

WELCOME TO THE TRUDON (PTY) LTD LEGAL PAGE

The Trudon terms herein are
composed of the following:

[General Terms](#);

[Product Terms](#); and

[Use Policies](#).

**TRUDON GENERAL TERMS AND CONDITIONS IN RESPECT OF THE PRODUCTS
AND/OR SERVICES**

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1. PREAMBLE

- 1.1. Trudon is a leading South African company that delivers local commercial search solutions as well as digital services to the local SME and corporate market and provides a range of comprehensive products and/or services in areas of web development; domain registration and hosting; marketing; print and digital advertising solutions to businesses.
- 1.2. Customer has specific product and/or service requirements that are akin to those offered by Trudon.
- 1.3. Customer wishes to subscribe to the Products and/or Services from Trudon and Trudon has agreed to provide such Products and/or Services to Customer subject to the following General Terms (hereinafter defined).

2. INTERPRETATION

- 2.1. In these General Terms:
 - 2.1.1. an expression which denotes: (i) any gender includes the other genders; (ii) a natural person includes a juristic person and vice versa; (iii) the singular includes the plural and vice versa.
 - 2.1.2. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of these General Terms, shall not apply.
- 2.2. Unless the context indicates a contrary intention the words and expressions defined in clause 3 shall, throughout these General Terms, bear the meanings assigned to them in that clause 3 and cognate expressions shall bear corresponding meanings.
- 2.3. Words and expressions defined in an annex shall, in that annexes, bear the meanings there assigned to them and cognate expressions shall bear corresponding meanings.
- 2.4. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.5. The word "**clause**" refers to clauses of these General Terms.
- 2.6. Any reference to "**days**" shall be construed as being a reference to calendar "**days**" unless qualified by the word "**business**".
- 2.7. The words "**include**" and "**including**" means "include without limitation" and "**including without limitation**". The use of the word "**including**" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it.

- 2.8. Terms other than those defined within these General Terms will be given their plain English meaning, and those terms, acronyms, and phrases known in the information technology industry will be interpreted in accordance with their generally accepted meanings.
- 2.9. Defined terms appearing in these General Terms in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their ordinary meaning as qualified by clause 2.8 and shall, unless the context otherwise indicates, include the term as defined.
- 2.10. Clause headings are included for convenience only and are not to be used in the interpretation hereof.

3. DEFINITIONS

- 3.1. Unless the context dictates otherwise, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:
 - 3.1.1. **“Activate or Activation”** means the activation of the Products and/or Services for access and use by Customer on Activation Date;
 - 3.1.2. **“Activation Date”** means the date of Activation;
 - 3.1.3. **“Agreement”** means the agreement entered into between Trudon and Customer consisting of, *inter alia*, the Trudon Terms and any Order Form, or addendum thereto, completed and signed by Customer;
 - 3.1.4. **“Applicable Laws”** means any statute which includes without being limited thereto, Companies Act, NCR, CPA, ECTA and RICA, including any regulation, directive, or subordinate legislation; the common law; any binding court order as between the Parties, judgment; any applicable securities industry code, standard enforceable by law; or any applicable direction, policy or order that is given by the Authority where there is an onus on the Parties to adhere to the aforesaid;
 - 3.1.5. **“ARB”** means the Advertising Regulatory Board, being a self-regulatory non-profit company, which regulates the content of advertising geared to ensure adherence to the Code of Advertising Practice as prescribed by section 55 of the ECA;
 - 3.1.6. **“Authority”** means any agency, tribunal, commission, regulator, self-regulatory body or other similar body having jurisdiction over the Deliverables and/or Services activities or operations of any of the Parties in any territory that is applicable to this Agreement, including without limitation, Information Regulator, ICASA and ARB;
 - 3.1.7. **“Affiliate(s)”** means, with respect to any entity, any other entity Controlling,

Controlled by or under common Control with such entity. The term "**Affiliate**" will also include:

- 3.1.7.1. a subsidiary of such entity, as the term "subsidiary" is defined in section 3 of the Companies Act 71 of 2008, as amended; and
- 3.1.7.2. any foreign company which, if it were registered under such Act, would fall within the ambit of such term.
- 3.1.8. "**Best Industry Practices**" means the best industry practice, quality standards and requirements prescribed by ICASA, WASPA and ARB;
- 3.1.9. "**Business Day**" means any day other than a Saturday and a Sunday and/or a Public Holiday as gazetted by the government of the Republic of South Africa from time to time;
- 3.1.10. "**Business Hours**" means hours between 08h00 (eight hundred hours) and 17h00 (seventeen hundred hours) on any Business Day;
- 3.1.11. "**Confidential Information**" means any and all information, documentation or knowledge in any form, relating to the business and assets of either Party, not generally known to the public, disclosed to, or which may be obtained directly or indirectly by either Party to the other, or which may be derived in any way by it as a consequence of the performance of its obligations hereunder, and shall also include terms of this Agreement. Confidential Information excludes information or data which:
 - 3.1.11.1. is lawfully in the public domain at the time of disclosure thereof by a Party to the other Party; or
 - 3.1.11.2. subsequently becomes lawfully part of the public domain by publication or otherwise; or
 - 3.1.11.3. is or becomes available to a Party from a source other than the disclosing Party which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information to the other Party; or
 - 3.1.11.4. is disclosed pursuant to a requirement or request by operation of law, or court order but then only to the extent so disclosed and then only in the specific instance and under the specific circumstances in which it is obliged to be disclosed;provided that –
- 3.1.11.5. the onus will at all times rest on the disclosing Party to establish that such

information falls within such exclusions;

- 3.1.11.6. the information disclosed will not be deemed to be within the foregoing exclusions merely because such information is embraced by more general information in the public domain or in a Party's possession;
- 3.1.11.7. any combination of features will not be deemed to be within the foregoing exclusions merely because individual features are in the public domain or in a Party's possession, but only if the combination itself is in the public domain or in a Party's possession; and
- 3.1.11.8. provided further that the determination of whether information is Confidential Information will not be affected by whether or not such information is subject to, or protected by, common law or statute related to copyright, patent, trademarks or otherwise;
- 3.1.12. "**CPA**" means the Consumer Protection Act, 2008 (Act No. 68 of 2008);
- 3.1.13. "**Customer**" means the party identified on the Order Form, or in any addendum thereto, relating to the relevant Products and/or Services or product subscribed for by Customer, which may be in either telephonically or physical paper/written or electronic format;
- 3.1.14. "**Customer Contact**" means the Customer's contact information for receipt of any communications or Legal Notices from Trudon which contact is specified in the Order Form;
- 3.1.15. "**Customer Identifiers**" means usernames, passwords or email addresses provided to Customer as part of the Products and/or Services, but expressly excluding Customer domain names not managed by Trudon as part of the Products and/or Services;
- 3.1.16. "**Data Protection Legislation**" means any other legislation relating to the protection of personal information and/or data privacy in the Republic of South Africa or beyond, where applicable;
- 3.1.17. "**Data Subject**" means the person to whom Personal Information relates;
- 3.1.18. "**ECA**" means the Electronic Communication Act, 2005 (Act No. 36 of 2005);
- 3.1.19. "**ECTA**" means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);
- 3.1.20. "**Effective Date**" means the date upon approval of the Order Form by Trudon

notwithstanding the Signature Date and/or Start Date selected on the Order Form;

- 3.1.21. **“Electronic Signature”** means the electronic signature as defined in section 1 of ECTA
- 3.1.22. **“General Terms”** means these terms and conditions;
- 3.1.23. **“ICASA”** means the Independent Communications Authority of South Africa established in terms of the ECA;
- 3.1.24. **“Industry Bodies”** means any relevant registered industry body which includes amongst others, WASPA, ISPA and ARB;
- 3.1.25. **“Information Regulator”** means the Regulator established in terms of POPIA for the regulation of use of Personal Information;
- 3.1.26. **“Intellectual Property”** means any and all intellectual property including, without limitation, internal scoring methodology, Customer Journey, the trademarks, service marks, trade names, domain names, designs, patents, petty patents, utility models and like rights, in each case whether registered or unregistered and including applications for the grant of any of the aforementioned; copyright (including, without limitation, rights in computer programs and data bases and moral rights), inventions, designs, know-how, confidential information, trade secrets, and all rights in and to any of the aforementioned, and all rights or forms of protection having equivalent or similar effect to any of the aforementioned, which may subsist in any country in the world”
- 3.1.27. **“IP Address”** means a globally unique numerical identifier of a node connected to the Internet;
- 3.1.28. **“Legal Notices Page”** has the meaning ascribed to it in clause 4.4;
- 3.1.29. **“Legal Website”** has the meaning ascribed to it in clause 4.1;
- 3.1.30. **“Licensed Products”** means the Third Party Service Providers products enabled for use by Trudon as part of its Product and/or Service offering to Customer which licensed products included without being limited thereto, [Google](#), [Facebook](#), [Twitter](#) and [LinkedIn](#);
- 3.1.31. **“Marks”** means any trademarks, logos, brand names, domain names or other marks of either of the Parties;
- 3.1.32. **“Operator”** means a Third-Party Service Provider who Processes Personal Information for a Responsible Party in terms of the mandate as set out in Personal

Information Processing Agreement but does not come under the direct authority or control of the Responsible Party;

