

END-USER LICENCE AGREEMENT for Frama e-communication: RMail

Table of contents

1. DEFINITIONS
2. SERVICES AND SOFTWARE
3. TAXES
4. PROPRIETARY RIGHTS
5. CONFIDENTIAL INFORMATION
6. DATA PROTECTION
7. EXCLUSION OF WARRANTIES
8. INDEMNIFICATION
9. LIMITATION OF LIABILITY AND RECOURSE
10. TERM AND TERMINATION
11. GENERAL

General provisions

As a partner of RPost Communications Ltd ("the LICENSER"), Frama Communications AG ("FRAMA"), Dorfstrasse 6, 3438 Lauperswil, Switzerland shall be entitled to sell RPost services ("the SERVICES") worldwide. FRAMA sells the SERVICES under the brand "e-communications: RMail".

Subject to the terms and conditions of this EULA, FRAMA and the LICENSER grant the licensee a limited, non-exclusive, non-transferable, personal licence to install, run and use the SERVICES. By using the SERVICES, the licensee acknowledges the terms and conditions of this End-User License Agreement and other additional terms.

General terms and conditions

By using the SERVICES or other software-enabled services provided by FRAMA, you accept the terms and conditions, rights and restrictions of this FRAMA End-User License Agreement ("EULA").

Use of the SERVICES or Software shall indicate that this EULA and the legal notice of the LICENSER posted at www.rmail.com have been read and understood by the Customers and end-users that accepted this EULA.

Use of the SERVICES or clicking on the "Yes" or "Accept" button of the posted EULA in lieu of your signature shall constitute confirmation that you have read, understood and accept the terms of this EULA.

This EULA is a legal agreement between the Customer (either an individual or a legal entity) and FRAMA for the use of the SERVICES or Software, including associated media, printed materials and any online documentation. FRAMA reserves the right to revoke all privileges with regard to the SERVICES for any End-User that uses the SERVICES or Software for unsolicited e-mail marketing or any other unauthorised or illegal purposes. Choosing to install the SERVICES or Software or use of the SERVICES in any way shall constitute agreement to comply with the General Terms and Conditions and/or this EULA.

1. DEFINITIONS

Block capitalised terms used in this EULA without definition will be defined as follows:

FRAMA shall mean Frama Communications AG, 3438 Lauperswil, Switzerland, a company set up as an Aktiengesellschaft (a joint stock company under Swiss law) doing business under the trade name "e-communications: RMail," as well as any of its subsidiaries or affiliated companies.

LICENSER shall mean RPost Communications Ltd, Bermuda, a company doing business under the trade name "RPost," as well as any RPost subsidiaries and affiliated companies.

SERVICES shall mean any services created, owned and provided through the LICENSER's technology to track the delivery of e-mail and provide a return receipt to the sender of e-mail with a time/date seal and authenticate both the contents and any attachments of an e-mail message with hashing algorithms and digital encryption signatures, providing verification that a

message was sent and delivered to the recipient's mail server; services sold worldwide by FRAMA under the e-communications: RMail brand.

TRUSTED SERVICE PROVIDER shall mean a provider of qualified services, proofing compliance with the special requirements for such services in accordance with the EU Regulation no. 910/2014 [eIDAS] and certified with this qualification status. Trusted service providers can promote their services with the EU trust mark for qualified trusted service providers.

NON-QUALIFIED SERVICES shall mean the TRUSTED SERVICE PROVIDER and the SERVICES comply with the requirements for non-qualified services in accordance with EU Regulation no. 910/2014 [eIDAS].

QUALIFIED TRUSTED SERVICES shall mean that the TRUSTED SERVICE PROVIDER and the TRUSTED SERVICES are certified in accordance with EU Regulation no. 910/2014 [eIDAS].

Words in quotation marks used in this EULA without definition will be defined as follows:

"Customer" shall mean an individual person or a legal entity buying or having bought a licence for the use of the SERVICES from FRAMA.

"End-User" shall mean an individual who is authorised by the Customer to use the SERVICES or Software.

"e-communications: RMail partner" shall mean a company that is acting as a reseller for FRAMA and the LICENSER, marketing or otherwise promoting the SERVICES in accordance with specific terms described in a separate written agreement with FRAMA.

