

Effective date: April 15, 2025

## **Grammarly Customer Business Agreement** ([Previous Version](#))

*Note: This Grammarly Customer Business Agreement applies to organizations using Grammarly for a business purpose, including Grammarly Business or Grammarly for Education. If your organization signed an offline agreement with us, then that agreement governs your organization's use of our Services.*

This Grammarly Customer Business Agreement ("**Agreement**") is made between Grammarly, Inc. ("**Grammarly**") and the organization, business, or other legal entity that has entered into an Order for Grammarly's services that references this Agreement ("**Customer**"). Grammarly and Customer may individually be referred to as a "**Party**" and collectively "**the Parties**." This Agreement will govern Customer's access and use of the Services and is effective as of the earliest date that Customer accesses the Services or executes an Order that references this Agreement (the "**Effective Date**").

### **1. Provision and Use of the Services**

**1.1 Right to Use the Services.** During the Subscription Term and subject to the terms of this Agreement and the applicable Order, Grammarly grants Customer the right to access and use the Services solely for Customer's internal business purposes in accordance with the Documentation.

**1.2 Use by Affiliates.** Customer, at its sole discretion, may permit its Affiliates to access and use any Services purchased by Customer under an Order, provided that such Affiliate access and use the Services in compliance with all of the obligations imposed upon Customer under this Agreement (other than payment obligations), and (ii) Customer remains responsible for the acts and omissions of such Affiliates. If a Customer Affiliate and Grammarly execute a separate Order (an "**Affiliate Order**"), such Affiliate and Grammarly are deemed (a) to have entered into a separate customer business agreement containing the terms of this Agreement with any reference to "Customer" meaning only such Affiliate ("**Affiliate Agreement**") and (b) that Affiliate Order shall be governed by the Affiliate Agreement. Customer is not permitted to resell access to the Services to any of its Affiliates without the prior written consent of Grammarly.

**1.3 Access for End Users; Responsibility for End Users.** Customer may create End User accounts for the Services, in the numbers and types stated in the applicable Order. Each End User account must be designated for use by one individual only. However, an End User account can be transferred to a new individual if the individual previously associated with the account no longer requires access to the Services. Customer is responsible for ensuring End Users' compliance with this Agreement and the security of End Users' log-in credentials. Customer must promptly notify Grammarly if it becomes aware of any unauthorized access to any End User's login credentials or other unauthorized access to or use of the Services. Customer is responsible for providing all legally required notices and obtaining all consents necessary to allow Grammarly to

provide the Services to End Users.

1.4 Changes to the Services. Customer acknowledges that the Services are evolving and that Grammarly may modify the features and functionality of the Services during the Subscription Term. Grammarly will not materially decrease the overall functionality of the Services purchased by Customer during the Subscription Term.

1.5 Purchase Through Reseller. If Customer subscribes to Services from an authorized Grammarly reseller or partner (“**Reseller**”), and notwithstanding anything set forth in this Agreement: (a) the terms of this Agreement will act as the end user license agreement, and in addition to Customer’s compliance with the Agreement, Customer’s right to access and use such Services is subject to the terms and conditions of Customer’s written agreement with the Reseller (“**Reseller Agreement**”), including Customer’s obligation to timely pay Fees to the Reseller; (b) Customer will execute all Orders directly with the Reseller and not Grammarly; and (c) the terms and conditions of Section 2 (*Payment Terms*) do not apply. Any refund, payments, or credits which Grammarly must provide to Customer in accordance with the terms of this Agreement will be provided by Grammarly to Reseller, and Customer acknowledges that it must seek such refunds, payments, and credits from Reseller only. Furthermore, Customer’s right to terminate or cancel its Service is solely as described in the Reseller Agreement, provided that nothing herein shall be interpreted as permitting Reseller to offer terms inconsistent with the remainder of this Agreement. If the Reseller ceases at any time to be an authorized Reseller, including for a failure to pay for any Services, Customer’s continued use of Services may be conditioned upon Customer executing a written agreement for such Services directly with Grammarly, and paying the outstanding Fees, if any, that Reseller did not remit to Grammarly on Customer’s behalf. Resellers are not authorized to modify the Agreement or make any promises or commitments on Grammarly’s behalf, and Grammarly is not bound by any obligations to Customer other than as set forth in this Agreement. Grammarly may temporarily suspend or terminate delivery of Services to Customer upon notice at the written direction of Reseller to the extent permitted under this Agreement or the Reseller Agreement.

