

## END-USER LICENCE AGREEMENT for Frama e-communications: RMail

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### General Provisions

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

Subject to the terms and conditions of this EULA, FRAMA and LICENSER grants to the licensee a limited, non-exclusive, non-transferable, personal license to install, run and use the SERVICES. By using SERVICES, Licensee acknowledges the terms and conditions of these End-User License Agreement and other Additional Terms.

### General Terms and Conditions

By using 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 SERVICES or Software indicates that this EULA and the Legal Notice of LICENSER posted at [www.rmail.com](http://www.rmail.com) has been read and understood by the customer(s) and End-User(s) accepting this EULA.

The use of the SERVICES or click on the "Yes" or "Accept" button of the posted EULA is in lieu of your signature and states that you have read and understood the terms of this EULA and accept them.

This EULA is a legal agreement between the customer (either an individual or a single entity) and FRAMA for the use of SERVICES or Software including associated media, printed materials, and any online documentation. FRAMA reserves the right to revoke all SERVICES privileges from any End-User that uses the SERVICES or Software for unsolicited email marketing or for any other unauthorized or illegal use. Those who choose to install SERVICES, Software or use the SERVICES in any way agree to comply with the Terms of Service respectively this EULA.

## 1. DEFINITIONS

Capitalized terms used in this Agreement without definition will have the meanings set forth below:

FRAMA means Frama Communications AG, 3438 Lauperswil, Switzerland, a corporation organized, doing business using the trade name e-communications: RMail, as well as any of its subsidiaries or affiliated companies.

LICENSER means RPost Communications Ltd, Bermuda, a corporation doing business using the trade name RPost, as well as any RPost subsidiaries or affiliated companies.

SERVICES means the Service created, owned and powered by LICENSER'S technology that tracks the delivery of email and provides a return receipt to the sender of email with a time/date seal and authenticates both the contents and any attachments of an email message with hashing algorithms and digital encryption signatures, providing verification that a message was sent and delivered to the recipient's mail server and sold worldwide by FRAMA under the e-communications: RMail brand.

TRUSTED SERVICE PROVIDER means provider of qualified services, proofing compliance with the special requirements for such services according to the EU regulation 910/2014 [eIDAS] and certified with this qualification status; they can promote their services with the EU trust mark for qualified trusted service providers.

NON-QUALIFIED SERVICES means the TRUSTED SERVICE PROVIDER and the SERVICES comply with the requirements for non-qualified services according to the EU regulation 910/2014 [eIDAS].

QUALIFIED TRUSTED SERVICES means that the TRUSTED SERVICE PROVIDER and the TRUSTED SERVICES are certified according to EU regulation 910/2014 [eIDAS].

Words in quotation marks used in this Agreement without definition will have the meaning set forth below:

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

"End-User" means an individual that is authorized by customer to use SERVICES or Software.

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

"Software" is a general term for the various kinds of programs to operate computers and related devices, in practice needed to ensure that the SERVICES operations run smoothly.

"Unit" means a message up to a maximum of five (5) megabytes of data volume.

## **2. SERVICES AND SOFTWARE**

### **2.1 Implementation**

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

The Software and the SERVICES are protected by copyright laws 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, "smart phone," or other digital electronic device ("Computer") as long as the Service is used under the same account information or email-address.
- (b) A license for the Software may not be shared or used concurrently on different Computers, unless the SERVICES don't require individual computer licenses.
- (c) Reservation of Rights. All rights not expressly granted are reserved by FRAMA or LICENSER.

### **2.2 Authentication**

Each Registered Receipt™ email and each email that has an RMail Digital Seal® mark may be authenticated up to five times within the first seven years from the date of sending of the corresponding e-communications: RMail message, with no additional fees to the sender. Beyond five authentications or seven years from the date of sending of the corresponding e-communications: RMail message, the organisation or person requesting authentication will be assessed a fee prior to the authentication if the requesting organisation is not a current fee-paying Customer or if FRAMA deems at its sole discretion that the volume of authentication requests are 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 of the use of SERVICES. These fees shall be deemed accepted by the customer if he 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 email address. Monthly and annual licenses automatically renew each month or year respectively, unless service is cancelled in writing. Prepaid licenses or units will be automatically re-invoiced after expiry of the agreed period, unless the SERVICES have been cancelled in writing. Unused Units of annual licenses expire 12 months after invoicing. Unused Units of monthly licenses expire at the end of each month. The transfer of units to other accounts is not possible.