- 3.1.33. **“Order Form”** means the Order form completed and Signed by the Customer for subscription to the Products and/or Services;
- 3.1.34. **“Personal Information”** means information relating to an identifiable, living, natural or juristic person as fully defined in section 1 of POPIA and/or Data Protection Legislation;
- 3.1.35. **“Personal Information Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to, Personal Information transmitted, stored or otherwise Processed;
- 3.1.36. **“Personal Information Consent Agreement”** means the agreement to be signed between the Trudon and Data Subject giving consent to Process the Personal Information in line with the Purpose;
- 3.1.37. **“Personal Information Processing Agreement or Data Processing Agreement”** means the agreement to be signed between the Responsible Party and Operator, authorizing the Operator to Process the Personal Information in line with the Purpose, attached hereto as Annexure A;
- 3.1.38. **“POPIA”** means Protection of Personal Information Act, 2013 (Act No. 2 of 2013);
- 3.1.39. **“Privacy and Data Protection Requirements”** means the 8 (eight) requirements for the lawful Processing of personal information contained in Chapter 3 of POPIA;
- 3.1.40. **“Process” and “Processing”** means any operation or activity or any set of operations, whether or not by automatic means, concerning Confidential Information, including its collection, receipt, recording, organization, collation, storage, updating or modification, merging, linking, blocking, degradation, erasure or destruction retrieval, alteration, consultation, testing or use, dissemination or distribution by any means;
- 3.1.41. **“Products”** means the Trudon product selected by Trudon in the Order Form, in consultation with Customer during course of sales, presented to and accepted by Customer to enable subscription to such products by Customer via the Trudon Portal;
- 3.1.42. **“Products Terms”** means the terms and conditions of that name referred to in clause 5 below;
- 3.1.43. **“Purpose”** means the purpose for use and/or Processing of Personal Information as

fully described in clause 17 below and specified in the Personal Information Consent Agreement;

- 3.1.44. **“Responsible Party”** means the party who determines the purpose of and means for Processing Personal Information and for the purposes of this Agreement, Responsible Party shall mean Trudon;
- 3.1.45. **“Services”** means the Trudon services selected by Trudon in the Order Form, in consultation with Customer during the course of sale, presented to and accepted by Customer to enable subscription to such services by Customer via the Trudon Portal;
- 3.1.46. **“Services Terms”** means the terms and conditions of that name referred to in clause 5 below;
- 3.1.47. **“Signed or Signature”** means the electronic signature as defined in terms of ECTA which for our purposes will be in the form of **“clicking accept”** in the Order Form and Trudon Terms;
- 3.1.48. **“Signature Date”** means the date and time on which the Order Form is Signed;
- 3.1.49. **“Start Date”** means the date on which Customer uses the Products and/or Services notwithstanding Activation;
- 3.1.50. **“Subscription Fees”** means fees and charges payable by Customer to Trudon in respect of the Products and/or Services, which Subscription Fees are set out in the Order Form(s), and any addenda thereto, completed and signed by Customer in respect of the Services;
- 3.1.51. **“Third Party Products and/or Services”** means the third-party products and/or services promoted and sold to Customer via Trudon Portal by Trudon as a reseller of such products and/or services on the terms and conditions of the Third-Party Supplier;
- 3.1.52. **“Third Party Service Provider”** means the service provider to Trudon for the provision of the Licensed Products required by Trudon as part of its Product and/or Service offering to Customers;
- 3.1.53. **“Third Party Supplier”** means the supplier of the Third-Party Products and/or Services promoted and sold by Trudon via the Trudon Portal which includes amongst others, Telkom Mobile;
- 3.1.54. **“Third Party Supplier Terms”** means the Third-Party Supplier terms and conditions applicable to the Third-Party Products and/or Services as communicated directly to

Customer by the Third-Party Supplier; and

- 3.1.55. **"Trudon Terms"** means the Product Terms, Use Policies and these General Terms;
- 3.1.56. **"Trudon"** means Trudon Proprietary Limited with Registration Number 1992/002329/07, a private company incorporated and registered under the laws of the Republic of South Africa, with its address situated at Telkom Park, 61 Oak Avenue, Highveld, Centurion, Gauteng, 0157;
- 3.1.57. **"Trudon Portal"** means the e-commerce portal provided by Trudon and enabled for access and use by Customer in order to (a) interact with Trudon, (b) subscribe to Products and/or Services; (c) manage its Products and/or Services etc.;
- 3.1.58. **"Upstream Providers"** means the telecommunications service providers used by Trudon to offer the Products and/or Services;
- 3.1.59. **"Use Policies"** means the terms and conditions of that name referred to in clause 6 below.

4. INTRODUCTION

- 4.1. Trudon provides its Products and/or Services to Customers subject to the General Terms as well as the following additional terms and conditions:
 - 4.1.1. the Product Terms; and
 - 4.1.2. the Use Policies.
- 4.2. These General Terms, the Product Terms and Use Policies are published at <http://trudondigital.co.za/legal> (the **"Legal Website"**) under such respective headings.
- 4.3. Regardless of the manner in which Customer has contracted with Trudon for the receipt of or subscription to the Products / Services (whether by means of the conclusion of a written agreement, electronic application or by telephonic registration), these General Terms shall bind Customer when Customer contracts for a new or additional Products and/or Services or when Customer changes or adds to the Services which it receives
- 4.4. Trudon reserves the right, at any time, to amend any of the Trudon Terms to which Customer is bound, including but not limited to these General Terms, via electronic notice to Customer. For these purposes, Customer is reminded to keep its Customer Contact up to date at all times as the last Customer Contact will be utilized for these purposes. An updated version of the Trudon Terms will be posted at URL: <http://trudondigital.co.za/legal> under the heading Legal Notices (the **"Legal Notices Page"**) at least 30 (thirty) days prior to the date upon which they become effective.

- 4.5. Customer agrees that it is its responsibility as a diligent user to peruse any amended Trudon Terms as notified to Customer and posted on the Legal Notices Page and Customer undertakes to regularly visit the Legal Notices Page so as to remain apprised of such amended Trudon Terms.
- 4.6. If Customer objects to any amended Trudon Terms which are binding upon it or are to become binding upon it, Customer is entitled to terminate its relationship with Trudon upon the terms and conditions set forth in clause 13 below.

5. PRODUCT SPECIFIC TERMS

- 5.1. The Product Terms represent the terms and conditions within the Trudon Terms that govern its use of Trudon's individual Products and/or Services selected by Customer via the Trudon Portal. For the avoidance of doubt, it is recorded that Customer may use and/or select one or more different Products and/or Services. To the extent that any Product Terms are binding upon Customer, those Product Terms are deemed included in these General Terms, together with such other Trudon Terms as may be binding upon Customer.
- 5.2. Customer will only be bound by such Product Terms as are applicable to the particular Trudon Products and/or Services that Customer uses and Customer will immediately be so bound upon Activation thereof regardless of whether Customer uses same. To the extent that Customer uses any one or more Products and/or Services offered by Trudon, Customer acknowledges that it is bound by the particular Product Terms relating to the Products and/or Services that it uses. The Product Terms, as amended from time to time, are communicated electronically to Customer Contact and posted on the Legal Website under the heading Product Terms as envisaged in clause 4.4 above and the Product Terms applicable to a specific Products and/or Services shall have the same name as such Products and/or Services.
- 5.3. For avoidance of doubt, unless the contrary is evident from the construction of a particular provision in any Product Terms, any term defined in these General Terms and used in any Product Terms shall bear the meaning as defined herein.

6. USE POLICIES

- 6.1. The Use Policies represent the terms and conditions pertaining *generally* to Customer's use of the Products and/or Services and will commonly include, without limitation, privacy and confidentiality terms and conditions, use rules, security policies and similar policies which are, in most instances, of general application to all Trudon customers regardless of the Products and/or Services which they may use. The Use Policies are deemed to be applicable to all Trudon customers unless specifically stated to the contrary in any Product Terms, which are also binding upon Customer. To the extent that any Use Policies are

binding upon Customer, such Use Policies are deemed included in these General Terms together with such other Trudon Terms as may be binding upon Customer.

- 6.2. Customer is required at all times to comply with the Use Policies which are deemed to form part of the Trudon Terms. The Use Policies, as amended from time to time are communicated electronically to Customer via Customer Contact and posted on the Legal Website under the heading Use Polices as envisaged in clause 4.4 above
- 6.3. To the extent that any Products and/or Services used by Customer are subject to a specific use term as identified in the applicable Product Terms, the Use Policies shall be deemed to be augmented by such specific use terms for the purposes of use by Customer of that particular Products and/or Services.
- 6.4. For avoidance of doubt, unless the contrary is evident from the construction of a particular provision in the Use Policies, any term defined in these General Terms and used the Use Policies shall bear the meaning as defined herein.

7. TERMS AND CONDITIONS REGARDING USE OF THIRD-PARTY SERVICE PROVIDER PRODUCTS

- 7.1. Customer acknowledges that Trudon as part of its Products and/or Services offering utilises the Licensed Products of Third-Party Service Providers in order to ensure quality and effective operation, functionality and use of the Products and/or Services by Customer.
- 7.2. Trudon is duly authorized to use the Licensed Products as part of its Products and/or Service offering to customer for a fee.
- 7.3. Where Trudon is obliged in terms of the agreement with Third Party Service Provider to ensure compliance by Customer with Third Party Service Provider licensing terms, in respect of the use of Licensed Products by Trudon as part of its Product and/or Service offering, Customer acknowledges that the Licensed Products are made available on the understanding that such use is subject to the Trudon Terms.

8. THIRD PARTY SUPPLIERS

- 8.1. Customer acknowledges that Trudon as part of its product offering, markets, promotes and on sells Third Party Products and/or Services via the Trudon Portal as a reseller to Third Party Suppliers and has for these purposes entered into a reseller agreement with such Third-Party Suppliers.
- 8.2. Customer acknowledges further that,
 - 8.2.1. where Customer selects Third Party Products and/or Services via the Trudon Portal,

Customer will be redirected to the relevant Third-Party Supplier for the subscription to Third Party Products and/or Services directly with the Third-Party Supplier and on Third Party Supplier Terms;

- 8.2.2. in the event that Customer subscribes to Third Party Products and/or Services, Customer will be bound by the Third-Party Supplier Terms including payment obligation pertaining to the access and use of the Third-Party Products and/or Services. Customer is advised to read such Third-Party Supplier Terms prior to accepting same;
- 8.2.3. Trudon will not charge Customer directly for the use of Third-Party Products and/or Services nor be responsible for managing payments thereof by Customer;
- 8.2.4. Trudon will not manage the provision of the Third-Party Products and/or Services and such management remains solely with the Third-Party Supplier.