## 1.6 Integrations.

1.6.1 Customer-Built Integrations. Subject to this Agreement and any limitations set out in the Order, Customer may, at its discretion, access and use Grammarly’s developer tools to build extensions and integrations that interoperate with the Services (“**Customer Packs**”), which are governed by the Grammarly Developer Terms found at <https://coda.io/trust/developer> (“**Pack Developer Terms**”), and are incorporated herein by reference. To the extent there is a conflict between the Pack Developer Terms and this Agreement, the Pack Developer Terms will prevail.

1.6.2 Grammarly-Developed Integrations. Subject to this Agreement and any limitations set out in the Order, Customer may, at its discretion, purchase additional Grammarly-developed integrations, plugins, or extensions to the Services that interoperate with third-party services (“**Coda Packs**”) as add-ons to its then-current

subscription to the Services via the Coda Gallery or other such methods or venues as Grammarly may designate from time to time. Use of Coda Packs requires Customer to have (a) an active subscription to a Grammarly Service (e.g., Coda Docs) that supports Coda Packs; and (b) an active subscription to the third-party service that interoperates with the applicable Coda Pack (a **“Third-Party Subscription”**). Customer is responsible for ensuring that the features and capabilities of the Customer’s Third-Party Subscription allow Customer to access and use the Coda Pack. Grammarly will have no liability if Customer is required to purchase an additional or different Third-Party Subscription to utilize the Coda Packs. If Customer’s Third-Party Subscription ends, Customer’s associated access and use of the Coda Pack will automatically terminate. Customer acknowledges it will not receive a refund of any fees prepaid for the Coda Pack in case of such termination. Unless explicitly stated otherwise, references to Services in this Agreement include Coda Packs.

1.6.3 Third-Party Developed Integrations. Subject to this Agreement and any limitations set out in the Order, Customer may, at its discretion, purchase and use certain third-party developed and provided services, products, apps, integrations, code, plugins, content, or extensions that interoperate with the Services, including (a) third-party integrations made available via the Coda Gallery or other such methods or venues as Grammarly may designate from time to time (**“Third-Party Packs”**); (b) third-party service integrations made available through the Service dashboard or APIs; and (c) third-party products or services that Customer authorizes to access Customer’s Grammarly account using OAuth or other credentials (all of the foregoing, each and collectively, **“Third-Party Service(s)”**). Each Third-Party Service shall be exclusively governed by the terms of service, end user license agreement, privacy policies, and/or any other applicable terms and policies of the third-party provider as is agreed to between Customer and the third-party provider (**“Third-Party Terms”**).

1.6.4 Payment for Third-Party Packs. Third-Party Packs may be offered free of charge or for a fee, either charged directly by the Third-Party Pack provider or by Grammarly. When Grammarly charges Customer on behalf of the Third-Party Pack provider, Customer acknowledges that Grammarly acts only as an intermediary in facilitating or collecting the applicable fees and taxes from Customer. All payment-related matters, including fee payment, renewal, and refund policies, are between the Customer and the Third-Party Pack provider and are governed by the Third-Party Terms.

1.6.5 Third-Party Data Flow. Customer is under no obligation to use any Coda Packs or Third-Party Services. However, by downloading, installing, enabling, or using a Coda Pack or a Third-Party Service, Customer authorizes Grammarly to provide, use, process, and transmit Customer Data, System Data, and Account Information to (a) the Third-Party Service that interoperates with Grammarly’s Service; and (b) the Third-Party Service’s developer, if different from Grammarly, in accordance with the Third-Party Terms.

1.6.6 Third-Party Services Disclaimer. GRAMMARLY DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES, OR GUARANTEES REGARDING

THIRD-PARTY SERVICES, INCLUDING, WITHOUT LIMITATION, THAT THE THIRD-PARTY SERVICES WILL FUNCTION PROPERLY WITH THE SERVICES. THIRD-PARTY SERVICES ARE MADE AVAILABLE BY GRAMMARLY ON AN “AS IS” AND “AS AVAILABLE” BASIS. GRAMMARLY MAY CEASE PROVIDING ACCESS TO THEM AT ANY TIME, AND CEASING SUCH ACCESS WILL NOT ENTITLE CUSTOMER TO ANY REFUND, CREDIT, OR OTHER COMPENSATION FROM GRAMMARLY. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, GRAMMARLY WILL HAVE NO LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIRD-PARTY SERVICES.

1.7 Beta Services. Grammarly may occasionally provide Customer access to new service offerings still in development (“**Beta Services**”). Grammarly will clearly designate all Beta Services as “alpha,” “beta,” “early access,” or something similar in the applicable Services or Documentation. Customer may choose to use these Beta Services at its sole discretion. Customer will treat the Beta Services and any related documentation as Grammarly’s Confidential Information until Grammarly makes such information publicly available on its website. Customer acknowledges that Grammarly is under no obligation to support these Beta Services, and Beta Services may not be as secure or reliable as Grammarly’s other Services. In Grammarly’s sole discretion, Grammarly may change the functionality of the Beta Services and/or discontinue, suspend, or remove Customer’s access to such Beta Services (including any Customer Data stored or processed within the Beta Services) and has no obligation to make them generally available. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, GRAMMARLY WILL HAVE NO LIABILITY ARISING OUT OF OR IN CONNECTION WITH BETA SERVICES.

