



JFROG SUBSCRIPTION AGREEMENT – CLOUD

Last Updated: December 31, 2024

This JFrog Subscription Agreement – Cloud (this “**Agreement**”) made by and between the applicable JFrog Contracting Entity specified in Section 12(h) (JFrog Contracting Entity; Governing Law and Jurisdiction) (“**JFrog**”) and you (“**Customer**”). JFrog and Customer may be referred to in this Agreement, individually, as a “**Party**” and collectively, as the “**Parties**”. Capitalized terms not otherwise defined in the body of this Agreement shall have the respective meanings assigned to them in EXHIBIT A (Definitions). THIS AGREEMENT TAKES EFFECT WHEN CUSTOMER CLICKS THE “I ACCEPT” OR SIMILAR BUTTON OR BY ACCESSING OR USING THE JFROG PLATFORM (“**EFFECTIVE DATE**”). BY DOING SO, CUSTOMER: (A) ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THIS AGREEMENT; (B) REPRESENTS AND WARRANTS THAT IT HAS THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND, IF ENTERING INTO THIS AGREEMENT FOR AN ORGANIZATION, THAT IT HAS THE LEGAL AUTHORITY TO BIND THAT ORGANIZATION; AND (C) ACCEPTS THIS AGREEMENT AND AGREES THAT IT IS LEGALLY BOUND BY ITS TERMS. IF CUSTOMER DOES NOT AGREE TO THESE TERMS OR IF CUSTOMER IS A COMPETITOR OF JFROG (OR A PERSON ACTING ON BEHALF OF A COMPETITOR), PLEASE SELECT THE “I DECLINE” OR SIMILAR BUTTON AND DO NOT ACCESS OR USE THE JFROG PLATFORM.

1. ACCESS AND USE OF JFROG PLATFORM.

(a) **JFrog Platform.** JFrog provides a proprietary end-to-end DevSecOps platform managed and hosted by JFrog for the management, scanning and distribution of Customer Artifacts, Self-Hosted Features and any other JFrog software, portal, features or add-ons, hosted and managed either by JFrog or by Customer, as applicable to Customer’s Subscription or included in Customer’s Order Form (“**JFrog Platform**”). JFrog will use commercially reasonable efforts to make the JFrog Platform available in accordance with this Agreement, the Order Form, the Uptime guarantee in EXHIBIT B (Uptime Guarantee) and laws and government regulations applicable to JFrog’s provision of its services to its customers generally. Each duly executed Order Form is hereby incorporated by reference into and made part of this Agreement. When registering for a Subscription, Customer will select: (i) a Monthly Subscription or Prepaid Subscription; (ii) the Subscription Level; (iii) the cloud platform(s) and geographic hosting region(s) in which Customer Data will be stored by the cloud platform provider; and (iv) the Subscription Term, if applicable. Customer’s, Customer Users’, and External Users’ use of the JFrog Platform, services and other interactions are subject to JFrog’s Privacy Notice (available online at <https://www.jfrog.com/privacy-notice>).

(b) **License.** Subject to the terms and conditions of this Agreement, JFrog and its Affiliates hereby grant Customer and its Affiliates a non-exclusive, non-transferable, non-sublicensable, revocable, limited right and license during the Subscription Term to: (i) access and use the features of the JFrog Platform set forth in the applicable Order Form solely for Customer’s Internal Use; (ii) use the Documentation and the JFrog Materials solely for Customer’s Internal Use in connection with its access and use of the JFrog Platform; (iii) download, install, access and use the Self-Hosted Features, to the extent included in Customer’s Subscription Level or Order Form, solely for Customer’s Internal Use; and (iv) permit External Users to download Customer Artifacts from Customer’s Instance, in each case, in accordance with this Agreement, including the Order Form.

(c) **Restrictions on Use.** Customer will not, directly or indirectly permit, facilitate, or otherwise allow any other person or entity to:

(i) access or use the JFrog Platform: (A) in a manner that does not comply with Section 1 of this Agreement (including the applicable Order Form), the Acceptable Use Policy (accessible online at

<https://jfrog.com/acceptable-use-policy/>), and/or the Documentation; (B) for fraudulent, misleading, or unlawful activities or purposes; or (C) for the purpose of building, improving, enhancing or providing a competitive product or service;

(ii) Use any proxying, caching or other mechanism to provide any third parties (other than those permitted under this Agreement) with access to and/or use of the JFrog Platform.

(iii) Sublicense, assign, publish, resell, transfer, distribute, pledge, loan, lease, market, rent, make available, or provide use of the JFrog Platform to any entity or person, including on or in connection with any service bureau arrangement, facility management or third-party training, except as expressly allowed under the license grant in this Agreement.

(iv) delete, obscure, or alter JFrog's Marks, brand features, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the JFrog Platform or Documentation;

(v) upload or transmit any personal data (except for Customer User Information), viruses or other malicious content or code into or through the JFrog Platform;

(vi) translate, reverse-translate, decipher, decode, disassemble, or otherwise reverse-engineer, or otherwise attempt to discover the source code or underlying ideas of the JFrog Platform;

(vii) breach, bypass, or otherwise interfere with security-related or limiting features of the JFrog Platform;

(viii) copy, modify, or create derivative works of, the JFrog Platform or Documentation;

(ix) access or use the JFrog Platform in any manner, or by using any means, including but not limited to, caching mechanism, which results in the avoidance of fees that would otherwise be incurred for such access or use.

(d) **Customer Responsibilities.** Customer agrees to: (i) immediately notify JFrog of any unauthorized disclosure or use of Customer User Information and/or login credentials, and be responsible for maintaining the confidentiality of the foregoing; (ii) provide accurate, complete, and current registration, billing and contact information (including a credit card in the case of a Monthly Subscription) during registration and keep that information up to date during the Subscription Term; and (iii) backup all Customer Artifacts; and (iv) not upload to the JFrog Platform any unlawful Customer Data.

(e) **Customer's Affiliates.** Customer's Affiliates may enter into an Order Form with JFrog to enable a Customer's Affiliate to use the JFrog Platform. Each such Order Form entered into by Customer's Affiliate and JFrog is hereby incorporated by reference into and made part of this Agreement. When interpreting the terms of this Agreement with respect to a given Order Form entered into by Customer's Affiliate, references to "Customer" will be construed as references to the Customer Affiliate that signed the Order Form, except where the context requires otherwise.