9. CUSTOMER STATUS

- 9.1. Trudon customers may be incorporated entities (such as companies and close corporations), partnerships or individuals.
- 9.2. To the extent that a person enters into an Agreement, including the Trudon Terms in a representative capacity on behalf of Customer who is an incorporated entity or on behalf of an unincorporated association or partnership of individuals or in any other representative capacity recognized in South African law, Customer hereby warrants that such person is legally authorized to do so and indemnifies Trudon against any loss or damage that Trudon may sustain resulting from such person's lack of authority.
- 9.3. To the extent that the Agreement is Signed by a person acting in a representative capacity on behalf of Customer, the Signing party hereby warrants that all of the information relating to the entity, partnership, association or other person whom he/she represents and which he/she has supplied to Trudon at any time will be true, accurate and complete. Trudon reserves the right to treat all misrepresentations by Customer or its representatives as a fraud and such person indemnifies Trudon against any loss or damage that Trudon may sustain resulting from such person's lack of authority.
- 9.4. If Trudon discovers that Customer has fraudulently contracted for receipt of Products and/or Services or that its representatives have contracted without contractual capacity to do so, Trudon will be entitled to terminate the Agreement and/or or Products or Services immediately without any further liability to Customer whatsoever and Customer will not be entitled to claim any restitution or refund of any amount already paid regardless of whether Customer used the Products and/or Services or not.

10. COMMENCEMENT AND DURATION

- 10.1. Customer acknowledges and agrees that the Agreement and the Trudon Terms shall subject to Customer's credit vetting approval, become binding on Customer with effect from the date of receipt of the duly Signed Order Form by Trudon notwithstanding the Activation Date. For the avoidance of doubt, Customer acknowledges and agrees that Trudon shall:
 - 10.1.1. not be obliged to notify Customer either in writing or verbally that Trudon has received the duly signed Order Form;
 - 10.1.2. not be obliged to send a written or electronic notice to Customer advising Customer that its/his/her credit vetting has been approved; and
 - 10.1.3. send a written notice to Customer advising Customer that its/his/her credit vetting has not been approved and as such, the Agreement and/or Trudon Terms will no longer be binding on the Parties as envisaged in clause 10.1 above.
- 10.2. Customer acknowledges that the implementation and Activation of the Products and/or Services might not be effected on the above-mentioned date and shall therefore not terminate the Agreement and the Trudon Terms as a result of any delay caused by either Trudon and/or Upstream Providers and/or Third Party Service Providers with regard to the implementation and Activation of the Products and/or Services, provided Trudon uses its reasonable commercial endeavours to implement and Activate the Products and/or Services for use by Customer within a reasonable time.
- 10.3. The Parties undertake to do all such things, perform all such acts and take all such steps and procure the doing of all such things, performance of all such acts and the taking all of such steps as may be necessary, incidental or conducive to the implementation of the terms and conditions of this Agreement. In particular, Customer shall accept Activation of and provision of the required Products and/or Services whenever tendered by Trudon.
- 10.4. Customer further acknowledges that the Term of all Products and/or Services is for an indefinite period unless:
 - 10.4.1. Customer has contracted for a particular Products and/or Services with Trudon in respect of which there is a minimum duration or initial period as set out in the Product Terms and/or Order Form;
 - 10.4.2. Customer has terminated the Products and/or Services in terms of the provisions of clause 13 below.
- 10.5. In case of those Products and/or Services in respect of which a minimum duration or initial period applies, Customer's right to terminate prior to the expiry of the minimum duration or

initial period is limited and any termination thereof will be effective on the expiry date of the minimum duration or initial period. The Customer remains obligated to pay the Subscription Fees until the expiry thereof.

11. CUSTOMER IDENTIFIERS AND IP ADDRESS

- 11.1. Any Customer Identifiers allocated to Customer or created by Customer using the Products and/or Services will, subject to Customer remaining in compliance with the Trudon Terms, entitle Customer to access the Products and/or Services for which Customer has contracted. Customer Identifiers are personal to Customer and Customer will be liable for any loss or damage sustained by Trudon or by any third party as a result of any actions by Customer or any other person to whom Customer has disclosed its Customer Identifiers. Customer is accordingly advised to keep its Customer Identifiers confidential. Customer agrees to advise Trudon immediately should any other person gain access to its Customer Identifiers. **In addition, Customer hereby indemnifies Trudon against any claim howsoever arising from: (i) Customer's disclosure of its Customer Identifiers to a third person; (ii) the use of such Customer Identifiers by a third person and/or (ii) any action by Customer or third party as a result of it. Customer shall not permit and/or initiate a simultaneous network logon while utilizing one username and not attempt to circumvent Trudon's user authentication processes or attempt to gain access to the Services if it is not expressly authorized to do so.**
- 11.2. While the Customer Identifiers and/or IP Address(es) are personal to Customer, Customer acknowledges them to be Trudon' property and accordingly, Customer may not sell, lease, transfer, assign or otherwise alienate its rights in respect of the Customer Identifiers and/or IP Address(es), and the use of such Customer Identifiers and/or IP Address(es) shall only be for the duration of the Products and/or Services it has been allocated for.

12. SUBSCRIPTION FEES, CHARGES AND PAYMENT

- 12.1. Unless otherwise stated in the relevant Product Terms and/or in clause 12.8 below, all Subscription Fees payable by Customer in terms of the Trudon Terms for Products and/or Services are payable in arrears.
- 12.2. Trudon shall at the beginning of every month withdraw any Subscription Fees and any other fees payable (once off installation or set up fees and/or ad hoc fees (collectively "**Other Fees**"), from the bank account as specified in the Order Form and/or invoice the Customer in respect of the monthly Subscription Fees and/or any Other Fees payable in terms of the Agreement. In those cases where the relevant Order Form indicates otherwise, payment shall be made in terms of the period specified in the Order Form.

- 12.3. **For the purposes of this clause 12 “month” or “monthly” may not refer to a calendar month, but to a billing month as determined by Trudon from time to time. For the sake of clarity, ‘billing month’ means the month within which the Order Form is approved by Trudon notwithstanding Activation Date or Start Date.**
- 12.4. Subscription Fees are due on a monthly basis, and Customer hereby authorizes Trudon to effect the necessary transfers from Customer’s designated bank account on the date stipulated by Customer or the Order Form for the continued duration of the Agreement or relevant Products and/or Services.
- 12.5. To the extent that Customer elects to be invoiced rather than utilise the electronic transfers mechanism described in clause 12.4 above, Trudon will invoice Customer monthly in arrears, in respect of the Subscription Fees or Other Fees payable in terms of the Agreement and the Customer shall be obliged to pay such Subscription Fees on the payment date specified on the invoice. **Save as set out herein or otherwise agreed to the contrary in the Trudon Terms, Trudon shall be under no obligation to send invoices and/or statements to Customer. As such, Customer waives the benefit of a defense to non-payment based upon late or non-receipt of monthly invoices and/or statements.**
- 12.6. It is specifically recorded that, in respect of specific Products and/or Services, the payment mechanism may be set forth in such Specific Terms and/or an Order Form In such instances, payment of the amounts owing by Customer will be effected in accordance with the provisions contained in the Specific Terms and/or Order Form.
- 12.7. Customer acknowledges and agrees that Other Fees paid by Customer in particular the project take-on fees for Products and/or Services shall under no circumstances be refundable.
- 12.8. Where Customer's use of any Products and/or Services commences during a month rather than at the start of that month, Customer will be charged on a *pro rata* basis for those Products and/or Services provided during that month.
- 12.9. Trudon reserves the right to amend or vary the Subscription Fees from time to time and any amendment or variation to such Subscription Fees will be deemed an amendment of the Trudon Terms. In the event that Trudon do amend its Subscription Fees, it will give Customer at least 30 (thirty) day's prior notice of such amended Subscription Fees. If Customer objects to any amended or varied Subscription Fees which affects it, it shall be entitled to terminate its relationship with Trudon upon the terms and conditions set forth in clause 20.1 below.

- 12.10. Customer acknowledges that it is not entitled to withhold any payment of any Subscription Fees due to Trudon by reason of any alleged breach of the Trudon Terms by Trudon or for any other reason whatsoever. In addition, Customer acknowledges that it is not permitted to apply set off to or demand any discount, rebate or reduction in respect of any Subscription Fees owed to Trudon.
- 12.11. To the extent that Trudon incurs any additional expenditure relating to the tracing and/or collection of unpaid Subscription Fees, those costs shall be for the account of Customer.
- 12.12. In all instances, regardless of the means by which Customer contracts for any of the Products and/or Services, Customer acknowledges that it is its responsibility to familiarize itself with the Subscription Fees and/or Other Fees and the date of payment of the Subscription Fees and/or Other Fees applicable to such Products and/or Services. Upon Customer acceptance of any Trudon Terms or the Agreement, Customer will be deemed to have agreed to the Subscription Fees and/or Other Fees in respect of the Products and/or Services for which Customer has contracted.
- 12.13. Should Customer ever dispute Trudon's authority to receive payment by any means whatsoever, Customer acknowledges that any use by Customer of any Products and/or Services in a month in respect of which such payment is disputed or any acceptance by Customer of any of the Trudon Terms will constitute an authorization by Customer in favour of Trudon to receive payment of its Subscription Fees and/or Other Fees.
- 12.14. The Subscription Fees due and payable by Customer to Trudon at any time shall be determined and proved by a certificate signed by either the Chief Financial Officer or Financial Manager of Trudon, whose appointment, qualification and authority need not be proved.
- 12.15. Should Customer fail to pay any Subscription Fees owing to Trudon on due date, Trudon shall be entitled, in its discretion and without prejudice to any other rights which it may have, to suspend performance of its obligations pending full payment by Customer.
- 12.16. In the event that Customer's payment is stopped, unmet by its bank or returned unpaid, Trudon shall be entitled to charge Customer a processing fee of R 200.00 (two hundred Rands per failed payment, along with all other fees outstanding and any legal costs incurred.
- 12.17. In the instances where the Agreement in respect of any Products and/or Services applied for, specifies a minimum duration or initial term and a Customer cancels or purports to cancel the Agreement in respect of such Products and/or Services, or the agreement is cancelled by Trudon in terms of clause 13 of these General Terms, prior to expiration of such minimum duration or initial term, the remainder of all monthly payments payable during

such minimum duration and/or initial term shall immediately become due and payable to Trudon.