1.8 Professional Services. From time to time, Customer may request that Grammarly provide professional services, including integration and/or customization services in connection with the Services (“**Professional Services**”). If the Parties agree to proceed with requested Professional Services, the Parties shall enter into a separate agreement that sets forth the specific terms and fees for such Professional Services.

## **2. Payment Terms**

2.1 Fees. Customer will pay the fees for the Services (“**Fees**”) described in the Order. Payment will be made in US dollars (unless another currency is specified in the Order). All payment obligations are non-cancellable, and Fees are non-refundable except as required by law or as expressly set out in this Agreement. Grammarly will send all invoices to the billing email address provided by Customer in the Order. Unless otherwise agreed to in writing by Grammarly, Grammarly will have no obligation to submit invoices to any vendor management portal or other similar system to obtain payment of the Fees.

2.2 Payment Timing; Billing Errors. The payment timing is described in Customer’s Order. If payment timing is not specified in Customer’s Order, Customer must pay all undisputed Fees within 30 days of Customer’s receipt of Grammarly’s invoice. Late payments may be subject to a service charge of the lesser of 1.5% per month or the

maximum amount allowed by law. If Customer believes the invoice contains an error (“**Billing Error**”), Customer must send a written notice to Grammarly describing the error in reasonable detail within 30 days of Customer’s receipt of the disputed invoice. The Parties will use good faith efforts to resolve the Billing Error. If the Parties are unable to resolve the Billing Error within 60 days of Customer’s receipt of the disputed invoice, then the Parties will be free to exercise any legal or contractual remedies available to them.

**2.3 Taxes.** Unless otherwise expressly specified in an Order and as required by applicable law, Fees are exclusive of any Taxes. Other than taxes on Grammarly’s net income, Customer is responsible for paying any Taxes assessed in connection with Customer’s subscription to the Service. Grammarly will invoice Customer for such Taxes if Grammarly believes it has a legal obligation to do so, and Customer agrees to pay such Taxes if so invoiced. If Customer claims exemption from any Taxes under this Agreement, Customer must provide Grammarly with a valid tax exemption certificate or tax ID at the time of Order, and after receipt of valid evidence of exemption, Grammarly will not include the Taxes on the relevant invoice to Customer.

**2.4 Notice of Fee Changes.** If Grammarly intends to change the Fees following the end of Customer’s current Subscription Term, Grammarly will give Customer at least 30 days’ notice of that change prior to the renewal of Customer’s then-current subscription. Notwithstanding the foregoing, Customer acknowledges that Grammarly may not provide notice for any changes in Fees that occur due to a change in the fees charged by a Third-Party Service provider for a Third Party Service.

**2.5 Free Trials or Programs.** If Customer registers for a free trial or program for any Service, Grammarly will provide such Service to Customer on a trial basis free of charge until the earlier of (a) the end of the free trial or program period; (b) the start date of any paid subscription to such Service; or (c) termination of the free trial or program by either Party, in its sole discretion.

### **3. Protection of Customer Data**

**3.1 Security.** Grammarly has implemented appropriate technical and organizational measures to enable a level of security that is appropriate to reduce the risk of unauthorized or unlawful processing, accidental loss of, and/or damage to Customer Data. Grammarly will maintain a compliance program that includes independent third-party audits and certifications, including SOC II.

**3.2 Data Privacy and Data Privacy Addendum.** To the extent that Customer Data includes any Personal Data, the Parties agree to comply with the terms of the Grammarly Data Privacy Addendum located at <https://www.grammarly.com/online-dpa>, which are incorporated by reference into this Agreement (the “**DPA**”). To the extent that Account Information includes any Personal Data for which Grammarly is a data controller, Grammarly will collect and process that Personal Data in accordance with Grammarly’s privacy policy.

**3.3 Data Removal and Retention.** During the Subscription Term, Customer will have the

ability within its account settings to export and/or delete its Customer Data. Upon termination or expiry of the Agreement, Grammarly will, at the choice and written request of Customer, return to Customer and/or securely destroy all Customer Data in its possession or control in accordance with the Agreement, except to the extent Grammarly is required by applicable law to retain some or all of the Customer Data, or to Customer Data it has archived on back up systems, in which case, that Customer Data shall securely isolate and protect from any further processing and shall be deleted by Grammarly in accordance with its deletion practices.

