

Terms of Use

Last Updated April 22, 2019

Welcome to FrontStream. These Terms of Use (the "Terms") govern the relationship between FrontStream (together with all affiliates, "**FrontStream**," "**we**," "**our**," or "**us**") and you with regards to our provision of the and applies to your use of FrontStream's *BiddingForGood* online auction software (the "Software" or "Services").

Carefully read these Terms. By accessing or using the Services, you agree that you have read and understand these Terms and our [Privacy Policy](#). If you do not agree with these Terms or our [Privacy Policy](#), do not use of the Services.

1. **Your Feedback.** FrontStream greatly appreciates any feedback or suggestions you have on the Software and the WebSite (the "Site"). From time to time we may contact you to ask for such feedback or suggestions. If you do provide us with feedback or suggestions, you understand that FrontStream may use that information to improve our products and services.
2. **Bidding and Payment.** If you intend to buy an item offered in a fundraising event, you agree that you are obligated to complete the transaction with the seller (unless the transaction violates the law or these Terms) if: (a) you are the highest bidder for an item at the end of an auction (assuming you meet any minimum bid or reserve requirements for the specific auction), and your bid is accepted by the seller; or (b) you purchase an item that is offered for a fixed-price. Payment will be due immediately upon the completion of the auction for your item. If applicable, you agree to pay any sales, use or value added tax on your purchase, as well as any shipping or delivery charges.

The seller may include sales conditions or other terms in the item's description. Unless otherwise agreed to by you and the seller, you understand you cannot retract their bids. Anyone registering to bid in a FrontStream auction must meet the minimum age requirements according to the geographic area where you reside.

You further agree that you are purchasing items for your own use or consumption, and under no circumstances may you resell or redistribute any items purchased in a FrontStream auction (other than to give them as gifts). Should you violate the preceding sentence, you will be fully liable to both FrontStream and the organization holding the auction, and you will be prohibited from participating in any other FrontStream events.

3. **Donations.** If you wish to donate an item to a fundraising event, you agree that: (a) FrontStream and/or the holder of the event cannot guarantee that the event will include your item in the event or that it will ultimately be sold; (b) the holder of the event may, in its discretion, change the description of the item or its assigned value without your approval; and (c) FrontStream or the holder of the event reserves the right to reject any item which is obscene, fraudulent, defamatory, in violation of law, or which would otherwise be offensive to other users. If the item does not sell in the event for which it was donated, the item will become the property of the event-holder. You should consult your tax advisor and/or the organization holding the event regarding the tax implications of your donation.
4. **Privacy.** FrontStream and you acknowledge that the Services may be used to process information regulated by privacy or data protection laws. To the extent that any applicable privacy or data protection laws impose an obligation upon FrontStream to comply with an individual's request for access to or correction of their personally identifiable information, Customer agrees that it shall satisfy such obligations. FrontStream shall implement and maintain organizational, physical, and electronic security measures and FrontStream will comply with applicable data protection and privacy protections laws and regulations governing the collection, use or disclosure of personally identifiable information.

FrontStream will not disclose to third parties any identifying personal information gathered from you unless (a) we tell you how your information will be used and you give FrontStream specific permission to share this information, (b) FrontStream is required to disclose such information by any applicable law or legal process (like a subpoena or court order), or (c) as otherwise set forth in the [Privacy Policy](#).

5. **FrontStream.** When you participate in an auction for which the seller has elected to use the Software, you may, depending on your jurisdiction and applicable laws, receive emails from FrontStream about other auctions. In addition, by joining the FrontStream community, you may be invited to participate in user groups and other marketing activities. If at any point you no longer wish to receive these communications from us, you may opt out by communicating your preference to us using the contact information provided in our Privacy Policy, or in the case of e-mails, by clicking on the opt-out or "unsubscribe" link included at the bottom of the e-mails you receive.
6. **Taxes.** If there are taxes, other governmental charges or any other fees associated with your purchase (you should

consult your tax adviser on this issue), these will be your responsibility to pay.