"Software" shall be a general term for the various kinds of programs used to operate computers and related devices that are needed to ensure smooth provision of the SERVICES.

"Unit" shall mean a message with a maximum data volume of five (5) megabytes.

2. SERVICES AND SOFTWARE

2.1 Implementation

FRAMA and the LICENSER grant the Customer a limited license to use the SERVICES, enabling the Customer and/or End-Users to use the SERVICES by routing their outbound e-mail tagged for registration through the servers of FRAMA or the LICENSER.

The Software and the SERVICES are protected by copyright law and international copyright treaties as well as other intellectual property laws and treaties.

The Software is licensed, not sold. This EULA grants you the following rights:

- (a) Software: You may install, use, access, display, run or otherwise interact with multiple copies of the Software on a single computer, workstation, terminal, handheld PC, pager, smartphone or other digital electronic device ("Computer"), on condition that the Service is used under the same account information or e-mail address.
- (b) A licence for the Software may not be shared or used concurrently on different Computers unless the SERVICES do not require individual computer licences.
- (c) Reservation of rights: Unless expressly granted, all right are reserved by FRAMA or the LICENSER.

2.2 Authentication

Any Registered Receipt™ e-mail as well as any e-mail that bears an RMail Digital Seal® mark may be authenticated up to five times within the first seven years of the date of sending the corresponding e-communications: RMail message without incurring any additional fees for the sender. Beyond five authentications or seven years from the date of the sending of the corresponding e-communications: RMail message, the organisation or person requesting authentication will be charged a fee prior to authentication if the requesting organisation is not a current fee-paying Customer or FRAMA deems at its sole discretion that the volume of authentication requests constitutes an abuse of the SERVICES.

2.3 Service fees

FRAMA may, at any time, notify the Customer about a change in fees, terms and conditions pertaining to use of the SERVICES. These fees shall be deemed accepted by the Customer if he/it continues to use the SERVICES seven working days after delivery of the notification and its reception on the mail server of the recipient. An End-User is defined as one sender e-mail address. Monthly and annual licences automatically renew each month or year, unless the relevant SERVICES are cancelled in writing. Prepaid licences or Units will be re-invoiced automatically after the expiration of the agreed period unless the SERVICES have been cancelled in writing. Unused Units of annual licences expire 12 months after invoicing. Unused Units of monthly licences expire at the end of each month. Units may not be transferred to other accounts.

2.4 Restrictions

- (a) All copyright notices must be maintained on all copies of the Software.
- (b) Reverse engineering, decompilation and the disassembly of the Software or SERVICES is not permitted.
- (c) The Software and SERVICES may not be rented out, leased out, loaned or transferred, regardless of whether this is done without charge or for a fee.
- (d) Support services: FRAMA may provide the Customer with support services related to the Software or SERVICES ("Support Services") at its discretion. The use of Support Services shall be subject to the policy of FRAMA or the LICENSER, where available, and laid out in additional documents. Any supplementary Software provided as a part of Support Services shall be considered part of the Software and subject to the terms of this EULA. Technical information provided by the customer to FRAMA or the LICENSER may be used by FRAMA or the LICENSER free of charge for their own business purposes, including product support and development. FRAMA or the LICENSER will use such technical information only in such a way that the Customer cannot be identified personally, unless this is necessary to provide or ensure support.
- (e) The replacement, modification or upgrading of the Software or SERVICES: FRAMA and the LICENSER reserve the right to replace, modify or upgrade the Software or SERVICES at any time, to offer the Customer a modified, upgraded or replacement version and charge the Customer for such replacement, modification or upgrading. Any such replacement or modified Software code or upgrade to the Software or Service offered to the Customer by FRAMA or LICENSER shall be considered part of the Software and subject to the terms of this EULA or an updated, extended or supplemented version thereof. In the event that FRAMA or the LICENSER offers a replacement, modified or upgraded Software or SERVICES, (a) Continued use of the Software or SERVICES shall be conditional on the acceptance of such a replacement, modified or upgraded Software or SERVICES and any accompanying superseding EULA and (b) Replacement of the previous software or the SERVICES shall be with simultaneous immediate decommissioning of the previous Software or SERVICES.
- (f) Limitations to messaging volume: The assigned data volume per message/e-mail and user is limited to 20 MB unless the message is transmitted using the SERVICES for large file transfers, for which the limit is 200 MB per message. FRAMA may communicate other values for the assigned data volume at any time. Messages exceeding these limits cannot be processed due to the data volume limitations on incoming or outgoing messages. The processing of messages with lower data volumes may possibly be prevented due to the incoming or outgoing data volume limitations of the sender or recipient or due to other factors outside the e-communications: RMail system. The Customer acknowledges and accepts that FRAMA and the LICENSER bear neither responsibility nor liability for the deletion or non-processing of messages. FRAMA and the LICENSER are under no obligation to store any content of customer accounts or forward messages to customers or third parties.