- 12.18. In addition to the foregoing, Trudon shall be entitled to charge interest at a Prime Rate, plus 2% (two percent) on any Subscription Fees due and payable by Customer to Trudon and not paid within 14 (fourteen) days of due date.
- 12.19. The Customer shall be liable for any and all expenses incurred by Trudon on an attorney and own client scale whether incurred prior to or during institution of legal proceedings or if judgement has been granted, in connection with the satisfaction of such judgement, in regard to the enforcement of this agreement.
- 12.20. The Customer agrees that in the event that any amounts are owing to Trudon by Customer and Trudon being in possession of any of Customer's property, Trudon shall have a bona fide *lien* over such property and shall have the right to retain such property until all outstanding amounts have been paid to Trudon.
- 12.21. Customer acknowledges that, subject to Trudon being required to do so by any law of any jurisdiction in which Customer is resident or to which Customer is subject, Trudon is entitled to receive and claim payment from Customer in respect of any value added taxation and/or sales tax or any other similar statutory tax or levy imposed on the provision of Products and/or Services to Customer.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1. Customer is obliged to comply with all laws applicable to any intellectual property rights (including without limitation trade secrets, copyright, trademarks, registered designs, and patents) in respect of any data, files and/or information accessed, retrieved or stored by Customer through Customer's use of the Services.
- 13.2. Customer is prohibited from using any of Trudon' Marks without the prior written approval of Trudon.
- 13.3. Customer hereby grants Trudon a non-exclusive license to use its Marks for the limited purposes of enabling Trudon to exercise its rights or to fulfil its obligations under the Trudon Terms.
- 13.4. Other than as specifically provided in the Trudon Terms, Trudon will wholly and exclusively retain all existing and become the exclusive and unencumbered owner of all intellectual property right(s) employed in or otherwise related to its network infrastructure, e-commerce network infrastructure, business and the provision of any of the Services in terms of the Trudon Terms.

14. CONFIDENTIALITY UNDERTAKING

- 14.1. The Parties undertake not to in any manner whatsoever disclose all or part of the Confidential Information to any unauthorized third party, whether natural or juristic, without the prior written consent of the Parties, which consent will be in the sole discretion of such parties.
- 14.2. The Parties undertakes for an indefinite period to keep confidential and not to disclose to any third party, save as may be permitted in terms of this Agreement, the Confidential Information, the nature, content or existence of this Agreement, including any and all information provided by a Party to the other Party pursuant to this Agreement. In particular, the Parties agree as follows:
 - 14.2.1. to take all reasonable steps to protect the Confidential Information and keep it secure from unauthorized persons and/or access;
 - 14.2.2. to treat this Agreement and Confidential Information as strictly confidential and not to divulge to any third-party other than its affiliates on a 'need to know basis' who require such disclosure in order to perform their duties in relation to this Agreement. To this end, the either Party shall:
 - 14.2.2.1. prior to disclosing the Confidential Information to any of its affiliates and/or representatives, inform such affiliates and/or representatives of the confidential nature of the Confidential Information;
 - 14.2.2.2. ensure that all representatives and/or resources who are provided with the Confidential Information are bound by appropriate and legally binding confidentiality and non-use obligations;
 - 14.2.2.3. ensure that any representative and/or resource to which the Confidential Information is to be disclosed, agrees in writing to comply with the terms of this Agreement so that any disclosure and/or use of the Confidential Information by such representative and/or resource in a manner which is contrary to the terms of this Agreement constitutes a breach thereof; and
 - 14.2.2.4. not to issue any press release, or any other public document or make any public statement and/or announcement or discuss any matter with the media, in each case relating to or connected with or arising out of the Agreement or the matter contained therein (save for any such release, announcement or document which is required to be given, made or published by law or under the rules and regulation of any stock exchange), without communicating same to the Disclosing Party, except as required by law;

14.2.3. to inform the other Party immediately if -

14.2.3.1. it becomes aware of, or suspects there has been, a breach of the obligations in this Agreement; or

14.2.3.2. a Party is required by law or Court order to disclose the Confidential Information.

14.3. The above undertakings shall not apply to-

14.3.1. Confidential Information which, at the time of disclosure by a Party, as envisaged in this Agreement is published or otherwise generally available to the public;

14.3.2. such Confidential Information which a Party can prove that it was within its knowledge or already in its possession prior to disclosure thereof and not through any breach by such Party, its affiliates and/or representatives of any of the confidentiality obligations;

14.3.3. Confidential Information which after disclosure by a Party is published or becomes generally available to the public otherwise than through any act or omission of the other Party, its affiliates, representative and/or any breach of this Agreement;

14.3.4. Confidential Information which a Party can prove was developed independently and without reference to information provided by the other Party;

14.3.5. Confidential Information rightfully acquired from others who do not owe a confidentiality obligation to a Party, provided such Party was advised of this fact prior to the disclosure; and

14.3.6. Confidential Information which a Party is required by law or any Court order to disclose provided such Party undertakes to limit such disclosure in any manner reasonably requested by the other Party.

15. DATA PROTECTION

15.1. Trudon undertakes to use its reasonable commercial endeavours at all times to strictly comply with Applicable Laws with respect to the protection of Customer data and Confidential Information in its possession including the rules and codes of conduct prescribed by Industry Bodies.

15.2. To the extent that Customer Data needs to be stored on the Trudon and/or Third Party Service Provider's information technology systems, Trudon shall use reasonable commercial endeavours to ensure that the Third Party Service Provider takes appropriate technical and organisational measures including measures prescribed by POPIA and/or

Applicable Laws against unauthorised access to, unlawful Processing, accidental loss, destruction or damage to Customer Data.

- 15.3. The security measures taken by Trudon and Third Party Service Provider in terms of Clause 15.2 are not less rigorous than the security safeguards and practices generally maintained by Trudon and Third Party Service Provider in respect of their respective data which includes ensuring risk measures as prescribed by Industry Standards and/or Applicable Laws; and
- 15.4. Trudon and Third Party Service Providers utilise and operate all necessary back-up procedures to their respective information technology systems to ensure that, in the event of any information system malfunction, unlawful access to and/or loss of Trudon's data Customer Data can be recovered promptly and that the integrity thereof and any database containing such material can be maintained to the Industry Standards.
- 15.5. Trudon and the Third Party Service Provider have storage mechanisms which ensure that Customer Data is stored separately and isolated from data and property relating to Trudon, the Third Party Service Provider or any customer or third party (including Third Party Suppliers or any other entity with whom Trudon and/or the Third Party Service Provider may conduct business).
- 15.6. Without limiting any of the Parties' obligations under this clause 15, the Parties will co-operate in implementing any system changes which may be required due to changes in Applicable Laws and/or Industry Standards relating to data protection.

16. PROTECTION OF PERSONAL INFORMATION

- 16.1. Without limiting the Privacy Policy, Trudon as the Responsible Party shall comply with its obligations under POPIA in respect of Personal Information collected and/or Processed in connection with the Agreement and the Products and/or Services.
- 16.2. Trudon shall only provide, collect and/or Process the Personal Information:
 - 16.2.1. in compliance with POPIA and where binding on a Party, Data Protection Legislation;
 - 16.2.2. as is necessary for the purposes of the Agreement;
 - 16.2.3. for maintaining its internal administrative processes, including quality, risk, client or vendor management processes;
 - 16.2.4. for internal business-related purposes; and
 - 16.2.5. in accordance with the lawful Purpose and reasonable instructions of the Responsible Party.

- 16.3. Trudon shall (without limiting the Privacy Policy), further ensure that:
- 16.3.1. in dealing with the Personal Information as the Responsible Party, it complies with the specific security and data privacy obligations imposed on it in terms of POPIA and where binding on them Data Protection Legislation;
 - 16.3.2. (where applicable), it complies with the specific obligations imposed on it in terms of POPIA and/or Data Protection Legislation as the Responsible Party in terms of providing the Products and/or Services;
 - 16.3.3. it takes, implements and maintains all such technical and organisational security procedures and measures necessary or appropriate to preserve the security and confidentiality of the Personal Information in its possession and to protect such Personal Information against unauthorised or unlawful collection, disclosure, access or Processing, accidental loss, destruction or damage.
 - 16.3.4. any Processing of the Personal Information to Third Party Service Providers and/or Third Party Suppliers is allowed upon signature of the Data Processing Agreement by the Third Party Service Provider or Third Party Supplier as the Operator which agreement shall ensure compliance by the Operator with the provision of clause 16.1 above and where such Third Party Service Provider and/or Third Party Supplier's does not comply with POPIA or where the country from which the aforesaid parties, does not have a Data Protection Legislation;
 - 16.3.5. the Operator is not entitled to Process the Personal Information with any other third party except for the Operator personnel unless a Processing of Personal Information Agreement to allow for further Processing of Personal Information by the Operator to a third party is signed by the Trudon as the Responsible Party. For the avoidance of doubt, the further Processing will always remain compatible with the original Purpose and subject to Privacy Policy and Data Protection Legislation.
 - 16.3.6. the Operator co-operates as requested by Trudon to enable Trudon to comply with or exercise rights of Data Subject under POPIA and/or Data Protection Legislation in respect of Personal Information Processed by the Operator under the Agreement or comply with any assessment, enquiry, notice or investigation under the Applicable Law, Data Protection Legislation and/or POPIA which shall include the provision of all data requested by Trudon within the timeframe specified by Trudon in each case, subject to compliance by Trudon with POPIA and/or Data Legislation if binding on Trudon.
- 16.4. No Personal Information of the Data Subject shall be collected, Processed and/or shared with any other third party without obtaining written consent from the Data Subject, supported

by the Signed Consent to Use Personal Information (“Consent”) and Personal Information Processing Agreement, if required.

16.5. Trudon may notify Customer about important developments, proposals and services which it considers to be relevant to the Products and/or Services and/or improvement thereon, however, Trudon undertakes for the Term, not to use or Process the Personal Information to send business offering to Data Subjects including newsletters, invitations to seminars and similar marketing material or other communications. Any such marketing required shall comply in all respects with the provision of CPA relating to direct marketing and provided Customer has given consent thereto.

