

Podfather Ltd

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Appendix 1. Podfather Standard Terms and Conditions

1. Definitions

"Podfather" and the "Supplier" refers to Podfather Ltd, a Company incorporated in Scotland with registered number SC205666 having its registered office at Verdant, 2 Redheughs Rigg, Edinburgh, EH12 9DQ.

"Specification Letter" refers to the letter sent to a prospective Client detailing the work that Podfather offers to undertake on behalf of the prospective Client.

"the agreement" refers to a Specification Letter or that has been accepted by a Client and that incorporates these terms and conditions.

"Client" refers to a prospective Client to whom a Specification Letter has been sent where that letter has been accepted.

"Client Data" means the data inputted by the Client for the purpose of using the Services including the Client Personal Data.

"Client Personal Data" means any personal data relating to an identified or identifiable natural person which will be processed (subject to the Data Protection Legislation) by Podfather on behalf of the Client in connection with this agreement.

"Data Protection Legislation" means unless and until the GDPR is no longer directly applicable in the UK, the GDPR, the Data Protection Act 2018 and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, and then any successor legislation in the UK to the GDPR.

"GDPR" refers to the General Data Protection Regulation ((EU) 2016/679).

"Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks 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, 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.

"Software" means the Podfather back office and mobile applications as detailed in the Specification Letter.

The terms **"appropriate technical and organisational measures"**, **"controller"**, **"processor"**,

“process”, “data subject”, “personal data” and “personal data breach” shall, unless the context otherwise requires, each have the respective meanings given to them in the GDPR.

2. Services & Performance

Podfather will, in a timely and professional manner using appropriately experienced personnel exercising all normal skill and care, provide services to the Client in terms of the Specification Letter ("Services").

While Podfather will use all reasonable endeavours to meet the timescales specified in the Specification Letter such timescales are estimated only and time shall not be of the essence of this agreement.

Podfather reserves the right at any time to engage any third-party contractor or specialist as it sees fit to ensure completion of the agreement. The Client will be advised of such engagement and Podfather shall be responsible to the Client for the acts or omissions of such contractor or specialist in the course of provision of the Services.

3. Termination

Either party may terminate the agreement without penalty, reimbursement, or liability on giving to the other party thirty days prior written notice of their intention to terminate the agreement effective at any time after an initial agreement term of twelve months (the “Initial Term”) has expired. Upon the expiration of the Initial Term, the same shall automatically extend for successive twelve-month periods (each, an “Extended Term”; each Extended Term together with the Initial Term, the “Term”) until terminated by either party in accordance with the terms of the Agreement.

In the event of termination by either party Podfather will be entitled to recover from the Client all reasonable costs incurred and fees for time expended in the performance of the agreement to the date of termination. Any Client Data held on the Podfather system shall be deleted within three months of the agreement being terminated.

4. Client Responsibilities

The Client will permit all necessary access to its premises, facilities and staff to Podfather and its staff as is reasonably required to enable Podfather to fulfil its obligations under the agreement. The Client agrees that it will make available in a complete accurate and timely manner to Podfather all necessary information and assistance as is reasonably required to enable Podfather to fulfil its obligations under the agreement.

The Client will ensure that all Podfather staff within the Client’s premises and facilities are protected and secure in accordance with Health and Safety legislation for the time being.

5. Fees, Invoices and Payment

- a) Fees will be invoiced to the Client in accordance with the Order From contained in the Specification Letter and will be paid by the Client in full within fourteen days from the date of invoice. Fees stated in the invoice will be inclusive of (if any) delivery, import duties, handling charges.
- b) Value Added Tax at the current rate in accordance with UK legislation will be added to the fees and will be payable by the Client.
- c) If any sum payable by the Client remains unpaid for a period of 14 days or more after the due date for payment, without prejudice to any other rights available to Podfather, Podfather reserves the right (a) to suspend performance of the Services; and (b) to charge interest at the rate of five per cent per annum over Royal Bank of Scotland plc (or its successors) base lending rate, compounded monthly, from the due date of payment until the sum is paid.
- d) If, due to any circumstances for which Podfather is not responsible, Podfather incurs additional expenses not provided for in the Specification Letter in connection with the agreement, such additional expenses may be invoiced to the Client at the discretion of Podfather and if so invoiced will be paid by the Client. Podfather will use its all reasonable endeavours to intimate such additional expenses to the Client as soon as possible.
- e) In the event that the Client causes delay in the completion of the agreement or fails to implement actions as detailed in the Specification Letter which results in delay in the completion of the agreement, Podfather reserves the right to render a fee at its standard rates for the additional work required to complete the agreement and will be entitled to recover from the Client any additional costs, charges and others incurred in the completion of the agreement.
- f) In the event that delay in completing the agreement is caused by factors out with the control of either party, neither party will be liable to compensate the other but both parties will use all reasonable endeavours to ensure completion of the agreement.
- g) In the event that Podfather fails to complete the agreement within time specified in the Specification Letter (excepting circumstances in 5 e) and f) above, Podfather will complete the agreement at no additional cost the Client and this shall be the sole remedy of the Client in those circumstances.
- h) Annual price increases for both standard development rate Services and monthly charges for software licensing, hosting and support shall be kept in line with the UK Retail Price Index for the previous 12 months as published by the Office of National Statistics. Price increases shall be communicated to the Client one month prior to implementation on each anniversary of this agreement.

