN™'s indemnity obligations under Section 9.1 or otherwise arises solely out of CLOUDFRAN™'s breach of this Agreement.

9.3 Actions to Avoid Infringement. If the CLOUDFRAN™ Technology or any portion thereof is likely to become or is the subject of any claim, action, suit or proceeding for infringement, then CLOUDFRAN™ may, at its option and expense: (a) procure for You the right to continue using the CLOUDFRAN™ Technology or relevant portion thereof; (b) replace or modify the CLOUDFRAN™ Technology so as not to infringe; or (c) terminate this Agreement and Your license in and to the CLOUDFRAN™ Technology and CLOUDFRAN™ Solution and refund all fees associated with the CLOUDFRAN™ Solution that have been paid by You to CLOUDFRAN™.

9.4 Indemnification Procedures. The obligation of either party to indemnify the other party hereunder is predicated upon the indemnified party: (a) providing the indemnifying party prompt written notice of any such claim; (b) allowing the indemnifying party to control the defense and any settlement of any such claim, provided that the indemnified party may, at its expense, participate in such defense and settlement negotiations with counsel of its own choosing; and (c) reasonably cooperating with the indemnifying party, at the indemnifying party's expense, in the defense and settlement of such claim.

9.5 Limitation on Indemnity Actions. THIS SECTION 9 STATES CLOUDFRAN™'S SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY, AND YOUR SOLE AND EXCLUSIVE RIGHTS AND REMEDIES, WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS RELATING TO THE CLOUDFRAN™ TECHNOLOGY AND CLOUDFRAN™ SOLUTION.

10. LIMITATION OF LIABILITY.

10.1 General. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT: (1) IN NO EVENT SHALL CLOUDFRAN™'S TOTAL AGGREGATE LIABILITY (OR THAT OF ANY OF CLOUDFRAN™'S LICENSORS OR SUPPLIERS) TO YOU ARISING FROM OR RELATING TO THIS AGREEMENT, THE ALTERNATE AGREEMENT OR YOUR ACCESS TO AND USE OF THE CLOUDFRAN™ SOLUTION EXCEED THE TOTAL AGGREGATE AMOUNT OF FEES PAID BY YOU TO CLOUDFRAN™ FOR THE CLOUDFRAN™ SOLUTION, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE (IT BEING

UNDERSTOOD THAT CLOUDFRAN™'S LIABILITY, AND THE LIABILITY OF ITS LICENSORS AND SUPPLIERS TO YOU MAY BE FURTHER LIMITED BY OTHER PROVISIONS OF THIS AGREEMENT OR THE ALTERNATE AGREEMENT (AS APPLICABLE), INCLUDING THE THIRD PARTY PRODUCT TERMS AND CONDITIONS); (2) IN NO EVENT SHALL CLOUDFRAN™ HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO ANY THIRD PARTY PRODUCT; AND (3) NEITHER CLOUDFRAN™ NOR ANY OF ITS LICENSORS OR SUPPLIERS (INCLUDING THOSE OF THIRD PARTY PRODUCTS) SHALL BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST CODE, DATA, INFORMATION OR MATERIALS, LOST PROFITS OR REVENUE, BUSINESS INTERRUPTION, COMPUTER OR SYSTEM DOWNTIME OR UNAVAILABILITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 Applicability. Some States do not permit disclaimers of certain warranties or limitations on certain types of liability under certain circumstances; consequently, some of the foregoing disclaimers and limitations may not be applicable to You.

11. GENERAL. The CLOUDFRAN™ Solution and related technology are subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree to strictly comply with all such laws and regulations and acknowledge that You have the responsibility to obtain such licenses to export, re-export or import as may be required, if such activities are permitted under this Agreement. The CLOUDFRAN™ Solution is a "commercial item" as that term is defined at 48 C.F.R. 2.101; consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the CLOUDFRAN™ Solution with only those rights set forth therein. This Agreement shall be governed by the laws of the State of Colorado, excluding its conflict of laws principles, and the parties hereby consent to the exclusive jurisdiction and venue in the state and federal courts sitting in Fulton County, Georgia. If any provision of this Agreement is deemed unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. This Agreement and the Alternate Agreement (as applicable) is the complete and exclusive statement of the agreement between You and CLOUDFRAN™ and supersedes any proposal or prior agreement, oral or written, and any other communications between You and CLOUDFRAN™ in relation to the subject matter of this Agreement and the CLOUDFRAN™ Solution. CLOUDFRAN™ may provide certain notices regarding this Agreement to You by email. All notices are effective when delivered. Additionally, CLOUDFRAN™ may revise this Agreement at any time with notice to You, through the CloudFran™ System. By continuing to access or use the CLOUDFRAN™ Solution after CLOUDFRAN™ has delivered notice to You of such revisions, You agree to be bound by the revised Agreement. If any revision is not acceptable to You, Your only recourse is to cease using the CLOUDFRAN™ Solution.

THE CLOUDFRAN™ SOLUTION IS PROTECTED BY UNITED STATES COPYRIGHT LAW AND INTERNATIONAL TREATY. UNAUTHORIZED REPRODUCTION OR DISTRIBUTION IS SUBJECT TO CIVIL AND CRIMINAL PENALTIES.

12. CLOUDFRAN™ Software License.

12.1 General Description. CloudFran™ Software Services is providing you access to your purchased software. This software is delivered as Software-As-A-Service Solution and will require internet access to utilize these services. The payments are automatically withdrawn 7-14 days prior to the start of the service cycle. Please see <https://cloudfran.com> for more information on the various services available with the powerful CloudFran service platform.

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