16.6. Trudon shall not Process the Personal Information to:

16.6.1. an outsourced information technology service provider except for the Third-Party Service Provider required for the operation of Trudon’s business; or

16.6.2. another country, including the use of cloud-based solutions (unless those solution are used by Trudon within its business environment and compliant with POPIA and Data Protection Legislation).; or

16.6.3. an Affiliate

without prior written consent of the Data Subject or existing Personal Information Processing Agreement.

16.7. For the avoidance of doubt, Customer acknowledges and agrees that:

16.7.1. Trudon utilises cloud solution and/or services of Third-Party Service Provider which are hosted within South Africa and beyond;

16.7.2. Trudon as a reseller of Third-Party Products and/or Services of Third-Party Suppliers which are registered companies in South Africa and beyond

is required to Process the Personal Information in order to operate its business and/or resell Third Party Products and/or Services and Customer is hereby notified of same and provides Trudon with consent to Process the Personal Information for these purposes.

16.8. Where consent has been granted in terms of clauses 16.6 16.7 above, Trudon undertakes in relation to clauses 16.6 and 16.7 for the Term as the Responsible Party, to require that any Third Party Service Provider and/or Third Party Supplier as Operators involved in the Processing or storage of Personal Information, to ensure that such Personal Information is protected with the same Industry Practices and/or protection as is required in terms of

Clause 16.3 and the provision of the POPIA and/or Data Legislation binding on it (where applicable) and such Personal Information is kept for a period of 5 (five) years unless a longer period is prescribed by the Applicable Laws.

- 16.9. The Third-Party Service Provider and Third-Party Supplier as the Operators will each be held directly accountable for Personal Information further Processed by their respective personnel including any Personal Information Breach resulting from such further Processing.
- 16.10. Without limiting any other provision of the Agreement, the Responsible Party and Operators shall only use, store, copy and/or Process any Personal Information disclosed to it by Trudon pursuant to the agreement to the extent necessary for the provision of the Products and/or Services and/or to support the operations of Trudon which use, storage, copy and Processing will conform to the Privacy and Data Protection Requirements.
- 16.11. If at any time Trudon and/or Third Party Service Provider and Third Party Supplier suspects or has reason to (a) believe that (a) Personal Information disclosed to it by Trudon pursuant to their respective agreement has or may become lost or corrupted in any way for any reason and/or (b) suspects any Personal Information Breach then, Trudon shall immediately notify the Information Regulator where required, the Data and inform the Information Regulator and/or Data Subject of what remedial action it proposes to take, if any.
- 16.12. Customer acknowledges that Trudon shall keep the Personal Information for a period of 5 (five) years unless retention thereof for a longer period is required by the Applicable Laws. Customer may access the Personal Information at Trudon Portal

17. PURPOSE

- 17.1. The Parties record and agree that the Personal Information is required by Trudon for amongst others, marketing, promotion and selling of the Products and/or Services including Third Party Products and/or Service and for the provision of such Products and/or Services including Third Party Products and/or Services to Customer. The full purpose of use of Personal Information is as set out in the Consent and Privacy Policy.
- 17.2. In this regard, Trudon undertakes for the Term to:
 - 17.2.1. use the Personal Information to fulfil the Purpose in accordance with the requirements of POPIA including those prescribed by Data Protection Legislation and/or WASPA;
 - 17.2.2. to comply with the relevant provisions of ECTA, CPA, POPIA and WASPA with regard to the marketing (including electronic marketing) of the products to the Data Subjects defining how consent to receive the direct marketing is obtained and how a Data Subject can '*opt in*' and '*opt-out*' from receiving marketing messages.

18. BREACH

- 18.1. If either Trudon or Customer breaches any term of the Trudon Terms and fails to remedy such breach within 7 (seven) days of written notice requiring it to do so, then the Party not in breach shall be entitled, but not obliged, without prejudice to any rights or remedies which it may have, to cancel the Agreement or to claim immediate performance and/or payment by the party in breach.

19. INSOLVENCY

- 19.1. Should either Party commit an act of insolvency, make an offer of compromise or composition, become the subject of a liquidation or business rescue proceedings order then the other Party shall be entitled, but not obliged, without prejudice to any other rights which it may have, to terminate this Agreement without any liability whatsoever.

20. TERMINATION AND SUSPENSION

- 20.1. Unless Customer has contracted for particular Products and/or Services in respect of which there is a minimum duration or initial period or in terms of which the termination period is different, either Party may terminate the Agreement together with all Products and/or Services, or any individual Products and/or Services, **on 30 (thirty) days written notice to the other Party prior to the expiry of the minimum duration or initial period.**
- 20.2. **Where Customer has contracted for a particular Products and/or Services in respect of which there is a minimum duration or initial term, as set out in the Order Form or Product Terms, such Products and/or Services may only be terminated at the end of the specified minimum duration.**
- 20.3. The email address to which such written notices are to be sent is cancellations@yellowpages.co.za or such other address as may be communicated to Customer in writing. Any purported notice of termination sent to Trudon at any other email address and not the aforesaid email address or communicated in any manner other than as specified on the Legal Website may, at Trudon' sole discretion, be deemed invalidly given and without force or effect. **A termination notified in terms of this clause 20.1 shall take effect upon the first day of the month following the expiry of the 30 (thirty) day notice period, save that where such termination notice is given and received on a day other than the first day of any month, such notice will take effect upon the first day of the following month. Trudon reserves the right to charge Customer an additional re-connection fee should Customer request Trudon to restore any Services that has been suspended by Customer.**
- 20.4. Should Customer be in breach of any of the Trudon Terms or the Agreement, then **Trudon is entitled, without prejudice to any other rights that Trudon may have and without**

notice to Customer, to:- (i) forthwith claim immediate payment of all outstanding charges due to Trudon; (ii) terminate or suspend Customer's use of any or all of the Services; (iii) terminate its relationship with Customer and/or (iv) list Customer with any of the credit bureau agencies and (v) to appoint tracing agents as required. In all instances, Trudon is entitled to retain all Subscription Fees and charges already paid by Customer and recover all of its costs associated with Customer's breach, including without limitation, legal costs on an attorney and own client scale whether incurred prior to or during institution of legal proceedings or if judgement has been granted, in connection with the satisfaction of such judgement or in regards to the enforcement of the Trudon Terms or the Agreement.

20.5. Customer acknowledges that where Trudon is in possession of any of Customer property in consequence of its provision to Customer of a particular Products and/or Services, and Customer is in default of Customer payment obligations to Trudon, **Trudon shall be entitled to retain such property pending Customer settlement of all amounts owed by Customer to Trudon. In addition, where Customer fails to make settlement of all amounts owed to Trudon within 90 (ninety) days of any notice by Trudon to Customer in such regard, Trudon is entitled, but not obliged, to dispose of such property in order to defray any Trudon expenses as well as any amounts owned by Customer to Trudon.**

20.6. Where the Customer is in possession of any of Trudon's property in consequence of the provision to Customer of particular Products and/or Services and the Services to which that property relates are terminated, Customer will immediately return such property to Trudon, and shall not be entitled to retain such property for any reason whatsoever.

21. GENERAL LIMITATION

21.1. Save as specifically provided to the contrary in the Product Terms –

21.1.1. the Services are provided "as is" and "as available" and without any warranty of any nature whatsoever whether express or implied including without limitation warranties of merchantability, fitness for purpose, title or non-infringement.

21.1.2. any Third-Party Products and/or Services accessible and/or used in conjunction with the Products and/or Services, but which are not provided by Trudon, are provided subject to those terms specified by the Third-Party Supplier.

21.2. Trudon is not liable and will not be liable under any circumstances, for any direct, indirect, incidental, special, punitive or consequential loss or damages which arise,

or may arise, out of access to and/or use of the Products and/or Services by Customer. This exclusion of liability applies notwithstanding the fact that Trudon may have been advised of the possibility of such loss or damage being incurred prior to its occurrence.

21.3. Trudon is not liable and will not be liable under any circumstances, for any direct, indirect, incidental, special, punitive or consequential loss or damages which result or may result from Customer's access to and/or use of any Third Party Products and/or Services accessible and/or used in conjunction with the Products and/or Services, but not provided by Trudon. This exclusion of liability applies notwithstanding the fact that Trudon may have been advised of the possibility of such loss or damage being incurred prior to its occurrence.

21.4. Customer acknowledges that the Services are provided subject to all Applicable Laws and regulations and that Customer hereby indemnifies Trudon from any liability for any loss or damage suffered by Customer or any Third Party Supplier or Third Party Service Provider as a consequence of any interruption or unavailability of the Services attributable to any regulatory body or civil or criminal process instituted against Trudon.

21.5. Customer's sole and exclusive remedy if it is dissatisfied with the Products and/or Services for any reason whatsoever, is termination of the Products and/or Services, or part thereof, as provided for and upon the terms stated in clause 20.1 above.

21.6. Customer hereby unconditionally and irrevocably indemnifies Trudon and agrees to hold Trudon free from all costs, losses, claims harm, liabilities, expenses, damages, fines or injury of whatsoever nature suffered or incurred by Trudon or instituted against Trudon by any Third Party Supplier and/or Third Party Service Provider as a direct or indirect result of Customer's use of the Products and/or Services including Third Party Products and/or Services, Customer's failure to comply with any of the Trudon Terms, or any downtime, outage, interruption in or unavailability of the Products and/or Services. Included, but without limitation, within the ambit of downtime, outage, interruption in or unavailability of the Product and/or Services including Third Party Products and/or Services is any of the following: (i) software or hardware service, repairs, maintenance, upgrades, modification, alterations, replacement or relocation of premises affecting the Products and/or Services; including Third Party Products and/or Services (ii) non-performance or unavailability, of whatever nature and howsoever arising of any of the services provided by a Third Party Supplier and/or Third Party Service Provider, Upstream Providers (including, but not limited to, line failure) or in any international services or remote mail servers; (iii) non-performance or unavailability, of whatever nature and howsoever arising, of

external communications networks to which Customer or Trudon' network infrastructure is connected; and (iv) repairs, maintenance, upgrades, modification, alterations or replacement of any hardware forming part of the Services or any faults or defects of whatever nature in such hardware.

