

Prodo Social Software Limited

Terms and Conditions for the Supply of Services V1.1

1. INTERPRETATION

1.1 THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THESE CONDITIONS.

Additional Charge Form: Prodo's form which details any additional Services or variation to Services requested by the Client agreed to be provided by Prodo pursuant to the Contract, together with details of any additional Charges payable by the Client in respect of such additional Services and the terms of payment of such additional Charges.

App Services: a mobile device application (**App**) to be developed by Prodo as part of the Services as more particularly set out in the Order Form or Additional Charge Form (as the case may be) and the relevant Strategy Document.

BOT: an automated software program or programs to be developed by Prodo as part of the Services.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for normal banking business.

Business Hours: 9am to 5pm on any Business Day.

Charges: the fees payable by the Client in respect of the Services as more particularly set out in the Order Form and any Additional Charge Form (if applicable) as such fees are payable in accordance with clause 11 (Charges and payment) and as such fees may be varied from time to time in accordance with the Contract.

Client: the person or firm who purchases Services from Prodo as detailed on the Order Form.

Client Default: has the meaning set out in clause 8.3.

Client's Equipment: any equipment, systems, cabling or facilities provided by the Client and used directly or indirectly in the supply of the Services.

Client's Account Manager: such person or persons put forward by the Client as having authority to represent the Client in relation to the Contract as agreed with Prodo from time to time.

Commencement Date: the date on which:-

(a) the Client has executed and returned the acknowledgement copy of the Order Form incorporating these Conditions; or

(b) if earlier, the date on which Prodo commences any Services pursuant to the Contract.

Conditions: these terms and conditions as amended by Prodo from time to time and reference to a **clause** shall be a reference to a clause of the Conditions.

Confidential Information: means together:

(a) all trade secrets, data, know how and other such information (in whatever form held including written, oral, visual and electronic) which either party may have or acquire which is for the time being not publicly known and which is used in, or otherwise relates to, any part of that party's business (including any goods manufactured and/or sold, or services

supplied by that party, the sale or marketing of any such goods or services, the operations, management, administration or other financial affairs of that party and any Intellectual Property Rights of that party); and

(b) the existence and contents of the Contract (or any agreement or arrangement entered into pursuant to the Contract).

Content: any content such as news, articles, on page amendments and other information and content intended for Websites, Apps and/or social media pages that Prodo posts on or directs to the Website, App or social media pages of the Client as part of any Deliverables.

Contract: has the meaning given to it at clause 2.1.

Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

Data Protection Legislation: all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426).

Deliverables: means the output of the Services as described in the relevant Order Form or Additional Charge Form (as the case may be) including, but not limited to, the Website, App or the BOT in relation to any Development Services or SEO Pages, reports, analyses, statistics, content or other materials in relation to the Inbound Marketing Services and the Content (excluding the Materials) in relation to all Services where relevant, in each case as set out in the relevant Strategy Document).

Development Services: those development services to be provided by Prodo pursuant to the Contract including, but not limited to, Website Services, App Services and/or the development of any other applications including, but not limited to, in relation to the BOT and as more particularly set out in the Order Form or the Additional Charge Form (as the case may be) and the relevant Development Services Specification.

Development Services Software: in relation to Development Services, the software commissioned by the Client in relation to such Services as is specified in the relevant Development Services Specification.

Development Services Specification: the Website Specification and/or any other specification document created in relation to Development Services to be delivered by Prodo pursuant to the Contract.

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form including, but not limited to, all operational manuals, user instruction manuals, technical literature and all other related materials in human readable and/or machine readable form and **Documents** shall be construed accordingly.

Epic: a quarterly plan of marketing activity involving the **Deliverables** as identified in the **Gameplan**.

Force Majeure Event: has the meaning given to it at clause 17.1.

Gameplan: the document setting out the strategy and Deliverables in relation to the Inbound Marketing Services to be provided by Prodo to the Client pursuant to the Contract as shall be varied from time to time in accordance with the Contract.

Gameplan Adjustments: has the meaning given to it at clause 6.2.

Go Live Date: the date on which the Website or App is operational and available for use by the Client and **Go Live** shall be construed accordingly.

Hosting Services: the hosting, support and maintenance services in relation to a Client's website to be provided by Prodo pursuant to the Contract as set out in the Order Form or the Additional Charge Form (as the case may be).

Inbound Marketing Services: the inbound marketing services to be provided pursuant to the Contract as set out in the Order Form and the Gameplan.

Initial Term: the fixed initial term in respect of each of the Services as detailed in the relevant Order Form or Additional Charge Form (as the case may be) and the relevant Strategy Document or as set out at clause 3.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including Know-How and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Know-how: confidential and proprietary, industrial and commercial information and techniques in any form including, without limitation, all methodologies, drawings, formulae, test results, reports, concepts and techniques including any enhancements thereto), instruction and training manuals and used by Prodo to provide Services under the Contract.

Licence: has the meaning given to it at clause 12.3.

Materials: the Content provided to Prodo by the Client from time to time for incorporation in the relevant Deliverable.

Order Form: the order form attached to these Conditions setting out the details of the Services agreed to be provided to the Client by Prodo and associated Charges and payment terms in relation to such Charges and which has been signed by the parties and reference to an **Order** shall be construed accordingly.

parties: means Prodo and the Client and **party** means either of them.

Pre-Existing Materials: all Documents, information and materials provided by Prodo relating to the Services which existed prior to the commencement of the Contract including, but not limited to, computer programs and software, data, reports and specifications.

Prodo: as defined in the Order Form.

Prodo's Equipment: any equipment including tools, systems, cabling or facilities provided by Prodo or its subcontractors and used directly or indirectly in the supply of the Services.

Prodo's Manager: in respect of each of the Services, Prodo's account manager for those Services as notified to the Client from time to time.

Prodo Materials: has the meaning set out in clause 8.1.