(f) **Third-Party Components and Third-Party Technology.**

(i) JFrog Third-Party Components. The JFrog Platform includes certain Third-Party Components that are subject to open source or third-party license terms which are listed in the Documentation and on JFrog About Box (accessible online at <https://jfrog.com/about-box/>). JFrog will maintain and update the

Documentation and JFrog About Box following any changes to the JFrog Platform Third-Party Components forming part of the JFrog Platform. "Third-Party Components" means third-party software, files, components, integrations, and materials embedded in the JFrog Platform.

(ii) **Customer Third-Party Technology.** Subject to the terms and conditions of this Agreement, Customer may link, connect or use third-party Technology in conjunction with the JFrog Platform at Customer's sole risk and responsibility and solely in accordance with the Documentation and the applicable third-party license agreement.

2. FEES AND PAYMENT.

(a) **Fees.** Customer will pay the fees as set forth in an Order Form, the SOW, or the Website, as applicable, which may comprise fees for: (i) the applicable Subscription Level; (ii) purchasing additional Platform Metrics to be used during the applicable Subscription Term and any applicable overage fees; (iii) Support Services, Gold or Platinum Support; or (iv) other services set forth on an Order Form (the "**Fees**"). Fees will be payable: (A) for Monthly Subscriptions, at the end of each calendar month during the Subscription Term by charging the credit card Customer has provided to JFrog; or (B) for Prepaid Subscriptions, in advance of the Subscription Term. Credit card details are not retained by JFrog and are transported directly to the applicable service provider as needed to provide the JFrog Platform. All Fees are non-refundable, unless stated otherwise in this Agreement.

(b) **Prepaid Subscriptions.** For a Prepaid Subscription, JFrog will, on a monthly basis, deduct from the Fees set forth in the applicable Order Form: (i) the applicable Monthly Commitment; and (ii) any fees for Customer's usage of the JFrog Platform in excess of the Monthly Commitment. Unless stated otherwise in an applicable Order Form, Platform Metrics will be used on a monthly basis based on the Monthly Commitment and not accumulate or roll over during the Subscription Term or upon renewal of a Subscription. To the extent Customer has drawn down all Fees prior to the end of the Subscription Term, Customer will continue to be invoiced at the same pricing as set forth in the Order Form until the end of the Subscription Term.

(c) **Cloud Marketplace.** To the extent Customer has purchased a Subscription through a digital catalog of software listings from cloud computing services providers ("Cloud Marketplace Providers") supported by the JFrog Platform ("**Cloud Marketplace**"), Customer will pay the Fees: (i) to the Cloud Marketplace Provider as specified on the applicable offer as provided in the Cloud Marketplace; or (ii) to the Cloud Marketplace Provider as set out in an Order Form included in the Cloud Marketplace offer. All Fees will be paid through the billing of Customer's account with the applicable Cloud Marketplace Provider in accordance with the payment terms set out in the applicable offer. Fees for usage of Platform Metrics in excess of the Monthly Commitment will be billed on a monthly basis.

(d) **Resellers.** Customer may purchase Prepaid Subscriptions through a third party authorized by JFrog to sell a Subscription to Customer on behalf of JFrog ("**Reseller**"). If Customer chooses to use a Reseller, Customer hereby agrees and acknowledges that: (i) JFrog and Reseller will enter into an Order Form in which Reseller will purchase a Subscription on behalf of Customer and pay to JFrog the applicable Fees; (ii) JFrog will not be bound by any commitment, agreement or understanding entered into between Customer and Reseller; (iii) JFrog will not be liable for any acts or omissions of Reseller; (iv) Customer's use of and access to the JFrog Platform will be governed by the terms and conditions of this Agreement; and (v) any failure of Reseller to pay JFrog applicable Fees will be considered a breach of this Agreement by Customer, entitling JFrog to collect payment and interest directly from Customer without limiting JFrog's rights or remedies set out in this Agreement or prescribed by applicable law.

(e) **Taxes.** All Fees and amounts payable under this Agreement are exclusive of sales, use, value-added, withholding and other taxes and duties ("**Taxes**"). Customer will pay all applicable Taxes, except for Taxes payable on JFrog's net income. If any Tax must be withheld or deducted from any payment made by Customer under this

Agreement, Customer will gross-up such payment by an amount that will ensure that after applying the required withholding or deduction, JFrog will receive an amount equal to the payment otherwise due to JFrog.

(f) **Invoices and Payment.** JFrog will issue to Customer an invoice upon execution of an applicable Order Form in accordance with the terms set forth in the Order Form. The Order Form will set forth the applicable pricing, payment, and invoicing terms for Customer's Subscription. JFrog may charge interest on any amount overdue at the maximum rate permitted by law and Customer will reimburse JFrog for all reasonable costs incurred by JFrog in collecting any such overdue amounts or interest, including attorneys' fees. JFrog may also deduct the amount of any debt or unpaid fees from the Fees paid for a renewal of a Prepaid Subscription.

(g) **Records; Audit.** Customer will keep and maintain complete and accurate records relating to its access and use of the JFrog Materials, including as necessary for JFrog to: (i) calculate, or verify the calculation of, the Fees; (ii) determine whether a breach of this Agreement has occurred or is reasonably likely to occur; and (iii) inspect Customer's access and use of the JFrog Materials, including verifying that Customer is not interfering with JFrog mechanisms or systems or engaging in illegal activity. Customer will retain such records for the duration of the Term and an additional period of at least two (2) years following the expiration or termination of this Agreement, or for such longer period as may be required under applicable law (the "**Audit Period**"). During the Audit Period, upon providing reasonable advance written notice (including via email) to Customer, JFrog may audit, and/or may direct a third-party auditor to audit, such records and Customer's access and use of the JFrog Materials during Customer's normal business hours. Customer will provide all cooperation and assistance as may reasonably be requested by or on behalf of JFrog with respect to such audit.

3. **TERM, SUSPENSION AND TERMINATION.**

(a) **Agreement Term.** This Agreement will commence on the Effective Date and continue until: (i) the expiration or termination of all of Customer's Subscriptions; or (ii) terminated as set forth herein ("**Term**").