3.4 HIPAA Data. Customer agrees not to submit any HIPAA Data to the Services unless it has entered into a BAA with Grammarly for the applicable Service(s). Unless a BAA is in place, Grammarly will have no liability under this Agreement for HIPAA Data, notwithstanding anything to the contrary in this Agreement, HIPAA, or any similar federal or state laws, rules, or regulations. Upon mutual execution of a BAA, the BAA will be incorporated by reference into this Agreement.

#### **4. Confidentiality**

4.1 Definition. "**Confidential Information**" means information that a Party (or its Affiliate) discloses to the other Party under this Agreement and which is marked as confidential or would normally be considered confidential information by a reasonable party under the circumstances. Confidential Information does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.

4.2 Restrictions on Use and Disclosure of Confidential Information. The recipient of Confidential Information will only use the disclosing party's Confidential Information to exercise its rights and fulfill its obligations under this Agreement and will use reasonable care to protect against the disclosure of the disclosing party's Confidential Information. The recipient may disclose Confidential Information only to its Affiliates, employees, agents, or professional advisors who need to know it and who have agreed in writing (or in the case of professional advisors are otherwise bound) to keep it confidential. The recipient will ensure that those people and entities use the received Confidential Information only to exercise rights and fulfill obligations under this Agreement.

4.3 Required Disclosure. The recipient may disclose Confidential Information to the extent required by applicable Legal Process if the recipient uses commercially reasonable efforts to (a) promptly notify the other Party of such disclosure before disclosing; and (b) comply with the other Party's reasonable requests regarding its efforts to oppose the disclosure, in each case, if doing so is consistent with the Legal Process and does not obstruct a governmental investigation.

#### **5. Intellectual Property Rights**

5.1 Reservation of Intellectual Property Rights. As between the Parties, (a) Customer owns all Intellectual Property Rights in Customer Data; and (b) Grammarly owns all Intellectual Property Rights in the Services, Coda Packs, Beta Services, Documentation, and System Data. Except as expressly stated, this Agreement does not grant either Party any rights, implied or otherwise, to the other's content or any of the

other's intellectual property.

5.2 Right to Use Customer Data. Customer grants Grammarly a worldwide, non-exclusive, limited right to use (including storing, processing, copying, transmitting, modifying, and displaying) Customer Data solely as necessary to provide, support, and protect the Services in accordance with this Agreement.

5.3 Publishing. From time to time, Customer may, in its sole discretion, elect to make certain Customer Data publicly available within Grammarly's marketplace ecosystem, including on the Coda Gallery in the form of published documents, templates, websites, forms, and surveys (collectively, "**Published Content**"). The Services do not require Customer to publish any Customer Data. However, if Customer elects to make any Published Content publicly available, Customer hereby grants Grammarly a perpetual, irrevocable, fully transferable, and sublicensable (through multiple tiers), worldwide, non-exclusive, royalty-free license: (a) to reproduce, electronically distribute, transmit, have transmitted, perform, display, store, and archive any Published Content; and (b) to make, have made, copy, modify, make derivative works of, use, sell, import, and otherwise distribute any such Published Content under all applicable laws.

5.4 Prohibition on Training AI Models. Grammarly will not use and will not permit its third-party providers to use Customer Data to train any generative artificial intelligence models without Customer's prior consent.

5.5 Feedback. If Customer or its End Users provide Grammarly with any suggestions, enhancement requests, recommendations, or other feedback regarding the Services, Grammarly may use that feedback without restriction or obligation to Customer, and Customer hereby assigns all rights, title, and interest in such feedback to Grammarly.

5.6 Customer Reference. Grammarly may use Customer's name, logo, and marks to identify Customer as Grammarly's customer on Grammarly's website and in other marketing materials and activities, subject to any brand guidelines provided by Customer to Grammarly in writing. Upon Customer's written request, Grammarly will promptly remove Customer's name, logo, and any such marks from Grammarly's website and, to the extent commercially feasible, Grammarly's marketing materials.

## **6. Customer Obligations**

6.1 Terminate Unauthorized Use. Customer will use commercially reasonable efforts to prevent and terminate any unauthorized use of or access to the Services. Customer will promptly notify Grammarly of any unauthorized use of or access to the Services of which Customer becomes aware.

6.2 Acceptable Use Policy. Customer agrees to comply with the Grammarly Acceptable Use Policy set forth at <https://www.grammarly.com/acceptable-use-policy> ("**AUP**").

6.3 Compliance with Laws: Export Compliance. Customer (a) will comply with all export and import laws in performing this Agreement; and (b) represents and warrants that it is not listed on any US government list of prohibited or restricted parties or located in (or a

national of) a country subject to a US government embargo or designated by the US government as a “terrorist supporting” country. Customer will not submit to the Services any data controlled under the US International Traffic in Arms Regulations.