- 7. Requirements.** The Software and the Site are available only to users who are 18 years of age or older; if you are under the age of 18, you can use the Software and/or the Site only under the supervision of your parent or guardian. Be sure to check with your advisers regarding any legal requirements that may apply to your event (such as state or provincial filing requirements or regulations relating to the purchase of tobacco, firearms, alcohol, livestock and motor vehicles). You are responsible for complying with all applicable requirements, and as such you agree to reimburse FrontStream for any costs or damages which FrontStream may incur relating to these requirements or otherwise arising from your noncompliance with these requirements.
- 8. FrontStream's Role.** FrontStream's role is to facilitate online fundraising events. We are not involved in the actual transaction between sellers and buyers, and, as such, we have no control over the quality, safety or legality of the items advertised, the truth or accuracy of the listings, the ability of sellers to sell items or the ability of buyers to pay for items. Therefore, we cannot guarantee that two parties will actually complete a transaction. FrontStream is not acting as auctioneer or as an agent for you or the sellers and is not conducting an auction. There is no contract of sale between you and FrontStream; the only contract of sale is between you and the seller.
- 9. Links to Other Web Sites.** The Site may contain links to third-party Web sites and other resources. FrontStream assumes no responsibility for the availability or content of these outside sites and resources. Therefore, any concerns you may have regarding any other site should be directed to the relevant site administrator or webmaster.
- 10. Security.** Please notify FrontStream's in the event of any known or suspected loss, theft or unauthorized disclosure of your log-in, password or any other personal information. Users are responsible for maintaining the confidentiality and security of this information.
- 11. Right to Use the Site and Software.** As long as you comply with these Terms, FrontStream gives you the right to use the Site and the Software to bid on items on online auctions. You agree that the Software is valuable to FrontStream (and constitutes a proprietary trade secret of FrontStream under the law) and that FrontStream retains all intellectual property rights to the Software (and to any related materials, information and processes). These are the only rights granted to you. You agree not to modify, copy, disclose, reverse-engineer, decompile, disassemble or create derivative works from the Software or disclose or provide access to the Software to anyone else. You agree not to remove or modify any of FrontStream's copyright and other proprietary notices included with the Software.
- 12. Events Outside of One's Control.** Each of us acknowledges that events may happen outside of one's control (such as wars, riots, labor strikes, natural disasters, the infrastructure of the Internet, or any law, regulation or other act or order of a court or government agency), and that neither party should be responsible if it cannot meet its obligations as a result of such an event. Specifically, we cannot be responsible for any mobile phone or wireless connectivity issues you may experience while bidding and/or at a live event.
- 13. Contributing to the Site** One of FrontStream's general goals is to foster and improve communication and productivity among those engaged in non-profit fundraising. FrontStream hopes users of the Software will actively participate in growing this community by exchanging information, contacts, and ideas with fellow users. Contributions and comments from users must be consistent with the values and goals of FrontStream and must comply with applicable laws. You may not contribute or post messages, descriptions or other content that is abusive, defamatory, obscene, fraudulent, in violation of applicable laws, or which would otherwise be offensive to other users. Please note that FrontStream cannot prevent users from placing prohibited content on the Site. In addition, FrontStream does not monitor every communication posted on the Site. Upon notification of inappropriate material, FrontStream reserves the right to remove the content without notice to the contributor. In addition, the information, advice, facts, opinions and other content appearing on the Site posted, uploaded or distributed by any users or other third parties are those of the respective authors and do not reflect the views of FrontStream. FrontStream assumes no responsibility or liability for these materials.

By contributing to the Site, users represent that they have all of the necessary rights to use the materials, communications or other information that they have provided to or displayed on the Site. FrontStream will have the right to copy, sublicense and re-use these materials in any form, media or technology and in any manner FrontStream sees fit.