(b) **Monthly Subscription Term.** A Monthly Subscription will commence on the Subscription start date set forth in an Order Form and continue for a period of one (1) calendar month (which may be prorated for the initial month of the Subscription). Upon expiration of a Monthly Subscription, Customer's Subscription will automatically renew for successive periods of one (1) calendar month unless Customer terminates its Monthly Subscription in accordance with Section 3(e) (Termination of Monthly Subscriptions).

(c) **Prepaid Subscription Term.** A Prepaid Subscription will commence on the Subscription start date set forth in an Order Form and continue until the Subscription expiration date set forth in the Order Form, unless otherwise stated in the Order Form.

(d) **Suspension.** In addition to other remedies available to JFrog, JFrog expressly reserves the right to suspend access to the JFrog Platform or access to maintenance and support if Customer: (i) fails to pay any applicable Fees when due; or (ii) is in breach of Section 1(c) (Restrictions on Use). JFrog will use commercially reasonable efforts, if practicable, to notify Customer of such suspension in advance.

(e) **Termination of Monthly Subscriptions.** Either Party may terminate a Monthly Subscription for any or no reason upon giving the other Party thirty (30) days' prior written notice. Customer may terminate a Monthly Subscription through MyJFrog or by sending an email to service@jfrog.com. JFrog may terminate a Monthly Subscription for Inactivity without prior written notice to Customer.

(f) **Termination for Material Breach.** Either Party may terminate any Prepaid Subscription or SOW, effective on written notice to the other Party, upon the material breach of this Agreement by the other Party that is not cured within thirty (30) days following the delivery of such written notice by the other Party. If this Agreement is

terminated by Customer due to a validated material breach by JFrog in accordance with this Section 3(f) (Termination for Material Breach), Customer will receive a prorated refund of any unused prepaid Fees covering the remainder of the Subscription Term(s) of all applicable terminated Order Forms after the effective date of termination.

(g) **Immediate Termination.** JFrog may terminate this Agreement, effective immediately upon written notice to Customer, if Customer breaches Section 1(c)(i)(A) or Section 1(c)(i)(C) of this Agreement, or if JFrog reasonably believes that Customer has breached Section 1(c)(i)(B) of this Agreement.

(h) **Termination for Insolvency or by Applicable Law.** Either Party may terminate this Agreement, any Subscription and/or SOW, effective on written notice to the other Party, if: (i) the other Party becomes insolvent, undergoes a dissolution, or ceases operation without a successor; or (ii) the other Party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such Party (and not dismissed within thirty (30) days thereafter); (iii) the other Party commences negotiations or enters into an agreement with all or any class of its creditors in relation to any assignment for the benefit of such creditors, the rescheduling of any of its debts, and/or any compromise or other arrangement with any of its creditors; or (iv) if applicable law or applicable government or court order prohibits performance under this Agreement.

(i) **Effect of Termination.** Upon termination or expiration of this Agreement, any Subscription and/or SOW: (i) JFrog will terminate Customer's access to the JFrog Platform and/or the provision of Professional Services; (ii) the rights and licenses granted to Customer under this Agreement will cease; (iii) Customer will cease all use of the JFrog Materials; (iv) JFrog may retain Usage Data; (v) JFrog will maintain all Customer Data for sixty (60) days post termination or expiration of this Agreement and promptly delete it thereafter; (vi) Customer will lose all access to the JFrog Platform and any Customer Data stored therein; and (vii) except as set forth in Section 3(f) above, Customer will immediately pay any outstanding Fees due and payable under this Agreement. Customer is responsible for downloading all Customer Data prior to termination or expiration of this Agreement. The foregoing rights and obligations will also apply to the termination or expiration of a specific Subscription, but solely to the specific Instance and Customer Data associated with the applicable Subscription.

(j) **Survival.** Sections 2(h), 3(i), 3(j), 4(b), 5, 6(b), 8, 9(f), 10 and 12, and any other Sections that by their nature are intended to continue beyond the termination or expiration of this Agreement, will survive any termination or expiration of this Agreement.

4. MAINTENANCE AND SUPPORT, PROFESSIONAL SERVICES.

(a) **Subscription Support.** If Customer selects a Subscription that includes standard support or decides to purchase enhanced support services to the JFrog Platform, JFrog will provide Customer with the applicable support set forth in the Order Form and in accordance with the applicable JFrog Service Level Agreement (accessible online at <https://jfrog.com/platform/sla/>).

(b) **Professional Services.** In addition to the support set forth in Section 4(a) (Subscription Support), Customer may choose to engage JFrog to provide additional Professional services, including configuration, implementation, deployment, consulting, training or similar services related to the JFrog Platform ("Professional Services"). Professional Services will be detailed in a statement of work ("**SOW**") and charged in accordance with the applicable SOW. Each SOW will be incorporated by reference into and made part of this Agreement. Completion of the Professional Services contemplated herein will not impact the applicable Subscription Term purchased separately for a Subscription to the JFrog Platform. To the extent the Professional Services to be provided by JFrog hereunder are based upon information supplied by the Customer, among other certain elements, reports, samples and models, JFrog does not guarantee or warrant such Professional Services to any specifications, function or other standards, except as specifically set forth hereunder. The provision of the Professional Services by JFrog does not contemplate

the development of any deliverables or intellectual property rights for the benefit of Customer. For the avoidance of doubt, JFrog will not be developing any work product for Customer, and nothing under this section 4 will be construed as work for hire.

5. INTELLECTUAL PROPERTY RIGHTS.

(a) **Reservation of Rights.** All right, title, and interest in and to the: (i) JFrog Materials, including associated intellectual property rights, are and will remain with JFrog, its Affiliates and/or their respective suppliers and licensors; and (ii) Customer Data, together with associated intellectual property rights, are and will remain with Customer, its Affiliates and/or their respective suppliers and licensors. The Parties do not transfer, and are under no obligation to transfer, any title or ownership interest in or to their respective intellectual property rights in connection with this Agreement. JFrog reserves all rights not expressly granted to Customer in this Agreement. There are no implied licenses under this Agreement. Customer will not, directly or indirectly, permit, facilitate, or otherwise allow any other person or entity to develop, build, train, or run a machine learning or artificial intelligence application, functionality, logic, model, software system, or process on the JFrog Materials.

(b) **Feedback.** Customer grants to JFrog and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into JFrog's or its Affiliates' products, services, or Technology, any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer relating to the operation of the JFrog Platform and its services.