### **2.4 Restrictions**

- (a) All copyright notices on all copies of the Software must be maintained.

- (b) Reverse Engineering, Decompilation and Disassembly of Software or SERVICES is not allowed.
- (c) The Software and SERVICES may not be rented, leased, loaned or transferred, regardless of whether this is done with or without charge.
- (d) Support Services: FRAMA may provide Customer with support services related to the Software or Service ("Support Services"), in its discretion. Use of Support Services, if any, is regulated by FRAMA'S or LICENSER'S policies and by additional documents. Any supplemental 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 free of charge by FRAMA or the LICENSER for its 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 personally identified unless this is necessary to provide or ensure support.
- (e) Replacement, Modification and Upgrade of the Software or Service: FRAMA and LICENSER reserve the right to replace, modify or upgrade the Software or Service at any time and to offer the customer a modified, upgraded or replacement version and to charge the customer for such replacement, modification or upgrade. 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 of this EULA. In the event that FRAMA or LICENSER offer a replacement or modified version of or any upgrade to the Software or SERVICES, (a) the continued use of the Software or SERVICES is conditioned on the acceptance of such replacement or modified version of or upgrade to the Software or SERVICES and any accompanying superseding EULA and (b) the replacement of the previous software or the SERVICES is with simultaneous immediate decommissioning of the previous software or services
- (f) Limitations of messaging volume: The amount of data per message / email allocated per user is limited to 20 MB, unless the message is transmitted with the SERVICES for large file transfers, for which the limit is 200 megabytes per message; FRAMA can communicate other values for the allocated amount of data at any time. Messages exceeding these limits cannot be processed due to data volume limitations on incoming or outgoing messages. Messages with lower data volume could maybe not be processed due to data volume limitations (incoming/outgoing) of the sending or receiving parties or due to other factors outside the e-communications: RMail system. The customer acknowledges and agrees that FRAMA and the LICENSER have no responsibility or liability for the deletion or non-processing of messages. FRAMA and LICENSER have no obligation to maintain any content of customer accounts or to forward messages to customers or third parties.

### **3. TAXES**

All taxes and duties, regardless of their designation, which must be paid on the fees of the SERVICES will be invoiced to the customer by FRAMA or LICENSER and must be paid in addition by the customer.

### **4. PROPRIETARY RIGHTS**

#### **4.1 Proprietary Rights**

Client hereby agrees 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 includes: (a) all non-public information regarding the SERVICES or the business of a party (and, if either party is bound to protect the confidentiality of any third party's information, of a third party); (b) information marked or otherwise designated as "protected" or "confidential"; (d) information which, by its nature, is to be considered confidential or protected; (e) Information specifically identified as confidential in this Agreement.

#### **5.2 Disclosures and Use**

Each party agrees to maintain the confidentiality of Confidential Information of the other party with the same degree of care as it applies to its own confidential information, but in no case less than reasonable and appropriate care.

#### **5.3 Remedies**

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

## **6. PRIVACY**

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

### **6.1 Access to Contents of Service messages**

Customer understands and agrees that FRAMA and LICENSER may have access to the content of Service messages only in the event that such access is required (a) to maintain a Service server or to ensure the smooth operation of the Service; (b) to investigate or prevent the abuse of the Service; or (c) for reasons provided for in article 5 of this EULA. Such content is considered confidential information of the customer and is subjected to the provisions of article 5.

## **7. EXCLUSION OF WARRANTIES**

### **7.1 Failure in service delivery**

Customer will be notified if the Service is unavailable. The sole and exclusive measure to assist the customer in case of failure in SERVICE delivery is that FRAMA provides the appropriate service again. FRAMA and the LICENSER assume no other or further responsibility, liability or obligation for any such outage or any failure in the delivery of an email.