## **7. Term, Termination, and Suspension**

**7.1 Subscription Term; Agreement Term.** The “**Subscription Term**” of Customer’s subscription will begin and end on the dates specified on the applicable Order, unless earlier terminated in accordance with this Agreement. This Agreement starts on the Effective Date and terminates one calendar year after the end of all Subscription Terms unless terminated earlier in accordance with this Agreement.

**7.2 Automatic Renewal.** Unless otherwise stated in the applicable Order, (a) Customer’s subscription to the Service will renew for a Subscription Term equivalent in length to the then-expiring Subscription Term; and (b) the Fees applicable to any subsequent Subscription Term will be Grammarly’s then-current rates for the Services at the time of such renewal.

**7.3 Subscription Cancellation.** Either Party may elect to terminate a subscription to a Service at the end of the then-current Subscription Term by providing written notice to the other Party no less than thirty (30) days prior to the end of such Subscription Term.

**7.4 Termination.** Either party may terminate this Agreement, including any Orders hereunder, if (a) the other party materially breaches this Agreement and fails to cure that breach within 30 days after receipt of a written notice of the breach; or (b) the other party ceases its business operations or becomes subject to insolvency proceedings. Grammarly may immediately terminate this Agreement and Customer’s access to the Services if required by law or if Customer materially violates the AUP.

**7.5 Suspension.** Upon written notice to Customer, Grammarly may temporarily suspend Customer’s or any End User’s access to the Services (or any part thereof) if:

- (a) Customer’s use of the Services poses a significant risk to Grammarly’s customers, infrastructure, or security;
- (b) Customer’s payment of Fees to Grammarly (or, if applicable, to Reseller) is late; or
- (c) Customer is otherwise in material breach of this Agreement or the AUP.

**7.6 Effect of Termination.** When this Agreement terminates, Customer’s right to access and use the Services will cease. Unless Customer has requested Grammarly return and/or securely destroy all Customer Data in Grammarly’s possession or control, Grammarly may elect in its discretion to (a) delete Customer’s End Users’ accounts, or (b) downgrade Customer’s End User accounts to a lower tier. Customer acknowledges that upon downgrading to a lower tier, its End Users may lose access to certain Service features and functionality.

## **8. Warranties & Disclaimer**

**8.1 Mutual Warranties.** Each Party represents and warrants to the other Party that: (a) it has the authority to enter into this Agreement; and (b) it shall comply with all applicable laws and regulations in connection with its performance of this Agreement, including in the provision of the Services (in the case of Grammarly) and in the access and use of

the Services (in the case of Customer), and including all laws and regulations related to data privacy and international communications.

**8.2 Customer Warranties.** Customer represents and warrants that: (a) it has created and/or obtained the rights to and is using the Customer Data lawfully; (b) the Customer Data does not violate any third party's rights, including Intellectual Property Rights or privacy rights; and (c) Customer Data is free of all viruses, Trojan horses, and other elements that could interrupt or harm the Services.

**8.3 Disclaimer about the Services.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY LAW, GRAMMARLY, GRAMMARLY'S AFFILIATES, AND GRAMMARLY'S SUPPLIERS: (A) DO NOT MAKE ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, TITLE, NONINFRINGEMENT, OR THAT USE OF THE SERVICES, INCLUDING ANY OUTPUT GENERATED FROM THE SERVICES, WILL BE ACCURATE, ERROR-FREE, OR UNINTERRUPTED; (B) MAKE NO REPRESENTATION OR WARRANTY ABOUT THE CONTENT, OUTPUT, OR INFORMATION ACCESSIBLE THROUGH THE SERVICES OR DOCUMENTATION, INCLUDING THAT OUTPUT WILL BE UNIQUE TO CUSTOMER; AND (C) DO NOT WARRANT THAT THE OPERATION OF THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS.

## **9. Limitation of Liability**

**9.1 Limitation on Liability Amount.** TO THE EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO **SECTION 9.3 (UNLIMITED LIABILITIES)**, EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT IS LIMITED TO THE FEES PAID OR PAYABLE BY CUSTOMER TO GRAMMARLY (OR TO RESELLER IF CUSTOMER PURCHASED THE SERVICES FROM A RESELLER) IN CONNECTION WITH THIS AGREEMENT DURING THE TWELVE-MONTH PERIOD BEFORE THE EVENT GIVING RISE TO LIABILITY (UNLESS THAT AMOUNT IS ZERO DUE TO CUSTOMER PARTICIPATING IN A FREE TRIAL OR PROGRAM, IN WHICH CASE GRAMMARLY'S TOTAL LIABILITY WILL NOT EXCEED ONE HUNDRED DOLLARS). EXCEPT WHERE PROHIBITED BY LAW, NO CLAIM REGARDLESS OF FORM, WHICH IN ANY WAY ARISES OUT OF THE AGREEMENT MAY BE MADE, NOR ACTION BASED UPON SUCH CLAIM BE BROUGHT BY CUSTOMER MORE THAN ONE (1) YEAR AFTER THE TERMINATION OR EXPIRATION OF THE AGREEMENT.