3. TAXES

All taxes and duties levied on the fees for the SERVICES, regardless of their designation, will be invoiced to the Customer by FRAMA or the LICENSER and must be paid additionally by the Customer.

4. PROPRIETARY RIGHTS

4.1 Proprietary rights

The Customer hereby accepts and acknowledges that the LICENSER is the sole and exclusive owner of the technology, processes and SERVICES distributed as RMail SERVICES by the LICENSER, FRAMA or other third parties (including the Software) and that all copyrights, trademarks, service marks, trade secrets, patents and other proprietary rights used in conjunction with the SERVICES are also the sole and exclusive property of the LICENSER.

5. CONFIDENTIAL INFORMATION

5.1 Definition

Confidential information shall include: (a) All non-public information regarding the SERVICES or the business of one of the parties hereto (or that of a third party if one of the parties hereto is bound to protect the confidentiality of a third party's information); (b) Information marked or otherwise designated as "protected" or "confidential"; (d) Information which, by its nature, is to be considered confidential or protected; and (e) Information specifically identified as confidential in this EULA.

5.2 Disclosure and use

All parties agree to treat confidential information of the other party with the same degree of care as applies to their own confidential information, and under no circumstances with less than reasonable and appropriate care.

5.3 Legal recourse

Notwithstanding the other provisions of this EULA, in the event of a breach or threatened breach of the agreements in this provision by the receiving party, the disclosing party shall be entitled to seek a court ruling to protect its interests.

6. DATA PROTECTION

See the [e-communications: RMail privacy policy](#)

6.1 Access to the content of service messages

Customer acknowledges and agrees that FRAMA and that LICENSER may access the content of service messages only if such access is required (a) To maintain a service server or ensure the smooth operation of the SERVICES; (b) To investigate or prevent the abuse of the SERVICES; or (c) On the grounds listed in section 5 of this EULA. Such content shall be considered confidential information of the Customer and subject to the provisions of section 5.

7. EXCLUSION OF WARRANTIES

7.1 Breakdowns in service provision

The Customer will be notified if the SERVICES are unavailable. The sole and exclusive measure to assist the Customer in the event of a breakdown in the provision of the SERVICES shall be for FRAMA to provide the appropriate SERVICES again. In the event of errors or breakdowns in the delivery of e-mail, FRAMA and the LICENSER will not bear any other or further responsibility, liability or obligation.

7.2 Undeliverable e-communications: RMail messages

If a Registered Email® message is undeliverable, the e-communications: RMail Receipt™ e-mail will notify the sender about the delivery status. FRAMA and the LICENSER shall bear no further responsibility to re-deliver the e-mail. The sender shall bear sole responsibility for resending the e-mail. Undeliverable sent messages will be considered a provided service and invoiced.

7.3 Passwords

The End-User is solely responsible for the security and protection of his signature password and any other password that may be associated with the SERVICES. FRAMA and the LICENSER will keep all such passwords confidential and will not disclose these passwords to any company or organisation unless it has a legal disclosure obligation towards public authorities or if failure to provide the authority with the information could make individuals liable for prosecution.

7.4 Digital Seal®

FRAMA and the LICENSER in no guarantee that the RMail® Digital Seal mark will remain valid for all recipients on all e-mail systems or that messages sent with a "Digital Seal" will be forwarded in this way. FRAMA and the LICENSER give no assurances that the Digital Seal mark of Registered Email® messages sent with a Digital Seal will remain valid after the message reaches its first destination. FRAMA and the LICENSER give no assurances that the SERVICE can assign Digital Seals to all e-mail which the End-User designates for digitally sealing. Furthermore, FRAMA and LICENSER do not claim that the Digital Seal technology can prove the identity of the sender of a message with a Digital Seal.