### **7.2 Undeliverable e-communications: RMail messages**

If a Registered Email® message is undeliverable, the e-communications: RMail Receipt™ email will notify the sender of this delivery status. FRAMA or LICENSER has no additional responsibility to re-deliver that email. It is solely the responsibility of the Sender to re-deliver that email. Undeliverable messages sent are considered as service rendered and are 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 LICENSER maintain confidentiality of all such passwords and do not disclose such passwords to any company or organization, unless there is a legal obligation of disclosure to public authorities or individual persons would be liable to prosecution if they wouldn't provide the authority with the information.

### **7.4 Digital Seal®**

FRAMA and LICENSER make no warranty that the RMail® Digital Seal mark will remain valid in all email systems of all recipients and that the messages sent with a "Digital Seal" will be forwarded in this way. FRAMA and LICENSER make no representation that a Registered Email® message with a Digital Seal mark will have the Digital Seal mark remain associated with the message at or after that message reaches its first destination. FRAMA and LICENSER make no representation that the SERVICE will be capable of sending all email, tagged by the End-User for digitally sealing, with a Digital Seal mark. Further, FRAMA and LICENSER do NOT claim that Digital Seal techniques can prove the identity of the sender of a message with Digital Seal.

### **7.5 Control and liability**

Neither LICENSER nor FRAMA control Customer's computer hardware, Software or network services provided by Customer to allow access to the SERVICES. The performance and / or non-performance of computer and network requirements may affect the customer's connections to email, the Internet, or parts thereof, and the transmission of data. Accordingly, FRAMA, LICENSER and all e-communications: RMail Partners disclaim any and all liability resulting from or relating to such events. The service is provided "as is" and "with all faults," and FRAMA, LICENSER and all e-communications: RMail Partners make no additional warranties or representations, express or implied, regarding the merchantability or fitness for a particular purpose or demand arising from a course of dealing, usage or trade practice.

FRAMA, LICENSER and all e-communications: RMail Partners provide the Software "as is" with all faults, and hereby disclaim all other warranties and conditions, express, implied or statutory, including and without limitation of implied warranties or conditions. FRAMA, LICENSER and all e-communications: RMail Partners disclaim any liability or responsibility regarding merchantability, fitness for a particular purpose, absence of viruses and negligence or lack of expert handling; the same applies to the title of undisturbed use or non-infringement of rights. The entire risk arising out of the use or performance of the Software is with you.

### **7.6 Qualified Services**

The SERVICES are currently not certified in accordance with the EU Regulation 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**

Customer shall indemnify and hold FRAMA, LICENSER and any e-communications: RMail Partners harmless against any claims, losses, liabilities, damages and expenses (including reasonable attorneys' fees and court costs) arising out of or connected with data or content in Customer's systems or Web site or in Customer's or End-User's email or otherwise used or transmitted by Customer or End-User, or arising out of or connected with Customer's business activities. Further, Customer shall indemnify and hold FRAMA, LICENSER and any e-communications: RMail Partner harmless against any claims, losses, liabilities, damages and expenses (including reasonable attorneys' fees and court costs) arising out of or connected with any failure in a delivery of a message or failure in any authentication of an email with an RMail Digital Seal™ or a Registered Receipt™ email or arising out of any use of the SERVICES.

### **8.2 Conditions to Indemnification**

The indemnity obligations set out in article 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) at the indemnitor's request and expense, the indemnitee cooperating in the investigation and defence of such claim(s).

### **8.3 Indemnification by FRAMA and LICENSER**

FRAMA and LICENSER will indemnify, defend and hold Customer harmless from and against any and all costs, liabilities, losses, and expenses (including court and attorneys' fees) arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against the Customer which arise out of or result from the infringement of any copyright, patent, trademark, or misappropriation of a trade secret relating to or resulting from FRAMA'S AND LICENSER'S SERVICES; provided that Customer (a) promptly gives FRAMA notice of the claim, suit, action, or proceeding; (b) gives FRAMA sole control of the defence and related settlement negotiations; and (c) provides FRAMA for the performance of the obligations with all available information and support necessary to comply with this obligations of FRAMA. If it is assumed that SERVICES of FRAMA or LICENSER infringe intellectual property rights, FRAMA may, in its sole discretion and at its own expense, either procure a license that will protect the Customer against such claim without cost to the Customer or replace the SERVICE with a non-infringing service. Provided that FRAMA complies with this Section, Customer shall have no remedy or other claims against FRAMA, except the right to terminate the EULA.