21.7. Customer acknowledges that it has no claim against Trudon and Customer hereby indemnifies Trudon against any liability in respect of any loss, damage or cost caused by or arising from: (i) any infringement of Customer's rights of privacy and/or any other like rights (including those of any other person or entity), arising from the Products and/or Services; (ii) any breach of security by any third party or any breach of confidentiality by a third party or otherwise arising from any access howsoever obtained by a third party to Customer's Personal Information, information, data or content; (iii) damage, contamination or corruption of any kind of Customer's Personal Information, Customer Data, material, information and/or content howsoever occasioned; (iv) repairs, maintenance, upgrades, modification, alterations, replacement or work of any nature done on Customer's hardware, software or systems by any party other than Trudon; (v) without limiting the foregoing, any fact, cause or circumstances whatsoever and howsoever arising if Trudon substantially performed its obligations under the Trudon Terms.

21.8. Notwithstanding the above, in the even that Trudon is held liable by any Court of law and/or Authority for any damages suffered by Customer through use of Products and/or Services including Third Party Products and/or Services, Trudon's liability for such damages shall be limited to the total Subscription Fees payable by Customer in terms of the Agreement.

22. MONITORING AND TERMINATION RIGHTS

22.1. Customer acknowledges that Trudon has no knowledge of, nor interest in, nor in any way contributes to, nor approves the creation of, Customer's content as hosted by Trudon and/or published by Customer on Customer's web site and/or Customer's web server (whether owned by Customer or rented from Trudon) and/or published otherwise through use of any of Trudon's Products and/or Services and that hosting or publication of certain kinds of content may be offensive, unlawful, in breach of codes of conduct binding on Trudon, violations of legislation (including regulations), violations of the common law generally, and violations of the requirements and rules of any regulatory Authority and that hosting and publication of certain kinds of content may cause harm to the name, goodwill and reputation of Trudon, its Affiliates, and its business partners.

22.2. Accordingly, Customer agrees, if Trudon in the exercise of its sole discretion is of the opinion that Customer's content is offensive, unlawful, or harmful, as set out above, that Trudon, without derogating from any of its other rights in terms of this agreement, may:

- 22.2.1. request Customer forthwith to remove the offensive, unlawful, or harmful content, as the case may be; or
 - 22.2.2. request Customer forthwith to amend or modify the content; or
 - 22.2.3. without notice terminate access to Customer's web site and/or Customer's server (whether owned by Customer or rented from Trudon) and/or suspend or terminate access to Trudon's products or services; or
 - 22.2.4. without notice delete Customer's web site from the server; or
 - 22.2.5. without notice remove Customer from Trudon Portal or any other web property owned or administered by Trudon.
- 22.3. Customer agrees that nothing that Trudon does in the performance of its obligations in terms of the Agreement or in the carrying on of its business generally shall be construed as an assumption of responsibility or liability by Trudon for Customer's content and the publication thereof, whether or not Trudon had knowledge of such content and Customer hereby indemnifies Trudon and holds it harmless against any liability and any claims of whatever nature made by any person for any loss or damage suffered arising directly or indirectly from the hosting and/or publication of Customer's content as well as any other data of Customer.
- 22.4. Trudon shall use all reasonable endeavours to notify Customer of any action taken in terms of clause 22.2 above, but does not warrant that notice shall be given to Customer prior to such action being taken.

23. PRESERVATION OF SECURITY, MAINTENANCE AND REPAIR

- 23.1. Trudon reserves the right to take whatever action it may deem necessary at any time to preserve the security and reliable operation of its network infrastructure and Customer undertakes that it will not do or permit anything to be done which will compromise Trudon's security.
- 23.2. Trudon may temporarily suspend its obligations in terms of this agreement in order to service, repair, maintain, upgrade, modify, alter, replace or improve any of Trudon's services. Where the circumstances permit, Trudon shall use its reasonable commercial endeavors to provide prior notice of any such suspension to Customer. The client shall not be entitled to any setoff, discount, refund or other credit in respect of any such suspension of service nor in respect of any suspension that is beyond Trudon's control.
- 23.3. Although Trudon applies reasonable endeavours to provide disaster recovery, Trudon does not specify any recovery time, nor is Trudon liable for any loss or damage of whatever

nature incurred or suffered by Customer arising from or in connection with any cause whatsoever as a result of its failure to provide, or delay in providing, or providing only partial, disaster recovery. Customer is cautioned to make back-ups of its data. Nothing contained in the Trudon Terms shall be construed as a representation that any back-ups of data implemented by Trudon will be successful or in any way will avoid disaster.

24. FORCE MAJEURE

24.1. In the event of an instance of Force Majeure, any delay or failure in performance or breach by Trudon occasioned thereby or resulting therefrom will not be deemed a breach of the Trudon Terms by Trudon, nor shall it subject Trudon to any liability whatsoever. For the purposes of these Trudon Terms, the term "**Force Majeure**" shall mean an act of God, of public enemy, fire, explosion, earthquake, perils of the sea, flood, storm or other adverse weather conditions, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, blockade, embargo, sanctions, epidemics, act of any government or other authority, compliance with government orders, demands or regulations or any circumstance of like or different nature beyond Trudon' reasonable control.

25. DISPUTE RESOLUTION

25.1. Any dispute which arises between the Parties under this Agreement shall be referred to a joint committee of the Parties' designated representatives ("**Designated Representatives**"). The Designated Representatives shall meet as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter at issue that the Parties believe to be appropriate in connection with its resolution.

25.2. If the Parties are unable to resolve any dispute in the manner contemplated by clause 25.1, such dispute shall on written demand by either Party to the dispute be submitted to arbitration at the Arbitration Foundation of South Africa ("**AFSA**") in Sandton and in accordance with the AFSA rules, by an arbitrator agreed on by the Parties or should the Parties fail to agree an arbitrator within 5 (five) business days after arbitration has been demanded, the arbitrator shall be nominated by AFSA. The arbitration shall be held in the English language. The person so nominated shall be the duly appointed arbitrator in respect of the dispute. In the event of the attorneys of the Parties to the dispute failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the Parties to the dispute.

25.2.1. Each Party shall bear its own costs of the arbitration, unless the arbitrator directs otherwise.

25.2.2. The Parties agree that the written demand by a Party to the dispute in terms of clause 25.2 that the dispute or difference be submitted to arbitration, is to be deemed to be a legal process for the purpose of interrupting extinctive prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969).

25.2.3. The Parties agree that the arbitrator's decision can be made an order of Court.

25.3. Urgent relief:

25.3.1. Nothing contained in this clause 25 shall be deemed to prevent or prohibit a Party to the dispute or arbitration from applying, at any time, to the appropriate Court for urgent relief or for judgment in relation to a liquidated claim.

26. GENERAL PROVISIONS

26.1. **Legal Compliance:** Customer acknowledges that in Trudon's provision of the Services to Customer, Trudon shall be entitled to do all things necessary in order to give effect to any legislation, regulation or ruling of a competent authority.

26.2. **Cession and Assignment:** Customer is not entitled to cede, assign or delegate or in manner whatever transfer (including but not limited to the sub-letting or re-sale of any bandwidth, disk space, server capacity or web hosting) any Customer rights or obligations under the Trudon Terms or the Agreement without Trudon's prior written consent. In the event of any change in Customer's controlling interest, Trudon is entitled to terminate the Trudon Terms on notice to Customer. **Customer is required to notify Trudon in writing of any change in its controlling interest within 14 (fourteen) days of such change. Trudon is entitled to cede, assign, transfer or delegate all or any of its rights or obligations under the Trudon Terms or Agreement without Customer consent.**

26.3. **Applicable Laws:** The Trudon Terms will in all respects be governed by and construed under the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.

26.4. **Jurisdiction:** Both parties record and agree that Johannesburg shall be deemed to be the place where the Parties have concluded the Agreement or any portion thereof. Unless Trudon otherwise elect, only South African courts and/or other competent South African regulatory authorities shall have jurisdiction to hear any disputes arising pursuant to the Agreement. To the extent that Trudon elect to proceed against Customer in a South African Magistrate's Court, Customer hereby consents to the jurisdiction of those courts notwithstanding the fact that the amount of any claim against Customer may exceed the jurisdiction of those courts. To the extent that Trudon elect to proceed in any dispute in a South African High Court, Customer hereby consents to the jurisdiction of the

Witwatersrand Local Division of the High Court of South Africa. Customer hereby agrees that all legal costs awarded in Trudon's favour shall be payable by Customer on the same scale as between attorney and own client.

- 26.5. **Whole Agreement:** Customer acknowledges that the Agreement constitutes the whole of the agreement between Trudon and Customer relating to the matters dealt with in it and save to the extent otherwise provided therein, no undertaking, representation, term or condition relating to the subject matter of the Agreement not incorporated therein shall be binding on Trudon.
- 26.6. **Domicilium:** Customer selects as its address for the purposes of receiving legal process and notices, the Customer Contact furnished to Trudon on the Order Form when Customer first subscribed for the Services "**Customer Domicilium Citandi et Executandi**". Customer is required to notify Trudon in writing of any change of address. Customer agrees that any notices (other than legal process) that Trudon may send to Customer may be sent via e-mail. Trudon selects as its address for the purposes of receiving legal process and notices the current address specified on the Legal Website ("**Trudon's Domicilium Citandi et Executandi**"). Any purported notice of termination sent to Trudon at any address not specified on the Legal Website or communicated in any manner other than as specified on the Legal Website may, at Trudon' sole discretion, be deemed invalidly given and without force or effect.
- 26.7. **Waiver, Indulgence, Relaxation and Extension:** Any waiver, indulgence, relaxation or extension of any of the Trudon Terms or the Agreement will be effective only in the specific instance and for the purpose given. No failure or delay on Trudon' part in exercising any of its rights, powers or privileges in terms of the Trudon Terms will constitute or be deemed to be a waiver of those terms, nor will any single or partial exercise by Trudon of any of its rights, powers or privileges preclude it from any other or further exercise thereof or the exercise of any other rights, powers or privileges.
- 26.8. **Order of Precedent:** Save as expressly provided to the contrary in the Trudon Terms, any conflict in the provisions stated in these General Terms and those stated in the Product Terms and Use Policies will be resolved in accordance with the following order of precedence:
- 26.8.1. the Product Terms;
- 26.8.2. the General Terms; and
- 26.8.3. the Use Policies.
- 26.9. **Continuing Binding Effect:** Any provision of the Trudon Terms or Agreement that contemplates performance, compliance or observance subsequent to any termination or

expiration of the Trudon Terms shall survive any such termination or expiration and continue in full force and effect.