Professional Services: the professional services to be supplied by Prodo to the Client pursuant to the Contract as more particularly set out in the Order Form or Additional Charge Form (as the case may be) and any relevant Strategy Document.

Professional Services Software: software commissioned by the Client in relation to any Professional Services to be delivered by Prodo to the Client in accordance with the Contract.

Proposal: the proposal submitted by Prodo to the Client in relation to services provided by Prodo in relation to which the Client has signed the Order Form to purchase some or all of those services.

SEO Pages: any web pages developed by Prodo pursuant to the Contract containing content, links, tagging and other search engine optimisation techniques as detailed on the Order Form or Additional Charge Form (as the case may be) and the Gameplan.

Service Level Agreement: in relation to the Hosting Services, the service level agreement as set out at Schedule 1 and **Service Levels** shall be construed accordingly.

Services: any of the Inbound Marketing Services, Development Services, Hosting Services, Professional Services and/or Support Services including the preparation of the relevant Strategy Document in relation to such Services to be supplied by Prodo to the Client pursuant to the Contract as set out in the relevant Strategy Document and Order Form and, if relevant, any Additional Charge Form (as the case may be) other than any Services which have been terminated in accordance with these Conditions and **Service** shall mean any one of them.

Services Commencement Date: in relation to any Services to be provided by Prodo pursuant to the Contract, the date on which;

- (a) the Client has executed and returned the acknowledgement copy of the Order Form or Additional Charge Form (as the case may be) in relation to those Services; or
- (b) if earlier, the date on which Prodo commences those Services pursuant to the Contract.

Software: the software program or programs to be supplied by Prodo to the Client pursuant to the Contract including, but not limited to, the Development Services Software and the Professional Services Software but excluding, for the avoidance of doubt, any Third Party Software.

Strategy Document: the document setting out the details of the Services to be provided by Prodo to the Client pursuant to the Contract and which in relation to the Development Services shall be the Development Services Specification and in relation to the Inbound Marketing Services shall be the Gameplan and whether created before or after the Commencement Date, as such documents may be amended from time to time by agreement of the parties and **relevant Strategy Document** shall be construed accordingly.

Support Services: those support services to be provided by Prodo pursuant to the Contract as more particularly set out in the Order Form and, if applicable, any Strategy Document.

Term: the term of the Contract in relation to the Services as set out at Schedule 2 and **relevant Term** shall be construed accordingly.

Third Party Software: software owned by, or licenced by, any party other than Prodo and, where applicable, as such software may be modified by Prodo under the Contract.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

Visitor: a visitor to the Website or App and **Visitors** shall be construed accordingly.

Website: the website at the URL as set out in the Website Specification.

Website Services: the design and development of the Client's Website or any part of it as set out in the Order Form or Additional Charge Form (as the case may be) and the Website Specification.

Website Specification: the specification for the Website as agreed by the parties.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of the Contract.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).

1.4 The Schedules form part of the Contract and shall have effect as if set out in full in the body of the Contract.

1.5 Any reference to the Contract includes the Schedules.

1.6 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.7 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.8 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.9 A reference to **writing** or **written** excludes fax and email.

1.10 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee]. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

1.11 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.12 Unless the context otherwise requires, a reference to one gender shall include a reference to those other genders.

1.13 The Contract shall be binding on, and endure to the benefit of, the parties to the Contract and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

1.14 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.15 A reference to the Contract or to any other agreement or document referred to in the Contract is a reference to the Contract or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of the Contract) from time to time in accordance with its terms.

1.16 References to clauses and Schedules are to the clauses and Schedules of the Contract and references to paragraphs are to paragraphs of the relevant Schedule.

2 BASIS OF CONTRACT

2.1 The contract between Prodo and the Client in relation to the Services provided by Prodo to the Client shall comprise, in each case (as applicable) the following:-

2.1.1 the relevant Strategy Document (when agreed by the parties);

2.1.2 the Order Form and Additional Charge Form (if any);

2.1.3 the Proposal (until such time as the relevant Strategy Document is agreed by the parties in relation to Services detailed in that Proposal at which time the Proposal shall cease to form any part of the Contract) in relation to those Services; and

2.1.4 these Conditions,

(together the **Contract**).

2.2 If there is any conflict or ambiguity between the terms of the documents listed in clause 2.1, a term contained in a document higher in the list shall have priority over the one contained in a document lower in the list.

2.3 Any samples, drawings, descriptive matter or advertising issued by Prodo are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing and, in particular, the Client's standard terms and conditions (if any) attached to, or enclosed with, or referred to by the Client or any purchase order submitted by the Client, shall not govern the Contract.

2.5 Any quotation given by Prodo shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3 COMMENCEMENT AND TERM

3.1 Prodo shall provide the Services to the Client in accordance with the Contract.

3.2 The Contract shall commence on the Commencement Date and, subject to earlier termination in accordance with clause 15 (**Termination**) shall continue, in relation to each Service, until expiry of the relevant Term in relation to that Service.

3.3 The expiry of the Contract in relation to some Services in accordance with Schedule 2 shall not affect the Contract in relation to Services where the Contract has not expired (**Continuing Services**) and the terms of the Contract shall continue in full force and effect in relation to such Continuing Services.

3.4 These Conditions contain general terms for the provision of Services and shall apply to Prodo in respect of all of the Services except where application to one Service in respect of any of the others is specified.

4 DEVELOPMENT SERVICES – THESE TERMS APPLY TO DEVELOPMENT SERVICES ONLY

4.1 The Client acknowledges that Prodo's ability to provide the Development Services requires the full and timely cooperation of the Client (as well as the accuracy and completeness of the Materials) and the Client shall provide Prodo with access to, and use of, all information, data and documentation reasonably required by Prodo for the performance by Prodo of its obligations under the Contract.

