



Last Updated: 22 November
2022

JFROG PURCHASE ORDER TERMS AND CONDITIONS



The terms and conditions of the purchase order to which these terms are attached (“**PO Agreement**” and “**PO**” respectively) are the exclusive and binding agreement between the JFrog entity listed on the PO (“**JFrog**”) and the supplier listed on the PO (“**Seller**”) for the purchase of the products or services (“**Deliverables**”) ordered on the face of this PO.

1. ACCEPTANCE

By shipping or performing the Deliverables specified in the PO, Seller accepts this PO Agreement and agrees to be bound by the terms and conditions provided herein.

2. NO ADDITIONAL TERMS.

Any additional or different terms proposed by Seller, including any amendment hereto, are objected to and rejected unless expressly assented to in writing by JFrog. In the event there are conflicting terms and conditions between this PO Agreement and an additional valid agreement fully executed by both parties (the “**Other Agreement**”), then the Other Agreement will supersede.

3. TIMELY PERFORMANCE

Seller acknowledges and agrees that time is of the essence in the delivery or completion of the Deliverables within the time frame mutually agreed upon by JFrog and Seller and failure to meet such time frame constitutes a breach of this PO Agreement.

4. CHANGES

JFrog reserves the right at any time prior to shipment to make a change as to: (1) specifications; (2) method of delivery; (3) place of delivery, (4) schedule of delivery and the (5) quantities of delivery.

5. CANCELLATION

JFrog reserves the right to cancel the PO, or any portion of thereof, without liability, if; (a) delivery is not made when and as specified; (b) Seller fails to meet contract commitments as to exact time, price, quality or quantity; (c) Seller ceases to conduct its operation in the normal course of business; (d) Seller is unable to meet its obligations as they mature; or (e) Seller is entered into any bankruptcy or other similar proceedings. In the event of a cancellation, JFrog shall have no further obligations to Seller except to pay for deliverables that were provided to and accepted by JFrog prior to such termination. Upon termination, Seller shall provide any



transition assistance that may be reasonably requested by JFrog.

including sales, use, gross receipts, VAT, GST,

6. INSPECTION AND REJECTION OF PURCHASED GOODS

All Deliverables are subject to final inspection and acceptance by JFrog which will be made within a reasonable time after receipt thereof.

JFrog shall notify Seller if any Deliverables hereunder are rejected, and at JFrog's election and Seller's risk and expense, such Deliverables shall be held by JFrog or returned to Seller. No replacement or correction of nonconforming goods shall be made by Seller unless agreed to in writing by JFrog.

7. INVOICING

Invoices shall be sent immediately after shipment of the Purchased Goods or completion of Purchased Services to the address shown on the face of the PO Agreement and including an "attention to" line indicating the Seller's primary business contact at JFrog. Delays in receiving invoices, errors, or omissions on invoices or lack of supporting documentation required by the terms of this PO Agreement shall postpone the start of the payment terms until the correct information is received. JFrog will not be responsible for charges on invoices received more than 120 days after the shipment or rendering of the Deliverables.

8. PAYMENT

In consideration for the performance and completion of the obligations by Seller and acceptance by JFrog under this PO Agreement, JFrog will pay the applicable invoice amount. Payment terms are net 60 days (end of month) from receipt of invoice unless indicated otherwise in this PO.

9. DISPUTED CHARGES

Where any item or items on an invoice are disputed, JFrog may withhold payment for the item or items so disputed until such time as the dispute is resolved.

10. TAXES

JFrog will pay or reimburse Seller for Taxes imposed on the sale of Goods and Services sold to JFrog under the PO, provided such taxes are statutorily imposed, either jointly or severally, on JFrog and are indicated on the applicable invoice. "Taxes" mean all federal, state, and local taxes



or similar transaction taxes, duties, customs, tariffs, forwarding agent's fees, imposts, and surcharges. All Taxes payable by JFrog should be separately stated and will be exclusive of the price. JFrog will have no obligation or liability for any taxes which are statutorily imposed on Seller. If JFrog is required by law to make any deduction, or to withhold from any sum payable hereunder, then the sum payable by JFrog will be paid net of such deduction or withholding. JFrog will pay the applicable tax authorities any such required deduction or withholding and will provide Seller with all documentation issued by the applicable tax authorities evidencing such tax payment upon request.