## **9. LIMITATION OF LIABILITY; LIMITATION OF REMEDY**

### **9.1 Principle**

Any and all liability on the part of FRAMA, LICENSER and e-communications: RMail partner to the Customer or third party is excluded for non-performance or defective performance of the contract provided if this was not due to wilful or gross negligence. Liability is also excluded for any unintentional disclosure or damage to or deletion of data sent and received through the RMail system.

### **9.2 Consequential damages**

FRAMA, LICENSER and e-communications: RMail partner are not liable to the Customer or third party for any claims or claims for damages. Excluded in particular is any liability for losses or damages arising as a result of the loss of data and the impossibility of obtaining access to the Internet and the service or sending and receiving information, brought about by delays, failure of or interruption to the service caused by FRAMA and LICENSER.

### **9.3 Damage caused by third parties**

FRAMA, LICENSER and e-communications: RMail partner are not 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, LICENSER and e-communications: RMail partner assume no liability for interruptions of service which are due to troubles, trouble shooting, maintenance, the introduction of new technologies or similar purposes. FRAMA, LICENSER and e-communications: RMail partner warrant neither access to their system at all times, nor the failure-free and uninterrupted functioning of their system.

### **9.5 Limitation of Damages**

In no event shall FRAMA, LICENSER or e-communications: RMail partner be liable for any indirect, direct, incidental, special, punitive or other damages or consequential damages, including loss of use, interruption of business, loss of data or loss of profits,

or loss due to a dispute involving the validity of a Registered Receipt™ email, its contents, or delivery status interpretation, arising out of or in any way connected with this agreement, the SERVICES or any Software applications, even if FRAMA, LICENSER or e-communications: RMail partner have been advised of the possibility of such damages. In no way shall any End-User or Customer act as an agent in litigation against FRAMA, LICENSER or e-communications: RMail partner or appoint a representative to represent them in litigation against FRAMA, LICENSER or e-communications: RMail partner.

If a liability of FRAMA and / or the LICENSER is affirmed, these are liable for a maximum amount equal to the payments of the customer per unit of Registered Email® message according to its contract. E-communications: RMail partners are under no circumstances liable for any damages arising out of or in connection with this contract or the SERVICES.

#### **9.6 Customer Content**

In no event shall FRAMA, LICENSER or any e-communications: RMail partner be liable for any inaccuracy, illegality, misinformation or any violation of a third party right or interest associated with or directly or indirectly arising out of the email content or attachment content of a Customer's or End-user's email.

#### **9.7 Customer Equipment**

FRAMA, LICENSER and e-communications: RMail partner assume no liability for damage to, or loss of, any Customer equipment or data resulting from any cause.

#### **9.8 Limitation of Remedy**

If FRAMA, LICENSER or e-communications: RMail partner fails to cure a default under this Agreement within 60 (sixty) days of Customer's written notice of the default and its intent to terminate, Customer's sole and exclusive remedy is the right to terminate the SERVICES and obtain a refund of only charges paid in advance.

### **10. TERM AND TERMINATION**

#### **10.1 Term and Termination**

This EULA shall be in force from the date of written or electronic acceptance of these EULA by the Customer or the installation date of the Access Software on the User's computer until (a) it is supplemented or updated in whole or in part by an updated version and again accepted by the Customer; or (b) either party terminates the agreement to an end of a month with a notice period of fourteen (14) days.

#### **10.2 Effect of Contract Termination**

Upon termination of the SERVICES, the customer must cease his use of the SERVICES and delete the access software. All rights and obligations of the parties shall cease, except for the customer's payment obligations and as set out in Art. 11.7. Termination does not relieve Customer of the obligation to pay all fees owing to the date due of termination of the contract. Upon termination of this Agreement, each party will return to the other party any Confidential Information, Software, of such other party, which is in its possession.