6. Limit of Liability

The following provisions set out the entire financial liability of Podfather (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:

- a) any breach of this agreement howsoever arising;
- b) any use made by the Client of the Services or any part of them; and
- c) any representation, misrepresentation (whether innocent or negligent), statement or negligent act or omission arising under or in connection with the agreement.

All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the agreement.

Nothing in these conditions excludes the liability of Podfather for death or personal injury caused by the Supplier's negligence; or for fraud or fraudulent misrepresentation.

Subject to the foregoing:

(1) Podfather shall not in any circumstances be liable, whether in delict (including without limitation negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

(2) Podfather's total aggregate liability in contract, delict, misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the price paid for the Services and will not in any circumstances exceed £100,000.

Podfather will not be liable for delays or impossibility of performance caused by circumstances beyond its reasonable control.

7. Intellectual Property Rights

The Client acknowledges and agrees that Podfather and/or its licensors own all Intellectual Property Rights in the Software. Except as expressly stated herein, this agreement does not grant the Client any rights to, or in, Intellectual Property Rights, or any other rights or licences in respect of the Software or any related documents.

Podfather warrants and undertakes that it has all the rights in relation to the Software and the Configuration Services as defined in the Specification Letter that are necessary to grant all the rights it purports to grant and perform all the obligations it agrees to perform under, and in accordance with, the terms of this agreement.

The Client shall own all rights, title and interest in and to all the Client Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Data. Except as expressly stated herein, this agreement does not grant Podfather any rights to, or in, any Intellectual Property Rights or any other rights or licences in respect of Client Data.

The right of the Client to access and use the Podfather Software and ongoing Services shall be governed by this Agreement.

Under this Agreement, Podfather grants the Client a non-exclusive, non-transferable, non-assignable right to use the Podfather software and services. The Client acknowledges that the Podfather software is a licensed program and proprietary to Podfather Ltd and is protected by copyrights, trademarks, service marks, patents and/or other proprietary rights and laws. The Client agrees they are only permitted to use the Podfather programs as expressly authorised by Podfather and this Agreement. The Client may not remove any proprietary notices or labels from the Podfather programs. The Client may not alter, modify, redistribute, sell, auction, decompile, reverse engineer, disassemble or otherwise reduce the Podfather program to a human-readable form. The Client may not reproduce, distribute, or create derivative works based on the Podfather program without expressly being authorised in writing to do so by Podfather Ltd. Further, the Client may not rent, lease, grant a security interest in or otherwise transfer rights to the Podfather program. All rights not expressly granted in this Agreement are reserved to Podfather Ltd.

8. Data Protection

For the purpose of the Data Protection Legislation, whenever Podfather processes Client Personal Data: The Client will be the controller and the Podfather will be the processor in respect of such Client Personal Data; and Podfather will only process Client Personal Data in full compliance with this agreement and the Data Protection Legislation.

Without prejudice to the generality of this clause 8, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Client Personal Data to Podfather for the duration and purposes of the agreement. The Client shall confirm to Podfather the lawful basis of processing any Client Personal Data which is transferred to Podfather.

The parties agree that the Annex to these terms and conditions (Data Processing Information) sets out the purpose of the processing to be performed by Podfather on behalf of the Client, the categories of data subjects to whom the Client Personal Data relate and the types of Client Personal Data that will be processed by Podfather on behalf of the Client as Client Personal Data.