6. DATA.

(a) **License to Customer Data.** Customer hereby grants JFrog a worldwide, non-exclusive, transferable, sub-licensable, royalty-free, fully paid-up, right and license to store, display, and use Customer Data solely as necessary to exercise its rights and perform its obligations in accordance with this Agreement, including to provide Customer with access to and use of the JFrog Platform during the Subscription Term. Customer maintains full administrative control over Customer Data including the right to view, modify, download or delete it at any time.

(b) **Usage Data.** During the Subscription Term, JFrog may collect, store and use Usage Data in order to facilitate the provision of the JFrog Platform, to monitor and secure compliance with Section 1(c) (Restrictions on Use), and for maintenance, support, account management, and billing purposes. JFrog may use Usage Data to enhance the JFrog Platform and improve Customer's utilization of the JFrog Platform during and after the Subscription Term. Usage Data that is not used to service the Customer will be used in an aggregated and/or anonymized manner.

(c) **Processing of Personal Data.** To the extent JFrog processes any personal data on Customer's behalf under this Agreement, the provisions of the JFrog Data Processing Addendum (available online at <https://jfrog.com/jfrog-cloud-data-processing-addendum/>) ("**JFrog DPA**") will apply and are hereby incorporated by reference. Customer is responsible for providing disclosures and obtaining all rights and consents necessary for JFrog's performance under this Agreement.

7. SECURITY.

(a) **Technical and Organizational Measures.** JFrog maintains technical and organizational measures (accessible online at <https://jfrog.com/jfrog-toms/>) and monitors Customer Data in accordance with generally recognized industry practices for similar services.

(b) **JFrog Certificate Program.** JFrog will annually validate compliance with the JFrog Certificate Program (accessible online at <https://jfrog.com/trust/certificate-program/>) and audit its controls and infrastructure in line with: (i) the applicable risk level; (ii) JFrog's policies and procedures; (iii) legal and regulatory requirements; and (iv) generally recognized industry practices for similar services.

(c) **Security Incident.** In the event of a Security Incident, JFrog will, within seventy-two (72) hours from JFrog's validation, notify Customer of a Security Incident which has affected Customer Data, unless such notification is delayed or prohibited by applicable law or by an act or order of any governmental agency or similar authority. JFrog will use commercially reasonable efforts to provide Customer with a description of: (i) the nature of the Security Incident; (ii) the likely consequences of the Security Incident; and (iii) mitigation measures taken to address the Security Incident. JFrog will take all necessary steps consistent with industry best practices, considering the severity of the risk, to resolve such Security Incident as quickly as possible and to prevent its recurrence. JFrog's notification of or response to a Security Incident will not be construed as an acknowledgement by JFrog of any fault or liability with respect to the Security Incident.

8. CONFIDENTIALITY.

(a) **Generally. "Confidential Information"** means any information of a Party ("**Discloser**"), whether written, visual, verbal, tangible, or intangible, that is disclosed to, directly or indirectly, or observed by, the other Party ("**Recipient**") in connection with this Agreement or other potential business relationship between the Parties, which at the time of disclosure is designated by the Discloser as confidential, expressly marked as being "Confidential" or "Proprietary", or is reasonably identifiable as confidential given the nature of the information or the circumstances of disclosure. Confidential Information may include, but is not limited to, ideas, inventions, procedures, processes, specifications, software, computer programs, trade secrets, know-how, methods, business plans, financial data and analyses, financial forecasts, marketing plans, roadmaps, customer and supplier information, drawings, models or other intellectual property. The Confidential Information of a Party includes Confidential Information disclosed by its Representatives or Affiliates in connection with this Agreement. Notwithstanding the foregoing, the JFrog Platform, results of the Professional Services, databases and non-public information related to JFrog's or its Affiliates' products, services, and intellectual property rights, will be deemed to be JFrog's Confidential Information.

(b) **Exclusions. "Confidential Information"** will not include any information that: (i) was already known to Recipient at or prior to the time of disclosure; (ii) is independently developed by or for Recipient without reference to or use of Discloser's Confidential Information; (iii) is obtained by Recipient without restriction on disclosure or use, from an entity or person other than the Discloser; or (iv) is or becomes publicly known or generally available to the public through no wrongful act or omission of Recipient.

(c) **Use and Non-Disclosure.** Recipient will: (i) hold the Confidential Information it receives in strict confidence and take appropriate precautions to protect Discloser's Confidential Information using the same degree of care Recipient uses to protect its own confidential information of a similar nature, but in no event less than a reasonable degree of care; (ii) not use Discloser's Confidential Information, except solely to exercise its rights and fulfill its obligations under this Agreement; (iii) not disclose Discloser's Confidential Information, except to its Affiliates, and to its and its Affiliates' employees, officers, directors, agents, contractors, consultants, service providers, subcontractors and professional advisors (collectively, "**Representatives**") who: (A) "need to know" the Confidential Information in connection with Recipient exercising its rights and fulfilling its obligations under this Agreement; and (B) are bound by confidentiality obligations no less stringent than those in this Agreement; and (iv) not reverse-engineer, disassemble, decompile or remove proprietary markings from Confidential Information without Discloser's prior written consent. Any claim, demand, suit or proceeding against JFrog arising out of or in connection with a Security Incident or a breach or alleged breach of the JFrog DPA will not be deemed a breach of this Section or the obligations relating to Confidential Information.

(d) **Compelled Disclosure.** Notwithstanding Section 8(c) (Use and Non-Disclosure), Recipient may disclose Discloser's Confidential Information to the extent required by applicable law, regulatory authority, or order of a court of competent jurisdiction or other governmental body ("**Compelled Disclosure**"), provided that Recipient: (i) gives prompt written notice to Discloser of such Compelled Disclosure when legally permissible; (ii) reasonably

cooperates with Discloser in seeking a protective order or otherwise preventing or restricting such disclosure; and (iii) only discloses that portion of Confidential Information required to comply with the Compelled Disclosure.

(e) **Destruction of Confidential Information.** Recipient, upon the expiration or termination of this Agreement or upon written request by Discloser, will promptly destroy (and notify the Discloser in writing that it has complied with the requirements of this Section at the request of Discloser) all copies of the Discloser's Confidential Information in its possession or under its control; provided that, Recipient may retain copies of Confidential Information as required to comply with applicable law or as part of its standard archival or computer back-up systems, and further provided that such Confidential Information will continue to be subject to the terms of this Section.