**9.2 Limitation on Indirect Liabilities.** TO THE EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO **SECTION 9.3 (UNLIMITED LIABILITIES)**, NEITHER PARTY WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT FOR ANY (A) INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES; OR (B) LOST REVENUES, COST OF REPLACEMENT SERVICES, PROFITS, SAVINGS, OR GOODWILL.

**9.3 Unlimited Liabilities.** NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS

EITHER PARTY'S LIABILITY FOR:

(A) ITS FRAUD OR FRAUDULENT MISREPRESENTATION;

(B) ITS INDEMNIFICATION OBLIGATIONS UNDER **SECTION 10 (INDEMNIFICATION)**;

(C) ITS INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS;

(D) ITS PAYMENT OBLIGATIONS UNDER THIS AGREEMENT; OR

(E) MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

## **10. Indemnification**

**10.1 Grammarly Indemnification.** Grammarly will defend Customer against any third-party legal proceedings and will indemnify Customer against settlement amounts as well as damages and costs finally awarded in the third-party legal proceeding ("**Indemnified Amounts**") to the extent arising from an allegation that the Services or any Outputs therefrom, infringes the third party's Intellectual Property Rights. This indemnification obligation will not apply to the extent the underlying allegation arises from (a) Customer's breach of this Agreement; (b) a modification or combination of the Services by Customer with materials not provided by Grammarly under this Agreement, unless such modification or combination is required by this Agreement; or (c) Services provided under a free trial or program. For third-party infringement claims related to Output generated by the Service, Grammarly's indemnification obligations will not apply to the extent (a) the Customer Content used to generate the allegedly infringing Output independently infringes or misappropriates a third party's Intellectual Property Rights or could reasonably be expected to elicit infringing Output from the Service; (b) Customer modifies, uses or distributes the Output in a manner that is reasonably likely to infringe or misappropriate a third party's Intellectual Property Rights; or (c) a third party alleges that the Output violates that third party's trademark or other related rights.

**10.2 Customer Indemnification.** To the extent permitted by applicable law, Customer will defend Grammarly against any third-party legal proceedings and will indemnify Grammarly against Indemnified Amounts to the extent arising from (a) Customer Data or (b) Customer's and Customer's End Users' access or use of the Services in breach of this Agreement. The indemnification obligations will not apply to the extent the underlying allegation arises from Grammarly's breach of this Agreement.

**10.3 Notice Requirement.** The indemnified party must promptly notify the indemnifying party in writing of any allegation(s) that preceded the third-party legal proceeding and cooperate reasonably with the indemnifying party to resolve the allegation(s) and third-party legal proceeding. With respect to any allegation that an Output infringes a third party's Intellectual Property Rights, Customer will use reasonable efforts to cease its use, display, and dissemination of such Output immediately upon receipt of notice of the allegation, and the parties will work together in good faith to mitigate any additional infringement claims. If breach of this notification obligation prejudices the defense of the legal proceeding, the indemnifying party's obligations will be reduced in proportion to the prejudice.

10.4 Sole Control Requirement. The indemnified party must give sole control of the indemnified portion of the third-party legal proceeding to the indemnifying party, subject to the following: (a) the indemnified party may appoint its own non-controlling counsel, at its own expense; and (b) any settlement requiring the indemnified party to admit liability, pay money, or take (or refrain from taking) any action, will require the indemnified party's prior written consent, which is not to be unreasonably withheld, conditioned, or delayed.

10.5 Remedies. If Grammarly reasonably believes the Services might infringe a third party's Intellectual Property Rights, then Grammarly may, at its sole option and expense (a) procure the right for Customer to continue using the Services; (b) modify the Services to make them non-infringing without materially reducing their functionality; or (c) replace the Services with a non-infringing, functionally equivalent alternative. If none of the foregoing remedies is reasonably feasible, Grammarly may terminate Customer's use of the Services and the impacted Order, and upon such termination, Grammarly will provide Customer with a pro-rata refund of prepaid and unused Fees for the Services.

10.6 Sole Remedy. Without affecting either party's termination rights, this **Section 10** states the parties' sole and exclusive remedy under this Agreement for any third-party allegations of Intellectual Property Rights infringement covered by this **Section 10**.