In respect of the processing of Client Personal Data by Podfather and Podfather's personnel under or in connection with this Agreement, Podfather shall, and shall procure that the Podfather's personnel shall:

- a) only process the Client Personal Data to the extent required in order to carry out its obligations in accordance with the terms of this agreement, in accordance with the Data Protection Legislation, or otherwise in accordance with documented instructions of the Client from time to time;
- b) not otherwise modify, amend or alter the contents of the Client Personal Data or disclose or permit the disclosure of any of the Client Personal Data to any third party unless specifically authorised to do so in writing by the Client;
- c) implement appropriate technical and organisational measures to:
 - 1. protect Client Personal Data against unauthorised or unlawful processing and against accidental or unlawful loss, destruction, damage, alteration or disclosure;
 - 2. comply with Data Protection Legislation; and
 - 3. ensure the protection of the rights of the data subject.
- d) ensure that all of Podfather's personnel who are engaged in the performance of the Services have entered into confidentiality agreements with Podfather and shall further ensure that such personnel are made aware of and observe Podfather's obligations under this agreement with regard to the security and protection of Client Personal Data;
- e) provide reasonable written evidence of the Podfather's compliance with Data Protection Legislation as may be requested by the Client from time to time;
- f) cooperate and assist, as requested by the Client, and put appropriate technical and organisational measures in place to enable the Client to comply with any exercise of rights by a data subject under the Data Protection Legislation (including, without limitation, in relation to the retrieval and/or deletion of a data subject's personal data); not process the Client Personal Data anywhere outside the European Economic Area without the prior written consent of the Client.
- g) cease processing the Client Personal Data immediately upon the termination or expiry of this agreement or, if sooner, the Services to which it relates and as soon as possible thereafter, at the Client's option, either return, or delete from its systems, the Client Personal Data and any copies of it or of the information it contains and Podfather shall confirm in writing that this has been complied with in full. The provisions of this clause shall not apply to the extent that Podfather is obliged by applicable law to keep copies of the Client Personal Data.
- h) notify the Client as soon as reasonably practicable of:
 - 1. any legally binding request for disclosure of Client Personal Data by a law enforcement or other competent authority unless prohibited by law from doing so;
 - 2. any request received directly from a data subject without responding to that request, unless required by law or it has been otherwise authorised by the Client to do so;
 - 3. receiving any correspondence, notice or other communication whether orally or in writing from the Information Commissioner's Office, any other relevant data

protection regulator or any other regulator or person, relating to the Client Personal Data; and/or

4. becoming aware of a breach of the provisions of this clause 8.

Without prejudice to any other provision of this agreement, the Client may, on reasonable notice, request a detailed written description of:

1. the technical and organisational methods employed by Podfather and any sub-processors (if any) for the processing of Client Personal Data; and/or
2. the processing activities carried out by Podfather on behalf of the Client containing at least the amount of detail required by Article 30(2) of the GDPR.

Within 30 business days of receipt by Podfather of the Client's written request (which shall include a detailed description of the Client's requirements), Podfather shall deliver a written report to the Client in sufficient detail that the Client can reasonably determine whether or not any applicable Client Personal Data is being or has been processed in compliance with the Data Protection Legislation and in accordance with the agreement.

The Client generally consents to Podfather appointing sub-processors as third-party processors of Client Personal Data and Podfather shall ensure each sub-processor offers at least the same level of protection for Client Personal Data as set out in this Agreement.

The existing authorised sub-processors (if any) are set out in Appendix 2, Data Processing Information.

Without prejudice to the other provisions of this clause 8, if Podfather or any member of Podfather's personnel becomes aware of any personal data breach, then Podfather shall promptly notify the Client by telephone and by email. Podfather shall cooperate as required by the Client for the Client to notify the Information Commissioner's Office and any other relevant data protection regulator (or analogous body in any other relevant jurisdiction and any bodies which may succeed or replace them from time to time) of such personal data breach and for the Client to provide such reports or information as may be requested by them in relation to such personal data breach and/or for the Client to notify the relevant data subjects of such personal data breach, as applicable.

9. Confidentiality

Both parties represent that they have adequate means of protecting their own confidential information and that the same means will be used to protect confidential information belonging to the other party. Any systems software, programs or other data in whatever form or material or information ("information") relating to either party's business acquired by one party under the agreement shall be treated by the other party as secret and confidential and shall not be disclosed to any third party without the prior written consent of the other party unless:

- a) The information was already lawfully known or became lawfully known to the other party

quite independently of its entering into the agreement.

b) The information is or becomes within the public domain other than due to the wrongful use or disclosure by the other party;

c) Disclosure or use is necessary in order for either party to enforce its rights under the agreement.

d) Disclosure or use is necessary for the proper and effective performance and/or the lawful exercise of the other party's rights under the agreement; or

e) Whereas disclosure is required by law or regulation having force of law, to be disclosed. Both parties agree to return or destroy at the end of provision of service under the agreement or upon demand by such party, and without delay, any document containing confidential information belonging to the other party.