7.5 Control and liability

Neither the LICENSER nor FRAMA control the Customer's computer hardware, software or the network services provided by the Customer for accessing the SERVICES. The performance of the computer or network or its inability to meet the requirements may adversely affect the Customer's connections to e-mail, the Internet or parts thereof as well as the transmission of data. FRAMA, the LICENSER and all e-communications: RMail partners therefore refuse to accept any liability resulting from or relating to such events. The service is provided "as is" and "with all its faults" and FRAMA, the LICENSER and all e-communications: RMail partners make no additional guarantees or assurances, whether express or implied, regarding the merchantability or suitability for a particular purpose or claims arising in the course of trading, usage or trading practice.

FRAMA, the LICENSER and all e-communications: RMail partners provide the Software “as is” with all its faults, and hereby reject all guarantees and conditions, whether express, implied or statutory, including all implied guarantees or conditions without restriction.

FRAMA, the LICENSER and all e-communications: RMail partners waive all liability and responsibility regarding merchantability, fitness for a particular purpose, the absence of viruses and negligence or a lack of expert handling. The same applies to the right of undisturbed use or non-infringement of rights. All risks arising out of the use or operation of the Software must be borne by you.

7.6 Qualified services

The SERVICES are currently not certified in accordance with EU Regulation no. 910/2014 [eIDAS] and therefore do not comply with the requirements for qualified services at this time.

8. INDEMNIFICATION

8.1 Indemnification by the Customer

The Customer shall indemnify and protect FRAMA, the LICENSER and all e-communications: RMail partners against all claims, losses, liability, damage and expenses (including reasonable attorneys' fees and court costs) arising out of or in connection with data or content on the Customer's systems or Web site or in the Customer's or the End-User's e-mail or used or transmitted otherwise by the Customer or End-User, or arising out of or in connection with the Customer's business activities. Furthermore, the Customer shall indemnify and protect FRAMA, the LICENSER and any e-communications: RMail Partner against all claims, losses, liability, damage and expenses (including reasonable attorneys' fees and court costs) arising out of or in connection with any failure to deliver a message or failure to authenticate an e-mail with an RMail Digital Seal™ or a Registered Receipt™ e-mail or arising out of any use of the SERVICES.

8.2 Conditions for indemnification

The indemnity obligations set out in section 8 are subject to the following conditions: (a) The indemnitee giving prompt written notice to the indemnitor of any such claim(s); (b) The indemnitor at its option having sole control of the defence, including the completion or settlement of the claim; and (c) The indemnitee cooperating in the investigation and defence of such claim(s) at the indemnitor's request and expense.

8.3 Indemnification by FRAMA and the LICENSER

FRAMA and the LICENSER will indemnify, defend and protect the Customer against any and all costs, liability, losses and expenses (including court and attorneys' fees) arising out of or in connection with claims, suits, action or proceedings brought by any third party against the Customer arising out of or resulting from the infringement of any copyright, patent, trademark or misappropriation of a trade secret relating to or resulting from the SERVICES of FRAMA and the LICENSER, provided the Customer (a) Promptly gives FRAMA notice of the claim, suit, action, or proceedings; (b) Grants FRAMA sole control of the defence and related settlement negotiations; and (c) Provides FRAMA with all available information and support necessary to meet with its obligations to enable FRAMA to meet its obligations. If it can be assumed that the SERVICES of FRAMA or the LICENSER breach intellectual property rights, FRAMA may, in its sole discretion and at its own expense, either procure a licence that will protect the Customer against such claims without cost to the Customer or replace the SERVICE with another that does not breach these rights. Should FRAMA comply with this the provisions of this section, the Customer shall have no right of recourse or other claim against FRAMA, except the right to terminate the EULA.

9. LIMITATION OF LIABILITY AND RECOURSE

9.1 Principle

Any and all liability on the part of FRAMA, the LICENSER and the e-communications: RMail partner towards the Customer or a third party is excluded for non-fulfilment or faulty fulfilment of a contract unless due to wilful or gross negligence. Liability is also excluded for any unintentional disclosure or damage to or deletion of data sent or received through the RMail system.