9. REPRESENTATIONS AND WARRANTIES; DISCLAIMERS.

(a) **Mutual.** Each Party represents and warrants that: (i) it has, and will retain, the full right, power, and authority to enter into and perform under this Agreement; (ii) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented in this Agreement under the laws and regulations of its jurisdiction of incorporation, organization, or chartering; (iii) when executed and delivered by such Party, this Agreement will be legally binding upon and enforceable against such Party, and this Agreement will not conflict with any agreement, instrument, or understanding, oral or written, to which such Party is a party or by which it may be bound; and (iv) such Party has not given, offered, received or been offered any illegal or improper bribe, kickback, payment, gift, donation, or thing of value from an employee or agent of the other Party or otherwise in connection with this Agreement. For clarity, reasonable gifts and entertainment provided customarily and in good faith in the ordinary course of legitimate business activities do not violate the foregoing.

(b) **By Customer.** Customer represents and warrants that Customer owns or otherwise has and will have the necessary rights, licenses, and consents in and relating to the Customer Data and the Customer's Marks such that, as used by JFrog in accordance with this Agreement, they do not and will not infringe, misappropriate, or otherwise violate any intellectual property rights, or other rights, of any third party or violate any applicable law.

(c) **Sanctions; Compliance with Law.** The JFrog Platform may be subject to export control laws and regulations of the U.S. and other jurisdictions. Customer represents and warrants that: (i) it is not subject to sanctions or otherwise designated on any list of prohibited or restricted parties; (ii) it will not directly or indirectly, export, re-export, or release the JFrog Platform to, or make the JFrog Platform accessible from or to, any country, jurisdiction or person/entity to which export, re-export, or release is prohibited or restricted by applicable laws and regulations; and (iii) its access and use of the JFrog Platform is and will be at all times in compliance with applicable laws and regulations.

(d) **Limited JFrog Platform Warranty.** JFrog represents and warrants, solely for Customer's benefit, that during the Subscription Term, the JFrog Platform, if operated as instructed by JFrog and as specified in the Documentation and/or this Agreement, will operate substantially in accordance with the functional specifications in the Documentation ("**JFrog Platform Warranty**"). The scope of the JFrog Platform Warranty applies to the JFrog Platform licensed under Customer's Order Form. JFROG'S SOLE OBLIGATION AND LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE JFROG PLATFORM WARRANTY WILL BE THE REMEDIES SET FORTH IN THIS SECTION. In the event of any breach of the JFrog Platform Warranties, subject to Customer promptly notifying JFrog in writing of such breach, Customer's sole remedy will be the repair of any errors in the JFrog Platform which are causing it not to substantially operate in accordance with the JFrog Platform Warranty, within thirty (30) days from the verification of such errors by JFrog, provided that Customer provides JFrog with all information JFrog requests to resolve the error, including sufficient information to enable JFrog to recreate such error.

(e) **JFrog Platform Warranty Exclusions.** The JFrog Platform Warranty only applies to errors causing failures in the operation of the JFrog Platform as made generally available and expressly excludes any breach of the

JFrog Platform Warranty that: (i) is caused by third-party Technology, or the combination, operation or use of the JFrog Platform with software, hardware or other materials not authorized by JFrog; (ii) is caused by problems inherent to Customer's use and/or configuration; or (iii) occurs while the JFrog Platform is used in violation of this Agreement or not in accordance with the Documentation.

(f) **Disclaimers.** EXCEPT AS SET FORTH IN THIS AGREEMENT AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE JFROG PLATFORM IS LICENSED, AND THE PROFESSIONAL SERVICES (INCLUDING ANY RESULTS THEREOF) ARE PROVIDED, TO CUSTOMER ON AN "AS IS" BASIS AND JFROG HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, STATUTORY OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, JFROG MAKES NO WARRANTY OF ANY KIND THAT THE JFROG PLATFORM, THE OUTPUT, OR PROFESSIONAL SERVICES (INCLUDING ANY RESULTS THEREOF), OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF (INCLUDING ANY REPORTS, RECOMMENDATIONS, LISTS, GRAPHS, INSIGHTS AND/OR STATISTICS), WILL MEET CUSTOMER'S OR ANY OTHER ENTITY'S OR PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY TECHNOLOGY OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE. ANY THIRD-PARTY TECHNOLOGY INCLUDING BUT NOT LIMITED TO INTEGRATIONS WITH THIRD-PARTY TECHNOLOGY IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY TECHNOLOGY. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY CUSTOMER ACTS OR OMISSIONS BASED ON THE CUSTOMER'S USE OF THE JFROG PLATFORM OR ANY OUTPUT. THE JFROG PLATFORM AND ANY OUTPUT WILL NOT BE CONSIDERED LEGAL ADVICE AND ANY OUTPUT IS PROVIDED FOR CONVENIENCE PURPOSES ONLY. OUTPUT MAY BE BASED ON THIRD-PARTY RESOURCES AND DATABASES AND THEREFORE JFROG DOES NOT GUARANTEE THAT OUTPUTS ARE INCLUSIVE OF ALL COMPONENTS, LIBRARIES, DEPENDENCIES, LICENSES AND VULNERABILITIES OR THAT THE ANNOTATION OF THE FOREGOING IS COMPLETE.

10. LIMITATION OF LIABILITY.

(a) **DAMAGES DISCLAIMER.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY LOSS OR DAMAGE OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, INCLUDING FOR: (I) LOSS OF BUSINESS PROFITS, REVENUE, GOODWILL OR REPUTATION; (II) BUSINESS INTERRUPTION; AND (III) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF CUSTOMER DATA, IN EACH CASE, WHETHER AN ACTION IS IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY, AND EVEN IF SUCH PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

(b) **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY'S AND ITS AFFILIATES' AGGREGATE LIABILITY IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER AND ITS AFFILIATES TO JFROG IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM.