4.2 The Client shall be responsible for the accuracy and completeness of the Materials on the relevant Deliverable.

4.3 Development and acceptance of the Website or App

4.3.1 Once Prodo has completed the design and development of the Website or App (as the case may be) (each being a **Relevant Deliverable** for the purposes of this clause 4.3). for testing by the Client, Prodo shall present the Relevant Deliverable to the Client for testing by sending to the Client a UAT testing link and the Client agrees that it shall notify Prodo of any comments in relation to that Relevant Deliverable within 21 days of receipt of the UAT testing link (or such other period as shall be agreed with Prodo) (the **Notification Period**). This paragraph 4.3 shall apply in respect of any further work agreed by the parties in respect of the Relevant Deliverable from time to time.

4.3.2 If the Client considers that the Relevant Deliverable does not meet the relevant Development Specification, it may within the Notification Period provide a written notice to that effect, giving details of such alleged failure and whether such alleged failure requires rectification prior to the agreed Go Live Date (if applicable) (each such notice being a **Ticket**).

4.3.3 If a Ticket is served in circumstances caused by the fault of Prodo only, Prodo shall, in its sole discretion, grade the defect identified in the Ticket as follows:

4.3.3.1 business critical and within the scope of the relevant Services and to be fixed by the agreed Go Live Date; or

4.3.3.2 not business critical and within the scope of the relevant Services and to be fixed at any time up to 28 days after the Go Live Date,

and, in relation to Tickets raised and graded in accordance with clauses 4.3.3.1 or 4.3.3.2, Prodo shall remedy such defects and deficiencies in accordance with such grading and re-present the Relevant Deliverable to the Client for further inspection together, where applicable, with a sign off form for the Relevant Deliverable to agree Go Live of that Relevant Deliverable (**Sign-Off Form**).

4.3.4 The provisions of clauses 4.3.1 to 4.3.3 shall be repeated in relation to each presentation of the Relevant Deliverable to the Client for further inspection.

4.3.5 If a Ticket is served as a result of a defect which is caused by an act or omission of the Client, or by one of the Client's subcontractors or agents for whom Prodo has no responsibility or where the Ticket is served in relation to matters which are outside the scope of the relevant Services (**Non-Prodo Defect**), the Relevant Deliverable shall be deemed to have passed the Client's inspection in respect of the matters raised in relation to such Ticket notwithstanding such Non-Prodo Defect and accepted by the Client subject to any Tickets which have been validly served in accordance with clause 4.3.3. Prodo shall provide its assistance reasonably requested by the Client in remedying any Non-Prodo Defect. The Client shall pay Prodo in full for all such additional services and products at Prodo's then current fees and prices.

4.3.6 Acceptance of the Relevant Deliverable shall be deemed to have taken place upon the occurrence of any of the following events:

4.3.6.1 The Client signing the Sign-Off Form in accordance with paragraph 4.3.4;

4.3.6.2 the Client uses a part of the Relevant Deliverable for any purposes other than for test purposes including, but not limited to, for revenue, earning purposes or to provide any services to third parties; or

4.3.6.3 expiry of the Notification Period if the Client does not submit any valid Tickets during the Notification Period; or

4.3.6.4 subject to clause 4.3.6.3, if the Client delays the start of any retests for a period of seven Business Days from the date on which Prodo is ready to commence running tests/retests to ascertain the correct operation of the Relevant Deliverable.

4.4 Relevant Content

4.4.1 Where agreed with the Client as part of the Services, Prodo shall update the Relevant Deliverable with Materials provided from time to time by the Client. The Client shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to induce racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights (**Inappropriate Content**)).

4.4.2 The Client acknowledges that Prodo has no control over any content placed on the Relevant Deliverable by Visitors and does not purport to monitor the content of the Relevant Deliverable. Prodo reserves the right to remove content from the Relevant Deliverable where it reasonably suspects such content is Inappropriate Content. Prodo shall notify the Client promptly if it becomes aware of any allegation that any content on the Relevant Deliverable may be Inappropriate Content.

4.4.3 The Client shall indemnify Prodo against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content.

4.5 Prodo shall not be liable to the Client to the extent that any failure of the Relevant Deliverable to perform substantially in accordance with the relevant Development Specification is caused by any Materials.

4.6 By signing the Sign-Off Form for the Relevant Deliverable, the Client accepts that Prodo may proceed to Go Live in respect of that Relevant Deliverable in the final form submitted to it for approval.

4.7 The Client agrees and acknowledges that:-

4.7.1 Prodo shall not Go Live in relation to any Relevant Deliverable until the Client has signed the Sign-Off Form; and

4.7.2 where Prodo has provided Website Services but is not providing Hosting Services in relation to its Website, that it shall be required to pay all Charges in relation to the Website Services prior to Prodo releasing the Website onto the Client's server for testing.

5 HOSTING SERVICES – THESE TERMS APPLY TO HOSTING SERVICES ONLY

Where Prodo provides Hosting Services to the Client pursuant to the Contract, Prodo shall provide the Hosting Services in accordance with the Service Level Agreement.

6 INBOUND MARKETING SERVICES – THESE TERMS APPLY TO INBOUND MARKETING SERVICES ONLY

6.1 Prodo shall review the Gameplan on a quarterly basis to review the Deliverables in light of performance as against those Deliverables, taking into account any variables or factors affecting the delivery of such Deliverables, (such review being the **EPIC**).

6.2 As a result of each EPIC, Prodo may, in its sole discretion but after consulting with the Client, adjust the Deliverables in the Gameplan including, but not limited to, the targets specified or the method of achieving such targets and allocation of Client spend accordingly (**Gameplan Adjustments**) where Prodo believes that such Gameplan Adjustments are necessary in order to best meet the Client's stated aims in relation to such Services as set out in the Gameplan.