(a) Confidential Information. Seller acknowledges that it is, may be or will be, privy to JFrog Confidential Information. “**JFrog Confidential Information**” means

11. SELLER'S REPRESENTATIONS AND WARRANTIES

Seller represents and warrants that:

- (a) Seller owns all rights, title and interest in the Deliverables and has legal authority to sell, license or otherwise transfer the right to use or sell such items to JFrog;
- (b) the Deliverables covered under the PO will function properly under normal use and are of good and merchantable quality and free from defects in design, material and workmanship, are safe and conform to applicable specifications, drawings, samples, descriptions and associated documentation provided to the JFrog in writing;
- (c) the Deliverables, and the provision, production and sale thereof are in all respects in compliance with all applicable international, federal, state, local laws, rules and regulations;
- (e) no Deliverables, or their sale or use will infringe any patents, trademarks, copyrights, trade secrets or similar intellectual property rights of any third party;
- (f) Seller will comply with all federal, state and local laws, ordinances, rules and regulations applicable to its performance under the PO, including, but not necessarily limited to all governing labor, employment, wage and hour, workplace safety (including OSHA), and workers' compensation.; and
- (g) Seller's performance hereunder will not violate any duty of confidentiality Seller owes to any third party.

12. CONFIDENTIALITY AND PRIVACY



any information that is disclosed to or observed by Seller, which at the time of disclosure is marked as being “Confidential” or “Proprietary” or is reasonably identifiable as confidential given the nature of the information or the circumstances of disclosure.

(b) Use of Confidential Information. Seller agrees it will

(i) use the Confidential Information only in the furtherance of its work under this PO Agreement and shall not transfer or otherwise disclose the Confidential Information to any third party except with written authorization from JFrog; (ii) protect JFrog Confidential Information using the same degree of care Seller uses to protect its own confidential information of a similar nature, but in no event less than a reasonable degree of care; (iii) only disclose Confidential Information to its affiliates, employees, and service providers (collectively, “**Representatives**”) who (A) “need to know” the Confidential Information in connection with the PO and

(B) are bound by confidentiality obligations no less stringent than those in this PO Agreement; and (iv) not reverse engineer, disassemble, decompile nor remove proprietary markings from JFrog Confidential Information without JFrog’s prior written consent. Seller is responsible for the sufficiency of the security, privacy, and confidentiality safeguards of its Representatives with respect to JFrog Confidential Information and shall be liable for any breach of this Agreement by its Representatives.

(c) Access. If Seller or any of its personnel require access to JFrog premises or JFrog equipment, systems, applications or networks, such personnel must comply with JFrog policies and instructions while performing the Deliverables and may be required to execute a separate policy agreement acknowledging these obligations as a condition for receiving such access.

(d) Privacy. Seller will: a) only process personal information furnished by JFrog solely for the purpose of providing the Deliverables to JFrog; b) inform JFrog of any privacy-related requests from individuals whose details provided to Seller by JFrog; c) be responsible for the security of any personal information shared by JFrog;

d) notify JFrog without undue delay following any data breach involving personal information; e) Seller shall not process, sell, transfer, modify,

amend, alter, disclose or permit the disclosure of shared information to any third party other than in accordance with JFrog instructions;

f) Seller shall ensure that access to the shared information is strictly limited to those individuals who need to receive access to such information, as strictly necessary for providing the Deliverables; and g) delete



the related personal information following the provision of the Deliverables, if applicable.

13. INTELLECTUAL PROPERTY

(a) **JFrog Intellectual Property.** JFrog owns all Intellectual Property Rights related to any information or items JFrog provides to Seller. Seller may not use JFrog's Intellectual Property except to benefit JFrog and solely for the purpose of performing its obligations to JFrog under the PO Agreement. "**Intellectual Property**" shall mean any and all proprietary and intellectual property rights, including without limitation copyrights (including moral rights, where applicable), patents, designs, trademarks, and all applications thereof, whether or not registered or capable of being registered, know-how, original works of authorship, computer software programs, confidential and proprietary information, data and databases, algorithms, processes, procedures, techniques, drawings, flow charts, ideas, source code and object code, files' structure, trade secrets, and all rights corresponding to the foregoing throughout the world.

(b) **Standard Purchased Goods and Services.** Seller hereby grants JFrog a worldwide, non-exclusive, royalty-free, perpetual, transferable license for JFrog, to use, reproduce, and publicly display the Deliverables.