(c) **UNLIMITED LIABILITIES.** SECTION 10(b) (LIMITATION OF LIABILITY) SHALL NOT APPLY TO: (I) EITHER PARTY'S DEFENSE AND INDEMNIFICATION OBLIGATIONS; (II) CUSTOMER'S BREACH OF SECTION 1(c) (RESTRICTIONS ON USE); (III) CUSTOMER'S PAYMENT OBLIGATIONS TO JFROG; OR (IV) MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

(d) **Essential Element.** The Parties agree that the limitations and exclusions of liability specified in this Section will survive and apply even if any limited remedy specified in this Agreement is found to have failed in its essential purpose.

(e) **Responsibility for Others.** Customer will be liable for the acts and omissions of its Affiliates, Customer Users, and External Users in connection with this Agreement as if such acts or omissions were those of Customer.

11. INDEMNIFICATION.

(a) **Indemnification by Customer.** Customer will defend JFrog and its Affiliates from and against any claim, demand, suit or proceeding made or brought against JFrog by a third party that: (i) Customer's use of the JFrog Platform infringes, misappropriates, or violates any third-party proprietary rights; or (ii) any acts or omissions of Customer constitute a breach of Section 1(c) (Restrictions on Use), and will indemnify JFrog from any damages finally awarded against JFrog as a result of, or for any amounts paid by JFrog under a settlement approved by Customer in writing, together with all reasonable attorney fees and costs incurred in connection with, such litigations or settlements.

(b) **Indemnification by JFrog.** JFrog will defend Customer and its Affiliates from and against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that the JFrog Platform infringes or misappropriates such third party's intellectual property rights (an "**Infringement Claim**"), and will indemnify Customer from any damages finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by JFrog in writing of, an Infringement Claim, together with all reasonable attorney fees and costs incurred in connection with such litigations or settlements. In the event of an Infringement Claim or if JFrog reasonably determines that the following actions are essential to avoid material liability, JFrog will have the right in its sole discretion to either: (i) procure for Customer the right to continue using the JFrog Platform materially as contemplated by this Agreement; (ii) replace any allegedly infringing feature of the JFrog Platform with a non-infringing feature of substantially equivalent function and performance; (iii) modify the JFrog Platform to avoid an Infringement Claim without materially derogating from its functionality and performance; or (iv) terminate this Agreement upon written notice to Customer and provide a prorated refund of unused prepaid Fees for the then current Subscription Term. THIS SECTION SETS OUT CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, AND JFROG'S SOLE LIABILITY AND OBLIGATION, FOR ANY INFRINGEMENT CLAIM.

(c) **Exclusions.** Section 11(b) (Indemnification by JFrog) will not apply to the extent the underlying allegation of an Infringement Claim arises from: (i) third-party Technology; (ii) failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Customer by or on behalf of JFrog; (iii) modifications to the JFrog Platform not authorized or made by JFrog, but solely to the extent the alleged infringement is caused by such modification; (iv) combination of the JFrog Platform with other products, applications, or processes not authorized or made by JFrog, but solely to the extent the alleged infringement is caused by such combination; or (v) any breach of this Agreement, or the third-party license terms applicable to the Third-Party Components, by Customer, Customer Users and/or External Users.

(d) **Indemnification Process.** The Party seeking indemnification or defense ("**Indemnified Party**") pursuant to this Section will provide the other Party ("**Indemnifying Party**") with prompt written notice of any claim subject to such Section. The Indemnifying Party will have sole control and authority over the defense and/or settlement of the claim, provided that the Indemnified Party may join in defense with counsel of its own choice at its own expense. The Indemnified Party will provide reasonable assistance in the investigation and defense of the claim at the Indemnifying Party's expense. The Indemnified Party's failure to comply with its obligations under this Section 11(d) will excuse the Indemnifying Party from its indemnification obligation, solely to the extent it was materially prejudiced as a result of such failure. The Indemnifying Party will not consent to the entry of any judgment or enter into any settlement or compromise requiring the Indemnified Party to admit liability, pay money, or take or refrain from any action without the prior written consent of the Indemnified Party, which will not be unreasonably withheld, conditioned or delayed.

12. GENERAL PROVISIONS.

(a) **Subcontractors.** JFrog may engage its Affiliates and subcontractors to perform, in whole or in part, any of its obligations under this Agreement, provided that the acts and omissions of any such Affiliate or subcontractor in performing JFrog's obligations under this Agreement will be treated as the acts and omissions of JFrog under this Agreement.

(b) **Insurance.** Each Party will maintain, during the Term, insurance coverages with a reputable insurer as set forth in such Party's certificate of insurance, which will be made available to the other Party upon written request.

(c) **Publicity Rights.** JFrog may identify Customer as a customer in JFrog's promotional materials, Website or other public communications. Customer hereby grants JFrog a worldwide, non-exclusive, sub-licensable, transferable, royalty-free and revocable (by submitting an email to service@jfrog.com at any time) right and license during the Subscription Term to display and use Customer's Marks in connection therewith. Revocation of the foregoing license does not affect JFrog's right and license to use or display Customer's Marks in connection with any promotional material, Website or other public communication that was in existence at the time of revocation. Any use of JFrog's Marks by Customer must be in accordance with the JFrog Brand Guidelines (accessible online at <https://jfrog.com/brand-guidelines/>). Each Party acknowledges and agrees that any and all goodwill accruing from the use of the other Party's Marks will inure solely to such other Party's benefit.

(d) **Notices.** Except as set forth herein, any notice required or permitted by this Agreement must be in writing, delivered to the applicable address of the Party set forth herein, and will be effective: (i) upon receipt when delivered personally; (ii) two (2) days (other than weekends or public holidays) after it is sent if sent by certified or registered mail (return receipt requested); or (iii) one (1) day (other than weekends or public holidays) after it is sent if sent by next-day delivery by a major delivery service or via email.

(e) **Severability; No Waiver; Amendment.** If any term of this Agreement is or becomes invalid, illegal or unenforceable in any jurisdiction it will, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability, without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction. No failure of either Party to enforce or exercise any rights under this Agreement will be effective, unless in a writing signed by a duly authorized signatory on behalf of the Party claimed to have waived. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by both Parties.