## **11. GENERAL**

### **11.1 Relationship of Parties**

Nothing in this Agreement will be construed to imply a joint venture or partnership. FRAMA and LICENSER act as Agents of the sender of message. If the sender would like FRAMA or LICENSER to turn off authentication capabilities for a particular e-communications: RMail receipt, FRAMA or LICENSER will do so and reserves the right to charge the sender a fee for this additional service request. FRAMA and LICENSER requests regular feedback from Customer about how FRAMA and LICENSER can improve the service. The customer declares and agrees with the statement that he is not an employee of FRAMA or LICENSER; he executes SERVICES under this contract as an independent contractor.

### **11.2 FRAMA and LICENSER Testimony**

In the event that FRAMA or LICENSER personnel are subpoenaed or otherwise asked to give testimony in any disputes between a Customer and any third party, which involves the Software or SERVICES, the Customer agrees to pay FRAMA and/or LICENSER for its services at a rate of €350.00 plus VAT per hour per person, as well as reasonable travel and other expenses.

### **11.3 Assignment of Rights and Obligations**

Customer shall not assign any of the rights or obligations under this Agreement without the prior written consent of FRAMA or LICENSER, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Customer may assign its interest herein, upon written notice to FRAMA or LICENSER, to a subsidiary of Customer's or to an entity that acquires substantially all Customer's assets or business which expressly assume Customer's obligations. The rights and liabilities of the parties to these 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 the businesses.

Nothing in this agreement shall be construed as to prohibit FRAMA or LICENSER from outsourcing any part of the SERVICES or from offering the e-communications: RMail service under the brand of any e-communications: RMail partner.

### **11.4 Complete Understanding; Modification**

This EULA fully and finally constitutes the agreements between the parties to the subject matter hereof; this EULA supersedes all prior agreements and understandings between the parties with respect to its subject matter and may not be changed unless mutually agreed upon in writing by both parties.

No different or additional terms set forth in a purchase order or other communication will be binding on FRAMA or LICENSER unless FRAMA or LICENSER specifically agrees in writing to such different or additional terms. Changes may be legally agreed by FRAMA or the LICENSER only in writing and by authorized signatories. This agreement is not only binding in writing, but also if accepted in electronic form or by written signature of the customer.

### **11.5 Notices**

All communications required or permitted under this Agreement must be made as follows: to FRAMA at the email address: [E-communications\\_Hotline@frama.com](mailto:E-communications_Hotline@frama.com).

### **11.6 Governing law; consent to jurisdiction**

This contract and its interpretation are subject to Swiss law. The place of fulfilment and the sole court competent for all disputes arising from these EULA is the "REGIONALGERICHT EMMENTAL-OBERAARGAU, 3400 Burgdorf, Switzerland". An amendment to the provisions regarding choice of law or place of jurisdiction requires the written form and legal signature of the parties in order to be valid.

### **11.7 Survival of Obligations**

The rights and obligations with respect to Proprietary Information, Confidential Information, Privacy, Warranties, Indemnification, Limited action of Liability, and Disclaimers shall survive the termination or expiration of this Agreement for unlimited time.

### **11.8 Amendments**

This Agreement may not be modified or amended except by written instrument signed by an authorized representative of both parties.

### **11.9 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same Agreement. All electronic versions of the Agreement shall be deemed as valid as originals. If the Enabler Software is successfully installed and the terms are acknowledged during the installation process, than this Agreement shall be deemed as valid as original in electronic form and as contract by mutual agreement.

#### **11.10 Litigation**

If the Customer is involved in litigation where the e-communications: RMail system is in question, the Customer is required to notify FRAMA and LICENSER promptly; FRAMA and LICENSER reserve the right to defend the Registered Email® e-communications: RMail system in the litigation.

#### **11.11 Legal Notice**

FRAMA or LICENSER does not offer any legal advice, opinions, or recommendations. Use of any of the materials or information contained on written material or on FRAMAs or LICENSERs web sites or in any IT publication or marketing material supported by FRAMA or LICENSER shall be used with caution and with no risk or liability to FRAMA or LICENSER. It is CUSTOMERs responsibility to consult an independent legal counsel if they have legal issues and do not want to rely on the material of FRAMA or the LICENSER as a source of law.