The Site is protected by copyright as a collective work, pursuant to applicable copyright laws. Users may print and download portions of material from the different areas of the Site solely for their own non-commercial use; any other copying or any redistribution or publication of any downloaded material is strictly prohibited without the express written consent of the copyright owner. Except for the foregoing, users may not modify, copy, publish, transmit, sell, create derivative works from, perform, display or in any way exploit any of the content contained on the Site.

14. Changes to these Terms of Use. FrontStream reserves the right to change these Terms at any time upon notice to users. Your continued use of the Software following a change notice shall be deemed to be acceptance of any such modification. If you do not agree to any modification of these Terms, you must immediately stop accessing the site and using the Software.

15. Legal Disclaimer. NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR GUARANTEES OF ANY KIND, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, TITLE OR FITNESS FOR A PARTICULAR PURPOSE), IN CONNECTION WITH THESE TERMS. NEITHER PARTY WILL HAVE ANY LIABILITY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE BASIS OF THE CLAIM AND EVEN IF SUCH PARTY HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES. FRONTSTREAM'S AGGREGATE LIABILITY FOR MONETARY DAMAGES OF ANY KIND WILL NOT EXCEED THE AMOUNTS PAID BY YOU IN CONNECTION WITH THE PARTICULAR DISPUTE. THESE LIMITATIONS SHALL APPLY TO ALL ACTIONS, CLAIMS, DEMANDS, AWARDS, JUDGMENTS, SETTLEMENTS, DAMAGES, LOSSES, COSTS, LIABILITIES OR EXPENSES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE, BREACH OF A FUNDAMENTAL TERM, FUNDAMENTAL BREACH OR OTHERWISE. THESE LIMITATIONS SHALL NOT APPLY TO EACH PARTY'S RIGHTS UNDER APPLICABLE INTELLECTUAL PROPERTY LAWS.

Because some jurisdictions do not allow the exclusion of implied warranties or conditions, or the limitation of liability for consequential or incidental damages, the above exclusions and limitations may not apply to you. In such jurisdictions, FrontStream's liability is limited to the greatest extent permitted by law.

Because we are an intermediary, in the event that you have a dispute with one or more users, you hereby agree to release FrontStream (and its officers, directors, employees and agents) from any and all claims, demands and damages of every kind and nature, known and unknown, disclosed and undisclosed, arising out of or in any way connected with such disputes.

16. Other Legal Items. These Terms shall be governed, construed, enforced and performed in accordance with the laws of the Commonwealth of Virginia (for residents of Canada, the laws of Ontario) (for residents of Australia, the laws of Victoria), without reference and/or regard to its conflicts of laws principles. Each Party hereby submits to the exclusive jurisdiction of the courts the Commonwealth of Virginia (for residents of Canada, the laws of Ontario) (for residents of Australia, the laws of Victoria) and hereby waives any objections to venue with respect to actions brought in such courts. The United Nations Convention for the International Sale of Goods does not apply. If there is a dispute, the prevailing party will be entitled to recovery of its costs and expenses, including reasonable attorneys' fees. Any cause of action or other claim with respect to the Services must be commenced within one (1) year after the cause of action or claim arises.

You agree to indemnify and defend FrontStream from and against all claims, losses, expenses, damages, liabilities and costs, including reasonable legal fees and expenses (collectively, "Losses"), resulting from (a) any violation of these Terms and (b) any activity (including negligent or wrongful conduct) by you in connection with your use of the Software or the Site. FrontStream reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification hereunder.

FrontStream shall not be liable for any failure or delay in performing the Services or any other obligation under these Terms caused by, nor for any damages suffered by you or any other person by reason of, an act of God, natural disasters, fire, flood, storms, or other extraordinary elements of nature; strikes or other industrial disputes, court orders, breakdown of equipment; acts of war or terrorism, civil, sabotage, acts of government or regulatory authority; labor conditions, or public health crises; or any other cause beyond its reasonable control.