(f) **Force Majeure.** A Party to this Agreement (the "**Affected Party**") will not be liable to the other Party for any delay or failure to perform any obligation under this Agreement if the delay or failure is due to third-party strikes, blockades, wars, terrorism, pandemics, riots, natural disasters, widespread disruptions in communication services, acts or determinations of government, or other circumstances or events beyond the reasonable control of the Affected Party (each a "**Force Majeure Event**"), insofar as the Force Majeure Event prevents or delays the Affected Party from fulfilling its obligations because of impossibility and the Affected Party was not able to prevent or remove the Force Majeure Event using commercially reasonable efforts. As soon as practicable following the occurrence of such Force Majeure Event, the Affected Party will notify the other Party regarding: (i) the date on which the Force Majeure Event started; (ii) its likely or potential duration; and (iii) the effect it is having on the Affected Party's ability to perform its obligations. For the avoidance of doubt, Customer will not be relieved of its payment obligations hereunder if JFrog continues to perform its obligations under this Agreement during a Force Majeure Event.

(g) **Relationship of the Parties.** The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each

Party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes. There are no third-party beneficiaries under this Agreement.

(h) **JFrog Contracting Entity; Governing Law and Jurisdiction.** The Convention on Contracts for the International Sale of Goods and conflicts of laws principles do not apply to this Agreement. The applicable JFrog Contracting Entity, governing law, and courts depend on where Customer is domiciled in accordance with the following table:

Row	If Customer is domiciled in	Governing law	Courts with exclusive and sole jurisdiction (including non-contractual)	JFrog Contracting Entity entering into this Agreement
I	The USA; or a country in North America, Central America, South America or the Caribbean	State of California, USA	U.S. District Court for the Northern District of California or a state court located in or having jurisdiction over Santa Clara County, California	JFrog, Inc. 270 E Caribbean Dr., Sunnyvale, CA 94089
II	A country in EMEA (Europe, Middle East, and Africa) or APAC (Asia Pacific), excluding countries in row III or IV below	English	Courts in London, UK	JFrog Ltd 3 HaMachshev St., Netanya, Israel
III	Israel	Israel	Tel Aviv, Israel	JFrog Ltd 3 HaMachshev St., Netanya, Israel
IV	Bahrain, Belgium, Egypt, France, French Polynesia, Indonesia, Kuwait, Luxembourg, Malaysia, New Caledonia, Turkey, Qatar, Saudi Arabia or United Arab Emirates	France	Paris, France	JFrog SAS 8 rue de Rémusat 31000 Toulouse, France
V	Anywhere else	Israel	Tel Aviv, Israel	JFrog Ltd 3 HaMachshev St., Netanya, Israel

(i) **Remedies.** Unless expressly set forth otherwise in this Agreement, any and all remedies expressly conferred upon a Party are cumulative with and not exclusive of any other remedy conferred by this Agreement or by law on that Party, and the exercise of any one remedy does not preclude the exercise of any other available remedy. In any action or proceeding to enforce rights under this Agreement, the prevailing Party will be entitled to recover costs and attorneys' fees.

(j) **Assignment.** This Agreement is not assignable or transferable by either Party without the other Party's prior written consent. Notwithstanding the foregoing, either Party may transfer and/or assign this Agreement to a successor in connection with a merger, acquisition, or sale of all or substantially all of its assets to which this Agreement relates. Except as expressly authorized under this Section, any attempt to transfer or assign this Agreement will be null and void. This Agreement will bind and inure to the benefit of each of its respective Parties and their permitted successors and assigns.

(k) **Titles and Headings.** Titles and headings of this Agreement are for convenience only and will not affect the construction of any provision of this Agreement.

(l) **Entire Agreement; Conflicts.** This Agreement (including any and all Order Forms, SOWs, Exhibits, Documentation, and other documentation incorporated by reference into and made part of this Agreement)

constitutes the complete, final and exclusive statement of the terms of the agreement between the Parties regarding its subject matter (which, for clarity, includes Customer's use of the JFrog Platform and any other JFrog services), and supersedes all prior and contemporaneous agreements, representations or understandings, written or oral, concerning its subject matter. The Parties agree that any term or condition stated in a Customer purchase order, or portal or in any Customer order documentation is void and will not apply to this Agreement. Any Customer terms in any purchase order, portal or otherwise will not apply to Customer's purchase and/or use of the JFrog Platform. In the event of any conflict or inconsistency among the following documents, the order of precedence will be: (i) the Order Form; (ii) this Agreement; and (iii) the Documentation.

EXHIBIT A

DEFINITIONS

The singular includes the plural, and the plural includes the singular. References to “herein,” “hereunder,” “hereinabove,” or like words will refer to this Agreement as a whole and not to any particular section, subsection, or clause contained in this Agreement. References to a URL include references to any successor or replacement URL. The terms “include” and “including” are not limiting. Reference to any agreement, website or document includes any modifications, supplements, amendments and replacements thereto. References to “day” refer to a calendar day, unless otherwise expressly stated. The following defined terms will have the meanings set forth below.

“Affiliate” means, with respect to a specified entity, any other entity, now or in the future, that directly or indirectly controls, is controlled by, or is under common control with such specified entity, where “control” means the possession, directly or indirectly, of the power to independently direct or cause the direction of the management and policies of an entity, whether through ownership of more than fifty percent (50%) of the voting interests of such entity, by contract, or otherwise.

“Contributing User” means any Customer User who contributes to projects being scanned or monitored by security features in the JFrog Platform by creating, modifying, configuring or updating code, scripts, Customer Artifacts, or by downloading public packages or other artifacts to the JFrog Platform within a Subscription Term. A Contributing User may also be referred to as a “Contributing Developer” in JFrog’s Documentation.

“Customer Artifacts” means binary artifacts, containers, images or configuration files uploaded to the JFrog Platform which are provided by, on behalf of, or at the direction of Customer in connection with Customer’s software. For clarity, Customer Artifacts excludes Usage Data.

“Customer Data” means Customer Artifacts and Customer User Information.

“Customer User” means Customer’s or its Affiliates’ employees, contractors, consultants, service providers or development partners authorized by Customer that access or use the JFrog Platform through Customer’s Subscription.

“Customer User Information” means each Customer User’s name, username, email address and IP address.

“Documentation” means the written, visual, and electronic end-user technical documentation pertaining to the JFrog Platform as provided by JFrog and made available at <https://www.jfrog.com/confluence/display/JFROG/JFrog+Documentation>.

“External User” means an entity or person which is not a Customer User.

“Inactivity” means a period of twenty-one (21) consecutive days during which there was no storage, transfer or use of Customer Data by Customer.