## **11. Mandatory Arbitration**

11. 1 Arbitration Requirements and Procedures. Except with respect to enforcing claims for injunctive or equitable relief, any dispute, claim, or controversy arising out of or relating in any way to this Agreement or the interpretation, application, enforcement, breach, termination, or validity thereof (including any claim of inducement of this Agreement by fraud and including determination of the scope or applicability of this agreement to arbitrate) or its subject matter (collectively, "**Disputes**") will be determined by binding arbitration before one arbitrator. The arbitration will be administered by JAMS conducted in accordance with the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures as those Rules exist on the date Customer first creates its account or accesses and/or uses the Services, including Rules 16.1 and 16.2 of those Rules. The arbitration will be held in San Francisco, California, and it will be conducted in the English language. The Parties will maintain the confidential nature of the arbitration proceeding and any award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. The arbitrator will have authority to award compensatory damages only and is not empowered to award any punitive, exemplary, or multiple damages, and the Parties waive any right to recover any such damages. The Parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Any arbitration conducted pursuant to the terms of this Agreement will be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16). Each Party will be responsible for its respective fees, including attorney's and expert's fees, in pursuing or defending a claim hereunder. Judgment on any award in arbitration may be entered in

any court having jurisdiction. Nothing herein will preclude either Party from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

**11.2 No Class Actions.** NEITHER PARTY MAY PURSUE ANY CLAIM AGAINST THE OTHER PARTY AS A CLASS ACTION, CLASS ARBITRATION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE ACTION. CLAIMS REGARDING ANY DISPUTE AND REMEDIES SOUGHT AS PART OF A CLASS ACTION, CLASS ARBITRATION, PRIVATE ATTORNEY GENERAL OR OTHER REPRESENTATIVE ACTION MUST BE BROUGHT ON AN INDIVIDUAL (NON-CLASS, NONREPRESENTATIVE) BASIS.

**11.3 Exception for Governmental Entities.** Notwithstanding anything to the contrary in this Agreement, if Customer represents a governmental entity or institution subject to the law of a United States state that mandates different dispute resolution terms, governing law, or venue, Grammarly agrees to such state law requirements.

## **12. Miscellaneous**

**12.1 Authority to bind.** Customer represents and warrants that (a) Customer has full legal authority and power to bind that organization or entity to this Agreement; (b) Customer has read and understands this Agreement; and (c) Customer agrees, on behalf of that entity or organization, to this Agreement.

**12.2 Severability.** If one or more of the provisions contained in this Agreement is held invalid, illegal, or unenforceable in any respect by any court of competent jurisdiction, such holding will not impair the validity, legality, or enforceability of the remaining provisions.

**12.3 Assignment.** Customer may not assign this Agreement, or Customer's rights or obligations under it, in whole or in part, except that Customer may assign this Agreement to the surviving entity in connection with a merger, acquisition, or sale of all or substantially all of its assets by providing advance written notice to Grammarly. Grammarly may assign this Agreement and rights and/or obligations under it at its discretion, including to an Affiliate or in connection with a merger, acquisition, reorganization, or transfer of assets. Any other attempt to transfer or assign is void.

**12.4 Entire Agreement.** This Agreement, together with any applicable Order, constitutes the entire agreement between Customer and Grammarly with respect to its subject matter and supersedes any and all prior agreements, discussions, negotiations, and offers, whether verbal or in writing, related to this Agreement's subject matter. Excluding Orders, all terms and conditions in a vendor form, purchase order, or other business document used by either party will not amend or modify this Agreement; any such documents are for administrative purposes only.

**12.5 No Third-Party Beneficiaries.** This Agreement does not confer any benefits on any third party.

**12.6 Conflicting Terms.** If there is a conflict between the documents that make up this

Agreement, the documents will control in the following order to the extent there is a conflict: the Order, the DPA, and then this Agreement.

12.7 Governing law. Except as set forth in **Section 11 (MANDATORY ARBITRATION)**, this Agreement and all disputes or claims (including procedural issues) between the Parties are governed by the laws of California, excluding California's conflict of laws rules. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods.

12.8 Force Majeure. Except for Customer's obligation to pay Fees owed, neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control, including acts of God, natural disasters, terrorism, riots, or war.

12.9 No Agency or Waiver. This Agreement does not create any agency, partnership, or joint venture between the Parties. Neither Party waives any rights by not exercising (or delaying the exercise of) any rights under this Agreement.

12.10 Notices. Grammarly will provide notices under this Agreement to Customer by sending an email to the email address Grammarly has on file for Customer. Customer will provide notices under this Agreement to Grammarly by sending an email to [contract\\_notices@grammarly.com](mailto:contract_notices@grammarly.com). Notice will be treated as received when the email is sent. Customer is responsible for keeping Customer's email address current throughout the Subscription Term.