6.3 The Client agrees and acknowledges that any target outcomes specified in relation to any Inbound Marketing Services to be provided pursuant to the Contract are estimates only and no guarantee is given by Prodo that such target outcomes will be achieved. In particular, the Client agrees and acknowledges that such target outcomes may be affected by matters outside the control of Prodo including, but not limited to:

6.3.1 actions and behaviours of competitors;

6.3.2 external factors such as the weather;

6.3.3 if the Client does not accept recommendations made by Prodo including, but not limited to, any Gameplan Adjustments; or

6.3.4 if the Client overrides content which Prodo considers is required in order to best achieve those target outcomes,

and the Client agrees that Prodo shall not be liable to the Client in the event that any target outcomes are not achieved.

6.4 The Client acknowledges that Prodo has no control over the policies of third parties with respect to the type of websites and/or content that they accept or the way in which websites are ranked either now or in the future. As a result search engines may:

6.4.1 stop accepting submissions from Prodo for an indefinite period of time with or without notice; or

6.4.2 cease to list a website at its discretion, however should a website not reappear within thirty (30) days of it not being listed then Prodo will re-optimize the applicable website based on the current policies of the relevant third parties at a cost to be agreed between the parties,

and Prodo shall not be liable to Client for any such actions of third parties.

6.5 Prodo is not responsible for changes made to a Client's website by:

6.5.1 other parties; and

6.5.2 the Client in choosing to link to, or obtaining a link from, a particular website without the prior consultation of Prodo.

7 PRODO'S RESPONSIBILITIES AND EXCLUSIONS

7.1 Subject to the Client complying with the Contract, Prodo shall use reasonable endeavours to provide each of the Services to the Client in accordance with Service Levels that apply to that Service (if any) as set out in the Contract and in conformity with any other provisions of the Contract.

7.2 Prodo shall use reasonable endeavours to meet any milestone specified in a Strategy Document but, subject to the agreed Service Levels, any such dates shall be estimates only and time for performance by Prodo shall not be of the essence of the Contract.

7.3 Prodo shall appoint Prodo's Manager in respect of the Services who shall have authority under the Contract contractually to bind Prodo on all matters relating to the Services.

7.4 Prodo warrants to the Client that the Services will be provided using reasonable care and skill.

7.5 Prodo reserves the right to amend the Strategy Document if necessary to comply with any applicable law or regulatory requirement, or where the amendment will not materially affect the nature or quality of the Services and Prodo shall notify the Client in any such event.

7.6 Content is provided in good faith, but whilst Prodo will use reasonable endeavours to ensure the accuracy of such information and analysis, Prodo provides no warranties (express or implied) regarding accuracy or completeness or fitness for any purpose. Where UK regulatory authorities have jurisdiction over Content, Prodo will use reasonable endeavours to ensure compliance with the requirements of such regulatory body. However, some of the Content may not be intended for access from certain other jurisdictions and no representation or warranty is made as to whether Content complies with the regulatory regime of jurisdictions other than the United Kingdom. Should Prodo become aware that any item of Content that it has provided may be inaccurate or unlawful it shall notify the Client and where it requests the Client to withdraw it, the Client agrees that it will do so immediately.

7.7 The Client agrees that the Contract shall not prevent Prodo from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Contract or which are derived from the provision of the Services and Prodo will be free to use its general knowledge, skill, experience and Know-how acquired as a result of the provision of the Services which shall remain the absolute property of Prodo.

8 CLIENT'S OBLIGATIONS

8.1 The Client shall:

8.1.1 ensure that the terms of the Order Form and any Additional Charge Form and the relevant Strategy Document are complete and accurate;

8.1.2 co-operate with Prodo in all matters relating to the Services and, where required by Prodo, appoint the Client's Manager in relation to the Services, who shall have the authority contractually to bind the Client on matters relating to the Services;

8.1.3 provide, for Prodo, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as required by Prodo including, but not limited to, such passwords as are required in order for Prodo to be able to provide the Services;

8.1.4 provide, in a timely manner, such Material and other information as Prodo may require in order to provide the Services, and ensure that it is accurate in all material respects;

8.1.5 obtain and maintain all necessary licences (including, but not limited to, in relation to any Third Party Software), permissions and consents which may be required for the Services before the date on which the Services shall commence including, but not limited to, those specified in the relevant Strategy Document;

8.1.6 keep all materials, equipment, documents and other property of Prodo (**Prodo Materials**) at the Client's premises in safe custody at its own risk, maintain Prodo Materials in good condition until returned to Prodo, and not dispose of or use Prodo Materials other than in accordance with Prodo's written instructions or authorisation;

8.1.7 ensure that all the Client's Equipment is in good working order and suitable for the purposes for which it is used;

8.1.8 carry out all other Client responsibilities set out in the Contract (including, but not limited to, as set out in the relevant Strategy Document) in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, Prodo may adjust any agreed timetable or delivery schedule as reasonably necessary;

8.1.9 only use the Services and the Documentation in accordance with the terms and conditions of the Contract;

8.1.10 ensure that its network and systems comply with the relevant specifications as advised by Prodo from time to time; and

8.1.11 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Prodo's data centres, and for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

8.2 The Client may not use any of the Services:-

8.2.1 in a manner which is contrary to any law;

8.2.2 in a manner which could disrupt or prevent Prodo from providing services to any other parties;

8.2.3 for any activity which may violate the Intellectual Property Rights of a third party.

8.3 If Prodo's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation including, but not limited to, putting in place a third party licence (i.e. Hub Spot licence) as required by Prodo in order to provide the Services (**Client Default**):

8.3.1 without limiting or affecting any other right or remedy available to it, Prodo shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays Prodo's performance of any of its obligations;

8.3.2 Prodo shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Prodo's failure or delay to perform any of its obligations as set out in this clause 8.3.