10. Notice

Any notice required in terms of the agreement will be made in writing and delivered by hand or sent by first-class post to the addressee at the Registered office of the party or to its normal place of business, or sent by email to accounts@podfather.com. Such notice will be deemed to have been given by delivery by hand or if sent by email at the time of transmission if sent by 4.00pm on any working day otherwise it will be deemed to have been given at 10.00am the following working day or the next working day after posting whichever the case may be. A working day will mean any day Monday to Friday inclusive but excludes UK public or bank holidays and the period 24th December to 1 January.

11. Law & Entire Agreement

The agreement will be governed by and construed in accordance with Scottish law and the parties prorogate the exclusive jurisdiction of the Scottish Courts. The agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties. No addition or modification made to the agreement shall be binding on the parties unless signed by a duly authorised representative of each party.

Appendix 2. Data Processing Information

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| 1 | Subject matter | Client Personal Data is processed by Podfather in connection with providing the Services requested by the Client pursuant to the agreement. |
| 2 | Duration | Processing will continue for the duration of the provision of the Services. |
| 3 | Nature and Purpose of Processing | The purpose of the processing being carried out by Podfather is to allow Podfather to provide logistics planning and point-of-delivery Services to the Client (the “ Purpose ”). The parties consider the processing is necessary for the Purpose because it is functionally impossible to provide such Services without access to Personal Data. |
| 4 | Categories of Data Subjects | The data subjects may include: <ul style="list-style-type: none"> the Client’s customers, suppliers, employees and contract hauliers. |
| 5 | Types of Personal Data | The categories of Personal Data to be processed by Podfather may include: <ul style="list-style-type: none"> Personal and contact details: including name, address, telephone, IP address, IMEI number, driver license number, GPS location, speed and bearing of travel, email address, photograph of delivery location, delivery recipient name and electronic signature. <p>Podfather acknowledges that the Client Personal Data shall be the Client's confidential information and shall be subject to the confidentiality obligations in clause 9 of the terms and conditions</p> |
| 6 | Transfers to countries outside the EEA | Client Personal Data will not be transferred by Podfather to countries outside the EEA except with the explicit instructions of the Client. In the event of any transfers to countries outside the EEA, the parties acknowledge and agree that the Client shall be responsible for obtaining the data subjects' consent to such transfers or otherwise ensuring the compliance of such transfers with the Data Protection Legislation. |
| 7 | Third party sub-processors | Podfather currently uses the following third-party sub-processors in connection with the processing of Client Personal Data: <ul style="list-style-type: none"> Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043, United States Cloud Service Provider – Email and Cloud Services including Google Workspace Suite, google Drive and analytics https://cloud.google.com/security/gdpr; Amazon Web Services Inc, 1200 12th Avenue South, Suite 1200, Seattle, WA 98144 for Cloud Service Provider – Infrastructure Provider including hosting services, storage and support. https://aws.amazon.com/compliance/gdpr-center/ Pipedrive OÜ, Paldiski mnt 80, Tallinn 10617, Estonia Cloud Service Provider - Customer relationship management (CRM) platform |

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| | <p>https://support.pipedrive.com/en/article/pipedrive-and-gdpr);</p> <ul style="list-style-type: none"> · Dropbox International Unlimited Company, One Park Place, Floor 5 Upper Hatch Street, Dublin 2, Ireland Cloud storage and file sharing https://www.dropbox.com/en_GB/security/GDPR); · Slack Technologies Limited, 4th Floor, One Park Place, Hatch Street Upper, Dublin 2, Ireland Internal Communications. https://slack.com/intl/en-gb/trust/compliance/gdpr); · Sentry, Functional Software, Inc. dba Sentry, 132 Hawthorne Street, San Francisco, CA 94107 Code development - Application Monitoring, Error Tracking and performance monitoring (https://sentry.io/security/) · Atlassian – Jira and Confluence , Jira Service Desk, Atlassian HQ Level 6, 341 George Street, Sydney, NSW 2000 Australia IT Helpdesk / Agile project management and collaboration tools used for the Cloud Service https://www.atlassian.com/trust/privacy/country/europe-and-gdpr) · Gainsight, Inc. 350 Bay Street, Suite 100, San Francisco, CA 94133, USA Customer Service Platform - Analytics https://support.gainsight.com/gainsight_nxt/Administration_and_Permissions/Gainsight_Data_Privacy_and_Security/Compliance_of_Gainsight_with_GDPR) |
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