- 26.10. **Severable:** Each provision of the Trudon Terms or Agreement is severable from the other provisions. Should any provision be found by an authority of competent jurisdiction to be invalid or unenforceable for any reason, Trudon reserves the right either to amend that provision in terms of clause 4.4 or to remove that provision in its entirety. The remaining provisions of the Trudon Terms or Agreement shall nevertheless remain binding and continue with full force and effect.
- 26.11. **Electronic Signature:** The reference to signing by Customer in the Agreement shall notwithstanding anything to the contrary in the Agreement, be read and construed as including any form of Electronic Signature.

PRODUCT TERMS: ELECTRONIC PUBLICATION OF ADVERTISEMENTS

1. INTERPRETATION

- 1.1 Unless the context clearly indicates the contrary, any term defined in the General Terms when used herein, shall bear the same meaning as defined in the General Terms.
- 1.2 The headings to these Product Terms are to facilitate reference and shall not affect or influence in any way the construction of any of the Product Terms.
- 1.3 These Product Terms hereby incorporate by reference the terms of the Advertising Contract, the General Terms and any other applicable Platform Terms & Conditions.
- 1.4 In the event of any inconsistency among the terms in the Advertising Contract, the General Terms, these Product Terms and any other applicable Platform Terms & Conditions, then (i) the terms in the Advertising Contract will prevail over the terms in all other such documents; (ii) and the terms in these Product Terms will prevail over the terms in any other applicable Platform Terms & Conditions and the General Terms.
- 1.5 To the extent that there is any contradiction between the General Terms and these Product Terms the following order of precedence shall apply: (i) these Product Terms; and (ii) the General Terms.
- 1.6 Unless the context clearly indicates to the contrary, the following words bear the meanings ascribed thereto-
 - 1.6.1 **“10118 and/or Talking Yellow Pages”** means the Yellow Pages accessed telephonically via mobile, fixed, fibre and/or VOIP networks; using a device;
 - 1.6.2 **“Advertisement”** means mode or anything that promotes, markets and/or provides information or news about a product, service, event, business, company, person, idea, concept, job vacancy, contest etc., and includes but is not limited to announcements, notices, text, pictures, graphics, Directory, SEM, Banner, EDM, WAP, sponsored keyword search results, and/or mobile direct mailers, audio broadcasts, audio-visuals, movies and other forms of representations or media containing such promotion, information or news, including any Amendment or revision thereto;
 - 1.6.3 **“Advertising Contract”** means the advertising contract entered into by the Parties for the Publication of Advertisements via Electronic Products;

- 1.6.4 **“Advertising Fees”** means all advertising fees and charges payable for the Publication of Advertisement including any amendment thereto as a result of Amendment, but excluding Management Fees and Third-Party Service Provider Fees, if any;
- 1.6.5 **“Amendment”** means proposed amendment or revision of any Advertisement or Material submitted to Trudon for Publication;
- 1.6.6 **“Banner”** means the online or mobile banner advertisements as fully described in the Advertising Contract;
- 1.6.7 **“Copy Deadline”** means, in relation to any Advertisement, Material or Amendment the time stipulated in the Copy Deadline Notice current or applicable at the time when the Advertisement or Amendment is submitted to Trudon as the time by which a copy of that Advertisement or of that Amendment must be submitted to Trudon for Publication;
- 1.6.8 **“Copy Deadline Notice”** means, in relation to any Advertisement or Amendment the notice of Trudon to Customer specifying the time by which a copy thereof must be submitted to Trudon for the purpose of Publication;
- 1.6.9 **“Directory”** means the online directory listing including any enhancements to the listing;
- 1.6.10 **“EDM”** means electronic direct mailers as fully described in the Advertising Contract;
- 1.6.11 **“Electronic Products”** means any digital form of publishing and/or advertising of products, consisting of, but not limited to, Online, Mobile, Social and Telephonic publishing and/or advertising of products;
- 1.6.12 **“Electronic Yellow Pages”** means the 10118-Talking Yellow Pages, Mobile Yellow Pages and Internet Yellow Pages as well as any other products sold via the Platforms;
- 1.6.13 **“Electronic Traffic Products”** means the SEM and/or SEO selected by Customer in the Order Form;
- 1.6.14 **“General Terms”** means the terms and conditions set out in the general terms and conditions for Trudon’s customers, which is available at <http://trudondigital.co.za/legal> under the heading General Terms;
- 1.6.15 **“Internet Yellow Pages”** means the Yellow Pages Directory accessible on the Internet via Trudon’s Website;

- 1.6.16 **“Materials”** means all designs, artwork, photographs, negatives, diskettes, drawing, chart, graph, audio/audio-visual recording, graphics, user-interface, ‘look-and-feel’, programming code, scripts, and software and other materials and supplies provided for or relating to the Publication of any Advertisement or Amendment;
- 1.6.17 **“Mobile”** means SMSs, MMSs, WAP sites, websites, “apps” or other mobile communications sent through or accessed via mobile phones or other mobile devices;
- 1.6.18 **“Mobile Yellow Pages”** means the Yellow Pages Directory accessible via a mobileApp;
- 1.6.19 **“Order Form”** means the application form completed and Signed by Customer for the provision of Publication of Advertisements via Electronic Products;
- 1.6.20 **“Platforms”** means the Trudon platforms utilized for the Publication of Advertisements which includes but is not limited to the aforesaid Internet Yellow Pages and Mobile Yellow Pages;
- 1.6.21 **“Platform Terms and Conditions”** means the terms and conditions applicable to the Platforms published at <https://www.yellowpages.co.za>;
- 1.6.22 **“Print”** means newspapers, supplements, magazines and printed materials published by Trudon;
- 1.6.23 **“Publication” or “Publish” means** the display, publication, broadcast and dissemination of Advertisements.
- 1.6.24 **“SEM (Search Engine Marketing)”** means online or mobile sponsored search results as fully described in the Advertising Contract;
- 1.6.25 **“SEO (Search Engine Optimization)”** means the online tool implemented to optimize searches on Customer via the Internet utilizing Search Products;
- 1.6.26 **“Server”** means the Trudon file server used to host and enable the Publication of Advertisement via Electronic Products including any software loaded by Trudon on such server that controls basic, low-level server hardware operations and file management without the use thereof having to operate it or application software, but excludes the Third Party Ad Server contemplated in clause 12 below; and
- 1.6.27 **“Service”** means the Publication of any Advertisements and/or Amendments by Trudon, and any other service provided by Trudon in support of or related to the same, as may be set out or referred to in an Advertising Contract;

- 1.6.28 “**Search Product**” means the electronic search products licensed for use by Trudon, which include without being limited thereto, Google, Facebook;
- 1.6.29 “**Specified Rate**” means Trudon’s rate for the Publication of Advertisements;
- 1.6.30 “**Subscription Fees**” means Advertising Fees and/or Management Fees specified in the Order Form;
- 1.6.31 “**WAP**” means wireless application protocol; and
- 1.6.32 “**Website**” means the internet website or micro-site developed, designed and/or hosted by Trudon for the Agency and/or Advertiser for the duration specified in the Advertising Contract.

2. DURATION

- 2.1 The Services shall commence upon the earlier occurrence of the following events:
- 2.1.1 Trudon’s acceptance of Customer’s application for the Publication of Advertisements; or
- 2.1.2 Activation Date or Start Date of the Advertising Contract, whichever is the earlier of the two;
- 2.2 The Services shall endure for an initial period of 1 (one) year following the Activation Date (hereinafter referred to as the “**Initial Period**”), notwithstanding the Start Date.
- 2.3 Either Party may terminate the Services at the end of the Initial Period in accordance with clause 20 of the General Terms. Any notice of termination given by Customer during the Initial Period shall only become effective upon the expiry of the Initial Period.
- 2.4 If neither Party has given notice as contemplated in clause 2.3 above, the Services shall endure indefinitely thereafter on the same terms and conditions, provided that either Party shall be entitled to terminate the Website Hosting Services in accordance with clause 20 of the General Terms.
- 2.5 To the extent that the Services provided to Customer are suspended by Trudon for any reason whatsoever, Customer acknowledges that no Publication and/or Advertisement will be uploaded by Trudon via Electronic Products.

3. SUBSCRIPTION FEES

- 3.1 Customer shall pay Trudon the Subscription Fees specified in the Order Form in accordance with the payment provisions set out in the General Terms unless specified otherwise in the Advertising Contract.

4. UNDERTAKINGS AND ACKNOWLEDGEMENTS

- 4.1 Trudon undertakes to use its reasonable endeavours to provide Customer with the Electronic Products on a 24 (twenty-four) hour per day basis on each and every day for the continued duration of the Services.
- 4.2 Customer acknowledges that the following circumstances and events may impact upon its use of the Electronic Products and further that these circumstances and/or events are beyond Trudon's control: (i) use of the Electronic Products by other customers; (ii) limitations upon international bandwidth capacity; (iii) telecommunication service operator failures; telecommunication links failures; (iv) mobile service operator failures; (v) mobile network failures; (vi) operating systems; (vii) access technology failures; (viii) any action, omission and/or failure by Customer and/or his/her/its systems, software, network and/or equipment which is having an impact on the Electronic Products; and (ix) any other action, omission and/or failure not within Trudon's control which is having an impact on the Electronic Products.
- 4.3 Customer acknowledges that: (i) in using the Electronic Products, it does so at its own risk; and (ii) Trudon does not guarantee that the Electronic Products and/or Services will be uninterrupted or error free.
- 4.4 Without limiting the generality of the General Terms, Trudon expressly disclaims any direct, indirect, incidental, special, punitive or consequential loss or damages which arise or may arise out of: (i) the Electronic Products and/or Services; (ii) the use of Electronic Products; (iii) fraudulent use of Electronic Products by an unauthorized third party on Customer's account; (iv) any dispute between Customer and any other third party, including (without limitation) a third party service provider, relating to or resulting from Electronic Products and/or Third Party Service Provider Products; and (v) any revision of the fees by a Third Party Service Provider.