8.4 Where Prodo provides Services to any member of the Client's Group, the Client agrees to procure that each such member of the Client's Group shall comply with the obligations of this Contract as if it were the Client and the Client agrees that it shall be liable for any breach of such obligations as if such breach were committed by the Client.

9. WARRANTIES

Each of the parties warrants to the other that:

9.1.1 it has full capacity and authority to enter into and perform its obligation under the Contract; and

9.1.2 the Contract is executed by a duly authorised representative of that party.

10. NON-SOLICITATION

10.1 The Client shall not, without the prior written consent of Prodo, at any time from the Commencement Date until the expiry of 12 months after termination of the Contract in respect of all of the Services, solicit or entice away from the employment of Prodo or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of Prodo in relation to the provision of the Services at any time.

10.2 If the Client breaches clause 10.1, the Client agrees to pay on demand to Prodo the sum of £25,000 (plus VAT if applicable), it being agreed by the parties that such sum represents a genuine pre-estimate of the loss that Prodo would suffer in the event of such breach.

11. CHARGES AND PAYMENT

11.1 The Charges for each Service shall be as set out in the relevant Order Form or Additional Charge Form (as the case may be) and which shall indicate whether the Charges are calculated on a fixed cost basis or a time and materials basis or a combination of both.

11.2 Clause 11.3 shall apply if any of the Services are to be provided on a time-and-materials basis. Clause 11.4 shall apply if any of the Services are to be provided for a fixed price basis. The remainder of this clause 11 shall apply in all case.

11.3 Where any Services are provided on a time-and-materials basis:

11.3.1 the charges payable for such Services shall be calculated in accordance with Prodo's standard daily fee rates as amended from time to time and which are available on request;

11.3.2 Prodo's standard daily fee rates are calculated on the basis of a seven and a half-hour day worked at any time during Business Hours;

11.3.3 any hours worked on Business Days in excess of a seven and a half-hour day (**Additional Weekday Hours**) shall be charged on the basis of the applicable daily fee rate allocated on a pro-rata basis in respect of such Additional Weekday Hours;

11.3.4 where the Client requires Prodo to provide the Services or any of them outside of Business Hours, Prodo shall be entitled to charge the Client at an overtime rate notified by Prodo for such hours worked by members of the project team outside of such Business Hours;

11.3.5 Prodo shall ensure that all members of the project team complete time sheets recording time spent in respect of the Services, and Prodo shall use such time sheets to calculate the charges covered by each invoice submitted by Prodo; and

11.3.6 the Client shall pay Prodo in accordance with the Order Form and relevant Strategy Document.

11.4 Where the Services are provided for a fixed price basis:-

11.4.1 save as otherwise set out in the Contract, the total price for the Services shall be the amount set out in the relevant Order Form or Additional Charge Form (as the case may be) and which shall be paid to Prodo in accordance with the terms of the relevant Order Form or Additional Charge Form (as the case may be) (whether in instalments, one off payments, a combination of both or otherwise);

11.4.2 the Client acknowledges that the fixed price in respect of Professional Services is based on a seven and a half-hour working day delivered, unless stated otherwise, within Business Hours and, therefore that Prodo shall be entitled to raise additional charges at the applicable daily rate for each hour worked allocated on a pro rata basis where the Client requires Prodo to perform such Professional Services or any of them outside of Business Hours and which has not already been provided for in the relevant Proposal;

11.4.3 such fixed price shall not include any additional services that the Client may request during the Contract and which are not specifically provided for in the relevant Order Form or Additional Charge Form (as the case may be). Any such additional services shall be requested by the Client by way of an Additional Charge Form; and

11.4.4 where the delivery of any of the Services have been delayed as a result of the Client's negligence, or Client Default or by reason of a request from a Client to delay delivery of any or all of the Services, the Client agrees that:-

11.4.4.1 where such delayed Services are Professional Services, Development Services and/or Hosting Services, Prodo may require the Client to pay to Prodo on demand, upon Prodo confirming such costs, charges and losses in writing, all reasonable costs, charges and losses sustained or incurred by Prodo, (including any direct, indirect or consequential losses, in so far as they relate to loss of profit and loss of opportunity to deploy resources elsewhere), that arise directly or indirectly as a result of such delay; and

11.4.4.2 where such delayed Services are Development Services, Prodo may require the Client to pay the relevant Charges with effect from the initially agreed Go Live Date for that delayed Service as set out in the relevant Order Form or Additional Charge Form (as the case may be).

11.5 Any charges in respect of any Services contained in an Order Form or Additional Charge Form (as the case may be) excludes the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the project team in connection with those Services, and the cost of any materials or services reasonably and properly provided by third parties required by Prodo for the supply of the Services. Where such costs and expenses are payable by the Client, this will be set out in the relevant Order Form or Additional Charge Form (as the case may be) with details of applicable rates. Such expenses, materials and third party services shall be invoiced by Prodo.

11.6 The Client agrees and acknowledges that it shall be liable to pay the Charges in accordance with the Contract where Prodo is unable to provide the Services as a result of a defect in the Client's hardware and/or other equipment.

11.7 Prodo may increase the Charges at any time and from time to time to reflect any increase in the costs of providing the Third Party Software to the Client pursuant to the Services.

11.8 The Client shall pay each invoice submitted to it by Prodo in respect of the Services or any of them, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by Prodo and which in the case of Inbound Marketing Services shall be a payment monthly in advance.

11.9 Time for payment shall be of the essence of the Contract.

11.10 Without prejudice to any other right or remedy that it may have, if the Client fails to pay Prodo on the due date the Client shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.

11.11 All sums payable to Prodo:-

11.11.1 in respect of a Service shall become due immediately on the expiry of the Contract in respect of that Service in accordance with clause 3.1; and

11.11.2 in respect of all of the Services, on termination or expiry of the Contract in relation to all Services;

despite any other provision. This clause 11.11 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

11.12 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

12 INTELLECTUAL PROPERTY RIGHTS AND CLIENT LICENCES

12.1 All Intellectual Property Rights in the Pre-Existing Materials shall remain the property of Prodo and the Client shall acquire no rights in them.