9.2 Consequential damage

FRAMA, the LICENSER and the e-communications: RMail partner are not liable towards the Customer or any third party for general or compensation claims. In particular, liability is excluded for losses or damage arising as a result of a loss of data or an inability to access the Internet or a service or to send or receive information as a result of delays, breakdowns or interruptions in service provision caused by FRAMA or the LICENSER.

9.3 Damage caused by third parties

FRAMA, the LICENSER and the e-communications: RMail partner cannot be held liable for damage caused to the Customer by third parties as a result of a misuse of the connection (including viruses).

9.4 Interruption of service

FRAMA, the LICENSER and the e-communications: RMail partner refuse to accept liability for interruptions of service provision due to faults, fault repairs, maintenance, the introduction of new technologies or similar purposes. FRAMA, the LICENSER and the e-communications: RMail partner guarantee neither access to their system at all times nor the seamless and uninterrupted functioning of their system.

9.5 Limitation of damages

Under no circumstances shall FRAMA, the LICENSER or the e-communications: RMail partner be liable for any indirect, direct, incidental, special, punitive or other damage or consequential damage, including loss of use, interruption of business, loss of data or earnings or losses associated with any disputes over the validity of a Registered Receipt™ e-mail, its contents or the interpretation of its delivery status, arising out of or in any way connected with this EULA, the SERVICES or any Software applications, even if FRAMA, the LICENSER or the e-communications: RMail partner have been advised of the possibility of such damage. The End-User(s) or Customer pledge not to act as an agent in any litigation against FRAMA, the LICENSER or the e-communications: RMail partner or to appoint a representative to represent them in litigation against FRAMA, LICENSER or e-communications: RMail partner.

If the liability of FRAMA and/or the LICENSER is confirmed, these/it shall be liable for a maximum sum equal to the payments made by the Customer per Unit of Registered Email® messages in accordance with its contract. E-communications: RMail partners shall under no circumstances be liable for any damage arising out of or in connection with this agreement or the SERVICES.

9.6 Customer content

Under no circumstances shall FRAMA, the LICENSER or any e-communications: RMail partner be liable for any inaccuracy, illegality, misinformation or violation of a third-party right or interest associated with or directly or indirectly arising out of the contents or attachments of a Customer's or End-User's e-mail.

9.7 Customer equipment

FRAMA, the LICENSER and the e-communications: RMail partner reject all liability for damage to or loss of any Customer equipment or data, irrespective of the cause thereof.

9.8 Restrictions to the right of recourse

Should FRAMA, the LICENSER or the e-communications: RMail partner fail to remedy a defect recognised under this EULA within 60 (sixty) days of receiving the Customer's written notification of the defect and the Customer's intention to demand termination, the Customer's sole and exclusive recourse shall be the right to terminate the SERVICES and demand reimbursement of only those charges paid in advance for the terminated part of the SERVICES.

10. TERM AND TERMINATION

10.1 Entry into force

This EULA comes into force on the date on which it is accepted by the Customer in writing or electronically or on which the access software is installed on the End-User's computer by the Customer.

10.2 Termination of open-ended agreements

If this EULA has been concluded without a fixed term, in other words, in an open-ended manner, it may be terminated in writing by either party to the end of a month with fourteen (14) days' notice.

10.3 Termination of agreements with agreed fixed terms

If this EULA has been concluded with an agreed fixed term, it may be terminated in writing to the end of the agreed term with fourteen (14) days' notice. The right to extraordinary termination on pressing grounds remains unaffected by this. Such grounds shall exist in the following situations, amongst others:

- a. If the Customer fails to pay the service fees on two consecutive payment dates or it is in arrears with a not insubstantial proportion of the service fees;
- b. If the Customer is in arrears for a period in excess of two payment dates with a sum equal to the service fee for two months;
- c. If, despite having received a written warning thereof from the Customer, setting an appropriate deadline, FRAMA fails to fulfil its material contractual obligations by the stipulated deadline.

10.4 Consequence of termination

Upon termination of the SERVICES, the Customer must cease his/its use of the SERVICES and delete the access software. All rights and obligations of the parties, with the exception of the Customer's payment obligations and those laid down in section 11.7, shall cease to apply. Termination shall not release the Customer from the obligation to pay all sums due and owed on the termination date. After the termination of this EULA, both parties must return any confidential information and software in their possession which belongs to the relevant other party.