“Instance” means a service of the JFrog Platform or distribution edge hosted and managed by JFrog on a cloud platform on behalf of Customer.

“Internal Use” means use of the JFrog Platform within Customer’s and/or Customer’s Affiliates’ organization for internal DevSecOps purposes under the direction of Customer and/or Customer’s Affiliates subject to the scope and limitations of the applicable Subscription Level. Internal Use excludes: (a) access or use by any third party; and/or (b) access or use for the benefit of any third party.

"JFrog Materials" means the JFrog Platform, Documentation, JFrog's Marks, Output, databases, results of the Professional Services, and any other Technology, material, data, or information that JFrog provides to Customer in connection with this Agreement.

"Marks" means, with respect to a specified entity, the trademarks, service marks, logos, domain names, and other distinctive brand features, graphic images and icons owned or licensable by the entity.

"Monthly Commitment" means the Fees for a Subscription (excluding Fees for Standard, Gold or Platinum Support, Professional Services, or other services set forth in an Order Form) divided by the number of months during the applicable Subscription Term.

"Monthly Subscription" means a Subscription of one (1) month, which will automatically renew for subsequent one (1) month periods unless terminated in accordance with this Agreement.

"Order Form" means an ordering document, whether by way of an online registration to the JFrog Platform through the Website, Cloud Marketplace or by way of a document executed by and between the Parties, that identifies the commercial terms for a purchase of a Subscription, including the applicable Subscription Level, Subscription Term and Fees.

"Output" means all information or data, including, but not limited to insights, recommendations, databases, reports, results, lists, graphs, in any format, that is made available to Customer or that is delivered to Customer by the JFrog Platform.

"Platform Metrics" means the metrics by which a Customer is billed for the use of the JFrog Platform as set forth in an Order Form, including data consumption, number of Instances, number of Contributing Users, and number of actions taken regarding Customer Artifacts.

"Prepaid Subscription" means a Subscription with a minimum period of twelve (12) months unless stated otherwise in an Order Form for which Customer has pre-paid Fees to be used on a drawdown basis during the applicable Subscription Term.

"Security Incident" means a breach of security leading to any unauthorized, accidental or unlawful destruction, loss, alteration, disclosure of, or access to Customer Data transmitted, stored or otherwise processed by JFrog, which has been validated by JFrog.

"Self-Hosted Feature" means a feature or add-on of the JFrog Platform which is hosted and managed by Customer.

"Subscription" means a JFrog plan that Customer subscribes to in order to access and use the JFrog Platform, as further described in an Order Form.

"Subscription Level" means a Subscription tier reflecting the features, Self-Hosted Features and Platform Metrics that Customer will be entitled to use as part of the JFrog Platform as well as the applicable level of maintenance and support.

"Subscription Term" means the effective term of a Subscription as set forth in the applicable Order Form.

"Technology" means APIs, SDKs, software (including object and source code), applications, technical integrations, payment processing or other platforms, hardware, equipment, information technology infrastructure, systems, other technology, and any updates or modifications to, and documentation (e.g., instructional materials) related to, any of the foregoing.

"Usage Data" means any data or information that is based on, generated or created from, or data or information about Customer's access or use of the JFrog Platform, which includes version, setup, configuration, integration, logs and consumption. For clarity, Usage Data excludes Customer Artifacts.

EXHIBIT B
UPTIME GUARANTEE

1. DEFINITIONS.

(a) **"Credit"** means an amount calculated in accordance to section 3(a) of this exhibit.

(b) **"Downtime"** means a period of time, measured in one (1) minute increments, during which the JFrog Platform is not available to Customer. Downtime is measured based on JFrog's server-side error rate of applicable health-check pings from two (2) sources in a cluster for each cloud platform of the JFrog Platform, based on JFrog's system of record. Downtime does not include time during which the JFrog Platform is unavailable due to: (i) Customer's use of the JFrog Platform in a manner not authorized in this Agreement or not in accordance with the Documentation; (ii) Force Majeure Events; (iii) migration between cloud platforms/providers initiated by Customer; (iv) Self-Hosted Features or third-party Technology; (v) Maintenance Time; and (vi) any suspension or termination of access to the JFrog Platform by JFrog pursuant to this Agreement.

(c) **"Maintenance Time"** means any periods of planned maintenance, upgrade or update during which the JFrog Platform may not be available to Customer.

(d) **"Uptime"** means the percentage of time for which the JFrog Platform (including third-party services sourced by or provisioned by JFrog, but excluding any third-party Technology used in conjunction with the JFrog Platform) is available, as calculated by JFrog per month. Uptime information and Maintenance Time is available at <https://status.jfrog.io/>.

2. UPTIME GUARANTEE.

(a) Subject to the terms and conditions of this Agreement and solely during the applicable Subscription Term, JFrog will use commercially reasonable efforts to ensure an Uptime of at least 99.90% ("**Uptime Guarantee**").

(b) Uptime will be calculated by JFrog according to the following formula:

$$\text{Uptime (\%)} = \frac{T - D}{T} \times 100$$

Where:

T = total number of minutes in the applicable calendar month.

D = total number of Downtime minutes in the applicable calendar month.

(c) JFrog will use commercially reasonable efforts to provide Customer with electronic notification prior to any Maintenance Time.

3. CREDITS.

(a) Customer will be eligible to receive Credits for any failure of JFrog to meet the Uptime Guarantee, in an amount equal to a percentage of the Monthly Commitment or Monthly Subscription, as applicable, for the month in which the failure to meet the Uptime Guarantee occurred, in accordance with the following table:

Uptime	Credits Percentage
< 99.90% - ≥ 99.0%	5%
< 99.0% - ≥ 90.0%	25%
< 90.0%	100%

(b) Credits are JFrog's sole obligation and liability and Customer's sole and exclusive remedy for any failure of JFrog to meet the Uptime Guarantee. Customer will not be entitled to receive Credits if Customer is in breach of this Agreement. Credits may only be applied toward Customer's next Monthly Commitment or Monthly Subscription, as applicable, and cannot be transferred or applied to any other entity.

(c) To receive Credits, Customer must notify JFrog in writing to service@jfrog.com within thirty (30) days following the end of the calendar month during which JFrog did not meet the Uptime Guarantee. Failure to comply with this requirement will forfeit Customer's right to receive a Credit.