12.2 Subject to clause 12.1 as between the Client and Prodo, the Client agrees all Intellectual Property Rights and all other rights in the Services and the Deliverables, including but not limited to, the Content (other than the Materials) and the Software (together the **Rights**) shall be owned by Prodo and the Client shall acquire no rights in them but, where the Services comprise Website Services and/or App Services upon payment of all Charges Prodo hereby grants to the Client, on a free of charge basis, a non-exclusive, perpetual, irrevocable, non-transferable worldwide licence of such Rights for the purposes of using and/or operating the Website or the App (as the case may be) in relation to its business subject to the following:-

12.2.1 the source code in the Software (**Source Code**) shall be the same as that which was used by Prodo to provide the Services pursuant to the Contract;

12.2.2 the Client shall take all steps reasonably necessary to protect the Source Code which it agrees shall be Confidential Information for the purposes of the Contract; and

12.2.3 Prodo gives no warranty as to the quality, suitability or fitness for purpose of the Website, App or Source Code after Prodo ceases to provide the relevant Services.

12.3 In relation to all Services other than Website Services and/or App Services, Prodo licenses the Rights to the Client free of charge and on a non-exclusive, non transferrable worldwide basis to such extent as is necessary to enable the Client to make reasonable use of those Services in relation to its business in accordance with the Contract (**Licence**).

12.4 The Client grants Prodo a fully paid-up, non-exclusive, royalty-free, non-transferable licence to:-

12.4.1 copy and modify any Materials provided by the Client to Prodo; and

12.4.2 to access and use the Client's websites or name, logo, company name and trademark of Client,

for the term of the Contract for the purpose of providing the Services to the Client.

12.5 Prodo shall retain the property and copyright in all Documents supplied to the Client in connection with the Contract and it shall be a condition of such supply that the contents of such Documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of Prodo.

12.6 Where specified in the Order Form or the Additional Charge Form (as the case may be) Prodo shall provide the Third Party Software to the Client under the standard licence terms provided by the relevant third parties, copies of which shall be provided to the Client and the Client agrees to be bound to the relevant third parties by such licence terms and to indemnify and hold Prodo harmless against any loss or damage which it may suffer or incur as a result of the Client's breach of such terms howsoever arising.

12.7 If: Prodo provides the Services or any of them in accordance with a specification submitted or prepared by the Client or any other information or documentation provided by the Client (including, but not limited to, the Materials), the Client shall indemnify and keep indemnified Prodo against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by Prodo in connection with, or paid or agreed to be paid by Prodo in settlement of, any claim for infringement of any third party Intellectual Property Rights which results from Prodo's use of the Client's specification or such other information. The indemnity in this clause 12.7 shall apply whether or not the Client has been negligent or at fault and does not limit any further compensation rights of Prodo.

13 DATA PROTECTION AND DATA PROCESSING

13.1 In this clause 13, the following definitions shall have the following meanings:

Applicable Laws means (for so long as and to the extent that they apply to Prodo) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law.

Data Protection Legislation means the UK Data Protection Legislation and any other European Union legislation relating to personal data and any other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications).

Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

UK Data Protection Legislation means all applicable data protection and privacy legislation in force from time to time in the UK including the GDPR, the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/5A/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

13.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

13.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Controller and Prodo is the Processor (where **Controller** and **Processor** have the meanings as defined in the Data Protection Legislation. Schedule 3 sets out the scope, nature and purpose of processing by Prodo, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of data subject (as defined in the Data Protection Legislation, **Data Subject**).

13.4 The Client warrants that:-

13.4.1 it has at all times all necessary appropriate consent and notices in place and has taken all necessary steps and done all such things as are necessary to enable the lawful transfer of the Personal Data to Prodo and/or lawful collection of the Personal Data by Prodo on behalf of the Client for the duration and purposes of the Contract; and

13.4.2 instructions given to Prodo in relation to the processing of Personal Data are lawful.

13.5 Without prejudice to the generality of clause 13.2, Prodo shall only process Personal Data in connection with the performance by the Provider of its obligations under the Contract and shall:

13.5.1 process that Personal Data only on the instructions of the Client or by authorised users of the Services unless Prodo is required by Applicable Law to process Personal Data. Where Prodo is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Prodo shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Prodo from so notifying the Client;

13.5.2 ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

13.5.3 ensure that all personnel who have access to and/or process Personal Data are informed of the confidential nature of the Personal Data and are obliged to keep the Personal Data confidential; and

13.5.4 not transfer any Personal Data outside of the European Economic Area unless the following conditions are fulfilled:

13.5.4.1 the Client or Prodo has provided appropriate safeguards in relation to the transfer;

13.5.4.2 the Data Subject has enforceable rights and effective legal remedies;

13.5.4.3 Prodo complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

13.5.4.4 Prodo complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;

13.5.5 notify the Client without undue delay on becoming aware of a Personal Data breach;

13.5.6 at the written direction of the Client, delete or return Personal Data and copies of it to the Client on termination of the Contract unless Prodo is required by Applicable Law to retain it; and

13.5.7 maintain complete and accurate records and information to demonstrate its compliance with these terms.

13.6 The Client consents to Prodo appointing any third party processor of Personal Data under the Contract. Prodo confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business and which are substantially similar to these terms. As between the Client and Prodo, Prodo shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this contract. Details of sub-processors are contained in Schedule 3 and/or as otherwise notified to the Client by Prodo from time to time.