(c) **Custom Purchased Goods and Services.** For any Deliverables listed on the face of this PO that are custom produced by Seller based on JFrog specifications or requirements ("**Work Product**"), Seller hereby assigns to JFrog all rights, title, and interest in and to the Work Product, including all Intellectual Property rights thereof. To the extent Seller embeds any of its pre-existing Intellectual Property ("**Background IP**") into the Work Product, Seller hereby grants JFrog a non-exclusive, royalty-free, irrevocable, perpetual, worldwide, sublicensable, transferable license for to use the Background IP in connection with JFrog's use of that Work Product.

expenses related thereto, including attorney's fees, arising directly or indirectly from: (a) a breach by Seller, its Representatives of any provision of this PO, (b) any negligent act or omission by Seller or its Representatives, including injuries or death to persons or damage to property, (c) failure to collect

14. INDEMNIFICATION

Indemnity. Seller will defend and indemnify JFrog and its directors, officers, and affiliates against any third party claims, demands, liabilities, losses, causes of action, damages, judgments, and settlements, including all reasonable costs and



or remit Taxes due under this PO, and (c) assertions under Worker's Compensation or similar acts made by persons furnished by Seller.

status or disability.

15. LIMITATION OF LIABILITY

JFrog will be not liable to Seller for any indirect, special, incidental, or consequential damages, or lost profits, however caused, regardless of whether Seller is advised of the possibility of such damages. JFrog's maximum liability to Seller arising out of the PO, regardless of the basis of liability or the form of action, will not exceed the total price stated in this PO.

19. COMPLIANCE WITH APPLICABLE LAWS.

16. INSURANCE. Seller will maintain adequate health, auto, unemployment compensation, disability, and other insurance, as is required by law and as common in the industry in which Seller is operating, to cover Seller's obligations created by this PO Agreement.

17. PUBLICITY

Seller shall not make publicly available any information regarding the PO, the PO Agreement, its contents, or the Deliverables without JFrog's prior written consent. Seller shall not use JFrog's name or logo in any of its advertising, client list, or sales promotional material without JFrog's prior written consent.

18. EQUAL OPPORTUNITY

With respect to a US Seller, Seller and its representatives shall comply with all Federal equal employment opportunity obligations under 41 CFR 60-1.4(a), 60-300.5 (a), 60-741.5(a) and federal labor law obligations under 29 CFR part 471, appendix A to subpart A. **Seller and its representatives shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran**



Seller and its subcontractors must comply with all applicable laws and regulations in effect. Seller will notify JFrog in writing, before delivery of any Deliverables, whether such goods or services require a license from the U.S. or any foreign government in order to export the product from the U.S. or from any country where the Deliverables are delivered. Seller will provide all information needed to obtain such export licenses.

20. COMPLIANCE WITH JFROG SUPPLIER CODE OF CONDUCT

Seller and its Representatives shall comply with the JFrog Supplier Code of Conduct, which can be found at <https://jfrog.info/supplier-code-of-conduct/> and is incorporated herein by reference.

21. ASSIGNMENT

No assignment of any rights, including rights to money due or to become due hereunder, or delegation of any duties under this order shall be binding upon JFrog unless its written consent has been obtained. JFrog may assign this PO Agreement without the prior written consent of Seller. The parties' rights and obligations under this PO Agreement will bind and inure to the benefit of their permitted successors and assigns.

22. FORCE MAJEURE

JFrog shall be relieved from any and all liability under or in connection with this PO Agreement to the extent that such liability arises from any failure to perform any of its obligations under or in connection with this PO Agreement, if those were caused or contributed to by a force majeure event or circumstance including acts of God, war, hostilities (whether war be declared or not), civil disturbance, government action, strikes, lock-outs, pandemics, or labor disputes, or any other event or circumstance or cause whatsoever beyond JFrog's reasonable control.

23. SEVERABILITY AND INDIVIDUAL PROVISIONS; SURVIVAL

The obligations of the parties under this PO Agreement which by their nature would continue beyond the termination, cancellation, or expiration of these terms and conditions will survive termination, cancellation, or expiration of these terms and conditions.

24. WAIVER OF FAILURE TO ENFORCE A

PROVISION

Failure by either party at any time to enforce any provision of this PO Agreement against the other shall not be construed as a waiver of such entitlement and shall not affect the validity of this PO Agreement or any part or parts thereof or the right of the relevant party to enforce any provision in accordance with its terms. The rights and/or remedies of either party may only be waived by formal written waiver which is signed by a



duly authorized representative of the party waiving its rights.

25. GOVERNING LAW

This PO Agreement shall be governed by and construed in accordance with the laws of the territory in which the purchasing JFrog entity under the PO, is incorporated. All parties hereto hereby irrevocably submit to the non- exclusive jurisdiction of any federal or state court located within the location of such JFrog entity, with respect to any legal action or proceeding arising out of or relating to this PO Agreement or any of the transactions contemplated hereby and each party hereby irrevocably agrees that all claims in respect of such dispute or any suit, action or proceeding related thereto may be heard and determined in such courts.