11. GENERAL

11.1 The relationship between the parties

No part of this EULA may be construed as implying a joint venture or partnership. FRAMA and the LICENSER act as agents of the sender of messages. If the sender would like FRAMA or the LICENSER to turn off the authentication capability for a particular e-communications: RMail receipt, FRAMA or the LICENSER will do so and reserve the right to charge the sender a fee for this additional service request. FRAMA and the LICENSER request regular feedback from the Customer about how FRAMA and the LICENSER can improve the service. The Customer declares and agrees with the statement that he/it is not an employee of FRAMA or the LICENSER, but provides SERVICES under this contract as an independent contractor.

11.2 Testimony by FRAMA or the LICENSER

In the event that FRAMA or the LICENSER is summoned or otherwise asked to give testimony in any dispute between a Customer and any third party with respect to the Software or SERVICES, the Customer agrees to remunerate FRAMA and/or the LICENSER for its services at an hourly rate of €350 plus VAT per person and cover reasonable travel and other expenses.

11.3 Assignment of rights and obligations

The Customer may not assign any of the rights or obligations under this EULA without prior written consent from FRAMA or the LICENSER. Such consent may not be withheld unreasonably. Notwithstanding the foregoing, the Customer may assign his/its interests herein, upon written notification of FRAMA or the LICENSER, to a subsidiary of the Customer or an entity that acquires a substantial proportion of the Customer's assets or business and which expressly assumes Customer's obligations. The rights and liabilities of the parties to this EULA shall be binding upon and effective to the benefit of the successors and assignees in question at the time of the acquisition of the assets or businesses.

Nothing in this agreement prevents FRAMA or the LICENSER from outsourcing any part of the SERVICES or offering the e-communications: RMail service under the brand of any e-communications: RMail partner.

11.4 Completeness and modification

This EULA fully and exhaustively constitutes all the agreements between the parties on the subject thereof. This EULA supersedes all prior agreements and understandings between the parties with respect to the subject matter and may not be changed unless mutually agreed upon in writing by both parties. No deviating or additional terms set forth in a purchase order or other communication will be binding on FRAMA or the LICENSER unless FRAMA or the LICENSER specifically agrees in writing to such deviating or additional terms. Changes agreed by FRAMA or the LICENSER will be legally binding only if undertaken in writing and by authorized signatories. This EULA is binding not only if accepted in writing, but also if accepted in electronic form or signed by the Customer.

11.5 Notification

All notifications required or permitted under this EULA must be sent to FRAMA at the following e-mail address:
E-communications_Hotline@frama.com.

11.6 Governing law and place of jurisdiction

This contract and its interpretation are subject to Swiss law. The place of fulfilment and the sole court of jurisdiction for all disputes arising from these EULA is EMMENTAL-OBERAARGAU REGIONAL COURT, 3400 Burgdorf, Switzerland. Any amendments to the provisions regarding choice of law or place of jurisdiction shall require the written form and legal signature of the parties to be valid.

11.7 Survival of obligations

The rights and obligations with respect to proprietary information, confidential information, data protection, warranties, indemnification, limited liability and disclaimers shall remain in force indefinitely beyond the termination or expiration of this EULA.

11.8 Amendments

This EULA may not be modified or amended except in writing and signed by an authorized representative of both parties.

11.9 Duplication

This EULA may be created in duplicate, each copy of which shall be deemed an original, though both taken together shall constitute one and the same EULA. All electronic versions of the EULA shall be deemed as valid as originals. If the access software is successfully installed and the terms are accepted during the installation process, this EULA shall be deemed as valid as an original in electronic form and as constituting a contract by mutual agreement.

11.10 Litigation

Should the Customer be involved in litigation involving the e-communications: RMail system, the Customer must notify FRAMA and the LICENSER thereof immediately. FRAMA and the LICENSER reserve the right to defend the Registered Email® e-communications: RMail system in such litigation.

11.11 Legal notice

FRAMA and the LICENSER do not offer any legal advice, opinions or recommendations. The materials and information contained on written material or the Web sites of FRAMA or the LICENSER or in any IT publication or marketing material supported by FRAMA or the LICENSER must be used with caution and at no risk or liability to FRAMA or the LICENSER. The CUSTOMER is personally responsible for obtaining independent legal advice on any legal matters if he/it does not wish to rely on the material of FRAMA or the LICENSER as a legal source.