13.7 Prodo agrees that it will:-

13.7.1 notify the Client immediately if:-

13.7.1.1 it receives any complaint, notice or communication that relates directly or indirectly to the processing of Personal Data or to either party's compliance with Data Protection Legislation; and

13.7.1.2 receives a request from a Data Subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Legislation;

13.7.2 give the Client its full cooperation, at the Client's cost, in responding to any complaint, notice, communication or Data Subject access request and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach of notifications, impact assessments and consultations with supervisory authorities or regulators.

13.8 Prodo may, at any time on not less than 30 days' notice, revise these terms by replacing them with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

13.9 Data Collection on Systems; Certain types of data are covered under GDPR, you have legal responsibilities. Prodo attempts to limit the amount of special category and personal data we process. You agree not to actively collect the data types detailed below in custom forms without informing and consulting with Prodo and to discuss alternative solutions. Special category data such as:

- Personal data revealing racial or ethnic origin;
- Personal data revealing political opinions;
- Personal data revealing religious or philosophical beliefs;

- Personal data revealing trade union membership;
- Genetic data;
- Biometric data (where used for identification purposes);
- Data concerning health;
- Data concerning a person's sex life; and
- Data concerning a person's sexual orientation

13.9.1 Other personal data that can be used for identification – while in some cases these are not classed in the GDPR articles as “Special Category”, they are more sensitive than typical data collected from online forms:

- Personal data revealing bank account or bank card numbers;
- Personal data revealing Passport numbers;
- Personal data revealing National Insurance numbers;
- Personal data revealing other identifiable information and codes;

13.9.2 If collecting special category or sensitive personal data and agreed with Prodo, the data subject must have explicitly consented with its collection. Also, a clear legitimate interest for processing this data along with retention period and Subject Access Request rights must be detailed.

14 LIMITATION OF LIABILITY:

14.1 Nothing in the Contract shall limit or exclude Prodo's liability for:

14.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

14.1.2 fraud or fraudulent misrepresentation; or

14.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

14.2 Subject to clause 14.1, Prodo shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

14.2.1 loss of profits;

14.2.2 loss of sales or business;

14.2.3 loss of agreements or contracts;

14.2.4 loss of anticipated savings;

14.2.5 loss of use or corruption of software, data or information;

14.2.6 loss of or damage to goodwill; or

14.2.7 any indirect or consequential loss.

14.3 Subject to clause 14.1, Prodo's total liability to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall, in respect of the Service in relation to

which the claim has arisen, be limited to the Charges paid by the Client to Prodo in respect of such Services in the 12-month period prior to the date on which the liability was first incurred.

14.4 The Contract sets out the full extent of Prodo's obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services which might otherwise be implied into the Contract or any collateral contract (whether by statute or otherwise) or hereby expressly excluded, including but not limited to, the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 which are, to the fullest extent permitted by law, excluded from the Contract.

14.5 This clause 14 shall survive termination of the Contract.

15 TERMINATION

15.1 Without affecting any other right or remedy available to it, either party may terminate the Contract in relation to all of the Services with immediate effect by giving written notice to the other party if:

15.1.1 the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 10 Business Days after being notified in writing to make such payment;

15.1.2 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of that party being notified in writing to do so;

15.1.3 the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;

15.1.4 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

15.1.5 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

15.2 Without affecting any other right or remedy available to it, Prodo may terminate the Contract with immediate effect by giving written notice to the Client if there is a change of control of the Client.

15.3 Without affecting any other right or remedy available to it, Prodo may suspend the supply of Services under the Contract or any other contract between the Client and Prodo if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 15.1.1 to clause 15.1.5, or Prodo reasonably believes that the Client is about to become subject to any of them.

16 CONSEQUENCES OF TERMINATION

16.1 On termination or expiry of the Contract in relation to all of the Services or some only of the Services where there are continuing Services (the Services or the terminated or expired Service (as the case may be) being the **Terminated Services** for the purposes of this clause 16), the following provisions shall apply;

16.1.1 where applicable, the Licence in relation to such Terminated Services shall immediately terminate and the Client acknowledges that it shall cease to be able to use any of the Terminated Services, subject to the provisions of this clause 16.1;

16.1.2 the Client shall immediately pay to Prodo all of Prodo's outstanding unpaid invoices and interest in relation to the Terminated Services and, in respect of Terminated Services supplied but for which no invoice has been submitted, Prodo shall submit an invoice, which shall be payable by the Client immediately on receipt;

16.1.3 Prodo shall return all Materials to the Client in relation to the Terminated Services;

16.1.4 where the Terminated Services are Website Services or App Services, Prodo shall provide to the Client an electronic copy of the Site by file transfer protocol (or such other means as advised by Prodo) (including, insofar as Prodo is freely able to transfer the same to the Client, all referenced files, CSS and data bases) or the App (as the case may be) together, as applicable, with all other media required to enable the Client to operate the Website or the App (insofar as Prodo is able to freely transfer the same to the Client) and Prodo shall provide such assistance as is reasonably requested by the Client in transferring the hosting of the Site or the App to the Client or another service provider, subject to the payment of Prodo's expenses reasonably incurred;

16.1.5 where Prodo is freely able to transfer the same to the Client, Prodo shall deliver the Content produced in relation to the Terminated Services to the Client; and

16.1.6 the Client shall return to Prodo all of Prodo Materials and Documents in relation to such Terminated Services.

16.2 Termination or expiry of the Contract in relation to some or all of the Services shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of that termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of that termination or expiry (as the case may be).

16.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract in relation to some or all of the Services shall remain in full force and effect.

17 FORCE MAJEURE

17.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

17.1.1 acts of God, flood, drought, earthquake or other natural disaster;

17.1.2 epidemic or pandemic;

17.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

17.1.4 nuclear, chemical or biological contamination or sonic boom;

17.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

17.1.6 collapse of buildings, fire, explosion or accident;

17.1.7 any labour or trade dispute, strikes, industrial action or lockouts;

17.1.8 non-performance by suppliers or subcontractors;

17.1.9 non-performance or, or withdrawal of, services by any third parties whose services are necessary to enable Prodo to provide the Services including, but not limited to, in relation to any services provided by Hub Spot;

17.1.10 interruption or failure of utility service or telecommunications links; and

17.1.11 unavailability of the internet network.