12.11 Government Rights. To the extent applicable, the Services are "commercial computer software" or a "commercial item" for purposes of FAR 12.212 for and DFARS 227.7202. To the extent permitted in this Agreement, use, reproduction, release, modification, disclosure, or transfer of the Services is governed solely by the terms of this Agreement, and all other use is prohibited.

12.12 Survival. **Sections 2 (PAYMENT TERMS), 3 (PROTECTION OF CUSTOMER DATA), 4 (CONFIDENTIALITY), 5 (INTELLECTUAL PROPERTY RIGHTS), 7.6 (EFFECT OF TERMINATION), 9 (LIMITATION OF LIABILITY), 10 (INDEMNIFICATION), 11 (MANDATORY ARBITRATION), 12 (MISCELLANEOUS), 13 (DEFINITIONS)**, and any other sections that by their nature should survive termination will survive termination of this Agreement. Termination of this Agreement shall not limit a Party's liability for obligations accrued as of or prior to termination or for any breach of this Agreement.

12.13 Updates to This Agreement. From time to time, Grammarly may modify this Agreement. Unless otherwise specified, changes to this Agreement become effective for Customer ten (10) days after Grammarly provides notice to Customer of such amendment. Grammarly may provide such notice by posting an amended Agreement on <https://www.grammarly.com/terms/customer-business-agreement/> and the links referenced therein. Changes required by law will be effective immediately. Customer's

continued use of the Service(s) after the amendment takes effect may be relied upon by Grammarly as Customer's consent to the amendment. Except as stated in this **Section 12.13**, no other modification of, amendment to, or waiver of any rights under the Agreement will be effective unless in writing and signed by an authorized signatory of each of Customer and Grammarly.

### **13. Definitions**

**"Account Information"** means information that Customer and its End Users provide to Grammarly in connection with the creation or administration of Customer's Grammarly account, including names, log-in credentials, phone numbers, email addresses, and billing information associated with Customer's Grammarly account.

**"Affiliate"** means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with a party.

**"Agreement"** means this Grammarly Customer Business Agreement together with any Orders agreed to between Customer and Grammarly and all terms linked or referred to herein.

**"BAA"** means an addendum to this Agreement covering the handling of HIPAA Data.

**"Coda Gallery"** means any Grammarly-managed online directory where applications or integrations that interoperate with the Services are made available to Customer and its End Users, currently available at: <https://coda.io/gallery?filter=packs>

**"Control"** means control of greater than fifty percent of the voting rights or equity interests of a party or the power to direct the management or operations of an entity.

**"Customer Data"** means (a) any files, software, scripts, multimedia images, graphics, audio, video, text, or other data submitted to the Services by Customer (including by an End User) either directly or through an integration (**"Customer Content"**); and (b) any outputs generated for Customer by the Services based on Customer Content (**"Outputs"**). Customer Data does not include Account Information and System Data (defined below).

**"Documentation"** means Grammarly's technical documentation and usage guides for the Services made available at <https://support.grammarly.com/> or through the Services.

**"End User"** means an individual that Customer permits to use the Services, including Customer's, or its Affiliate's, employees, agents, contractors (or students, if applicable).

**"HIPAA"** and **"HIPAA Data"** mean, respectively, the Health Insurance Portability and Accountability Act of 1996, as amended and supplemented, and any patient, medical, or other protected health information regulated by HIPAA or any similar federal or state laws, rules, or regulations.

**"including"** means including but not limited to.

**"Intellectual Property Rights"** means current and future worldwide rights under patent, copyright, trade secret, trademark, and moral rights laws, and other similar rights.

**"Legal Process"** means any information disclosure request made under law, governmental regulation, court order, subpoena, warrant, or other valid legal authority, legal procedure, or similar process.

**"Liability"** means any liability, whether under contract, tort (including negligence), or otherwise, regardless of whether foreseeable or contemplated by the Parties.

**"Order"** means Grammarly's order form or other ordering document agreed to between Grammarly and Customer or, where applicable, an ordering document made between Customer and a Reseller through which Customer has procured the Services.

**"Personal Data"** means any data that is protected as "personal data," "personal information," or "personally identifiable information" under applicable data privacy laws and regulations.

**"Services"** means the services described in an Order, including any software provided by Grammarly to access the services, and any updates and modifications that Grammarly makes to them from time to time.

**"System Data"** is data collected or generated by Grammarly during the provision and administration of the Services, for instance, technical logs, metadata, user interaction with the Services, and user action statistics.

**"Taxes"** means any taxes, levies, duties or similar governmental assessments, including value-added, sales, use or withholding taxes assessable by any local, state, provincial, or national jurisdiction (whether domestic or foreign).