17.2 Provided it has complied with clause 17.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under the Contract by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

17.3 The Affected Party shall:

17.3.1 as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and

17.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

17.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 40 Business Days, the party not affected by the Force Majeure Event may terminate the Contract by giving 5 Business Days written notice to the Affected Party.

18 VARYING THE TERMS

The Client agrees that Prodo may vary these terms and conditions from time to time and the Client agrees to accept these changes where they have been set out in writing and signed by the parties (or their authorised representatives).

19 SUBCONTRACT

Prodo may at any time and from time to time subcontract all or any of its obligations under the Contract.

20 PUBLICITY

The Client agrees that (unless otherwise agreed in writing) Prodo shall be free to publicise the fact that it has carried out the Services for the Client and to disclose details of such Services which in the reasonable opinion of Prodo are not commercially sensitive.

21 GENERAL

21.1 Assignment and other dealings

21.1.1 Prodo may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

21.1.2 The Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Prodo.

21.2 Confidentiality

21.2.1 Each party undertakes that it shall not at any time, disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause

21.2.2 Each party may disclose the other party's Confidential Information:

21.2.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 21.2; and

21.2.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

21.2.3 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Contract.

21.1 Entire agreement

21.1.2 The Contract constitutes the entire agreement between the parties in relation to the respective Services being provided and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.1.3 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

21.1.4 Nothing in this clause shall limit or exclude any liability for fraud.

21.2 Variation

Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

21.3 Waiver

A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

21.4 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

21.5 Notices.

21.5.2 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

21.5.3 Any notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

21.5.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

21.6 Third party rights.

21.6.2 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

21.6.3 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

21.7 Governing law

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

21.8 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule 1 Hosting Services

Our standard SLA for ticket resolution is included below, with definitions around criticality levels included in the table beneath.

Support is offered within normal office hours (Mon-Fri, 08:30 – 17:00) but we will be happy to explore requirements for an Out Of Hours service if required, which would be subject to agreement of additional costs.

Priority	Initial Response	Client Update	Target Resolution
Critical / P1	Immediately, or within 15 minutes	Every 1 hour	Within 4 hours
P2	Within 2 hours	Every 3 hours	Within 2 working days (unless problem is escalated)
P3	Within 4 hours	Once per day	Within 5 working days (unless problem is escalated)
P4	Timescales will be agreed on an ad hoc basis		

Priority	Description	Examples
Critical / P1	Major impact – system down	• The website/system is not accessible from the Public Internet • The home page is not functioning correctly and/or navigation is not available or functioning correctly • The entire system, or a critical part of the system, is unavailable or is not functioning correctly
P2	Medium impact – performance and/or functionality is significantly impaired	• Navigation is incomplete with parts of the system inaccessible • A non-critical part of the system is unavailable or is not functioning correctly

P3	Minor impact – faults are present but do not affect general functionality	● One or more graphics are missing or incorrect ● A minor navigation step is not working
P4	Trivial	● System is behaving normally – but modifications are required to the infrastructure or functionality. Any such routine modifications will be within the scope of the Agreement and therefore will not incur additional Support charges. If the modification develops into a larger piece of work, the Parties will discuss and agree the cost, delivery timescales and specification separately to this SLA. ● A request for information, change or guidance in the use of the system or its operation (considered to be non-critical to the business or the user experience) ● PRODO agrees to update the existing back end training guide on delivery of any significant development to the Website and/or CMS.

Schedule 2 Term

Inbound Marketing Services

A fixed initial term of 12 months commencing on the relevant Services Commencement Date (**Initial Term**) which shall automatically renew for successive periods of 12 months (each an **Additional Term**) unless either party shall serve to the other in writing not less than 3 months' notice terminating the Contract in relation to such Services with effect from the expiry of the Initial Term and any Additional Term.

Website Services

The period commencing on the relevant Services Commencement Date and ending on completion of the relevant Deliverables in accordance with the Contract.

Hosting Services

The fixed initial term commencing on the relevant Services Commencement Date and ending on such date as is set out in the relevant Order Form or Additional Charge Form (as the case may be) (**Initial Term**) which shall automatically renew for successive periods of 12 months (each an **Additional Term**) unless either party shall serve to the other in writing not less than 3 months' notice terminating the Contract with effect from the expiry of the Initial Term and any Additional Term.

Professional Services

The period commencing on the relevant Services Commencement Date and ending on completion of the relevant Deliverables in accordance with the Contract.

Support Services

The fixed initial term commencing on the relevant Services Commencement Date and ending on such date as is set out in the relevant Order Form or Additional Charge Form (as the case may be) (**Initial Term**) which shall automatically renew for successive periods of 12 months (each an **Additional Term**) unless either party shall serve to the other in writing not less than 3 months' notice terminating the Contract with effect from the expiry of the Initial Term and any Additional Term.

Schedule 3 Processing, Personal Data and Data Subjects

1. Processing by Prodo

1.1 Scope, nature and purpose of processing

To enable Prodo to provide the Services to the Client pursuant to the Contract and/or as requested by the Client

1.2 Duration of the processing

For those Services in relation to which the processing is carried out, for the duration of the Contract in relation to those Services.

1.3 Types of Personal Data processed

As more particularly set out in the relevant Strategy Document.

1.4 Categories of Data Subject

As more particularly set out in the relevant Strategy Document.

2. Details of Sub-processors

Prodo has appointed the following sub-processors in relation to the provision of the Services in relation to which processing is carried out:-

BCN Group Limited, (06893253), Second Floor Building 4, Manchester Green, Styal Road, Manchester, England, M22 5LW