5. TERMS AND CONDITIONS ELECTRONIC PRODUCTS

- 5.1 Trudon shall enable the Electronic Products selected by Customer in the Order Form for the provision of the Services.
- 5.2 Trudon shall provide Customer with the ad space more fully described in the Advertising Contract to enable the Publication of Advertisement in line with the specification of the Electronic Products, on such Platforms as selected in the Order Form.
- 5.3 The maximum ads allocation to Customer's ads shall be as set out in the Advertising Contract. Customer acknowledges that any ads in excess thereof will be subject to additional payment by Customer of the Specified Rate, or amendment thereto.

- 5.4 Trudon shall use reasonable endeavours to: (i) procure the Publication of Advertisement and (ii) correct any availability issues reported to Trudon within a reasonable time.
- 5.5 Customer acknowledges that the specifications of the Electronic Products is known to him/her/it and accepts that it is suitable for the purpose of rendering the Services to him/her/it. Trudon will in its sole discretion, and without being under any obligation to do so, maintain, and/or upgrade the Electronic Products, which will include any patches, updates, security updates/patches of whatever nature. Customer herewith authorises Trudon to implement any of the above, as and when it deems fit. Although Trudon will use its reasonable endeavours not to affect the Services Trudon, without limiting the generality of the General Terms, expressly disclaims any direct, indirect, incidental, special, punitive or consequential loss or damages which arise or may arise out of such maintenance and/or upgrades.
- 5.6 Customer agrees that any Advertisement required by Customer for Publication including the Material, remains Customer's own responsibility and is Published and/or used at Customer's sole risk and responsibility. Customer shall indemnify Trudon from any losses, damages, costs, claims, penalties, fines of whatever nature resulting from Publication of the Advertisement via Electronic Products and/or use of the Material.
- 5.7 Notwithstanding the provisions of clause 5.6 above, Customer acknowledges that Trudon will be entitled, but without having any obligation to do so: (i) in its own discretion (i) determine which Advertisement may be published via Electronic Products; (ii) determine which Material may be used for Advertisements; and (iii) have the right to (without any penalty nor impact on its rights to the Subscription Fees): (a) disallow the Publication and/or component thereof required by Customer; (b) suspend the Services without notice to Customer. Customer shall indemnify Trudon from any losses, damages, costs, claims, penalties, fines of whatever nature resulting from disallowing and/or suspension of the Services and/or any component thereof via the Electronic Products.
- 5.8 Customer acknowledges that the Services do not include SEM and/or SEO and any such service required by Customer will be quoted separately and upon Signing of the Order Form for such services.

- 5.9 Customer shall when accessing and/or using the Electronic Products: (i) comply with any Applicable Laws; and (ii) remain solely responsible for: (a) securing all necessary licenses, Consents, and/or permissions for the Publication of Advertisements utilizing the Electronic Products and/or use of the Material; (b) ensuring that its Publication and display of the Advertisement, use of Material, database and/or content will not infringe any copyright, trademark, patent, trade secret or other proprietary or intellectual property right of any third party or constitute a defamation, invasion of privacy or violation of any right of publicity or any other right of any third party; (c) deal with persons who have received the Advertisement via Electronic Products including any complaints or enquiries relating to Advertisements and/or Material including use thereof.
- 5.10 Trudon shall not be responsible for the Customer's Advertisements published via the Electronic Products and/or the Material used for Advertisements. Customer furthermore agrees that Trudon has no interest in the Advertisement published via Electronic Products nor the Material used for Advertisements and agrees that nothing that Trudon does in the performance of its obligations in terms of the Services shall be construed as an assumption of responsibility or liability by Trudon for any Advertisement Published via Electronic Products nor the Material including use thereof, whether or not Trudon had knowledge of such Advertisement and/or Material or not. Without limiting the generality of the General Terms, Platform Terms and Conditions and Use Policies, Customer hereby indemnifies Trudon and holds it harmless against any liability and/or any claim of whatever nature made by any person for any loss or damage suffered or arising directly or indirectly from the display and/or Publication of Advertisements via Electronic Products and/or on Platforms, nor use of the Material, any content and/or database for Advertisements.

6. ELECTRONIC PUBLICATIONS OF ADVERTISEMENTS

- 6.1 All Materials or any Amendments thereto shall be submitted to Trudon by the Copy Deadline relating thereto, failing which the date for first Publication of the Advertisement would be postponed correspondingly and Trudon shall not be liable to Customer for such delay.
- 6.2 Trudon shall be entitled to treat all Materials submitted by Customer as the correct representation of the Advertisement. Customer shall ensure that all Materials are in compliance with the specifications set out in the Specified Rate, or such other specifications as Trudon may determine from time to time.

- 6.3 In the event that any Amendments are not received by Trudon by the Copy Deadline, Trudon shall be entitled but not obliged to use the Materials previously submitted, if any.
- 6.4 If at any time (whether before or after first Publication of any Advertisement or Amendment) in the opinion of Trudon:
- 6.4.1 the Publication of any Advertisement and/or Amendment would by reason of any of the contents thereof (including any design, photograph, text or statement therein):
- 6.4.1.1 infringe the intellectual property or other rights of any person; or
 - 6.4.1.2 constitute a libel of any person; or
 - 6.4.1.3 offend public standards of morality or decency; or
 - 6.4.1.4 offend racial or religious sensitivities; or
 - 6.4.1.5 violate any code, regulation, directive or law in the Republic of South Africa or any jurisdiction in which the same would be Published; or
 - 6.4.1.6 be contrary to any Use Policies of Trudon or contracts entered into between Trudon and Third Parties; or
 - 6.4.1.7 will or is likely to cause Trudon or any of its related entities, Affiliates and/or subsidiaries to be in breach or potential breach of the Personal Information Processing Agreement (PIPA); or
 - 6.4.1.8 any consent or approval required to be obtained for the Publication of any Advertisement/Amendment or the use of any Material in any Advertisement/Amendment or Website has not been obtained,
Trudon shall be entitled, at its absolute discretion, to:
 - 6.4.1.9 refuse to accept any copy of any Advertisement or Amendment;
 - 6.4.1.10 decline to Publish or cease the Publication of that Advertisement/Amendment;
or
 - 6.4.1.11 require that Customer makes such revision or modification to the form and/or content of that Advertisement/Amendment by a deadline specified by Trudon;
or

- 6.4.1.12 edit, revise, re-arrange, amend or modify the form and/ or content of the Advertisement/Amendment on its own accord and in such manner as it considers appropriate before it Publishes the Advertisement/Amendment, and all costs incurred by Trudon in this regard shall be borne by the Customer and added to Customer's Subscription Fees.
- 6.5 In any case where Trudon declines to Publish or ceases to Publish any Advertisement/Amendment based on the reasons set out in clause 6.4 above or the Customer fails to make revision or modification to the Material, form and/or content of that Advertisement/Amendment to the satisfaction of Trudon within the deadline specified by Trudon, Trudon shall not be (a) liable to Customer for any damages and/or loss suffered by Customer; or (b) required to refund Customer for any payments already made by Customer.
- 6.6 In the event that any claim or allegation is made by any person that any Advertisement/Amendment is defamatory of or infringes in any way any right of that person or any other person, Trudon shall be entitled to cease or suspend further Publication of such Advertisement/Amendment and/or Trudon shall Publish an apology or retraction in such form and terms as it considers appropriate and/or enter into any compromise or settlement agreement with such person without (a) any further reference or authority from the Customer; (b) further investigation or inquiry into the validity or merits of such claims; (c) incurring any liability to the Customer; and (d) without affecting any of the Agency's/Advertiser's representations, warranties and obligations to Trudon under the Agreement.
- 6.7 The Customer shall not in such case make any claim whatsoever against Trudon with respect to any such decision to cease or suspend Publication, apology, retraction, compromise or settlement, and shall procure that the person whose business, activities, products or services are advertised or promoted by Publication of the Advertisement refrain from making any such claim against Trudon.
- 6.8 Trudon shall be entitled to revise and amend from time to time the contents of any Copy Deadline Notice by giving notice thereof to Customer.

- 6.9 Unless otherwise expressly specified in the Advertising Contract, Trudon makes no guarantees with respect to usage statistics or levels of impressions, page views, click-throughs or other similar statistics whatsoever (collectively the “**Statistics**”) for any Advertisement. Customer acknowledges that the Statistics provided by Trudon are the definitive measurements of Trudon’s performance on any delivery obligations provided in the Agreement. No other measurements or usage statistics (including those of Customer or a third-party ad server) shall be accepted by Trudon. Customer further acknowledges that all Statistics provided by Trudon are purely estimates and should not be relied on by Customer. Accordingly, Trudon makes no representation or warranty with respect to such Statistics whatsoever or with respect to its accuracy.
- 6.10 Trudon shall not be required to provide Customer with any proof of Publication of any Advertisements.
- 6.11 In the event that advertisement spaces selected by Customer are not immediately available, Customer agrees that the Publication of Advertisement shall be deferred until such time as the selected advertisement space becomes available provided always that Trudon shall be entitled to set and revise and amend from time to time the Specified Rates with respect to the selected positions as of the date of first Publication of the Advertisement by giving notice thereof to Customer.

7. ELECTRONIC TRAFFIC PRODUCTS

- 7.1 Trudon utilizes various Third-Party Service Providers for Electronic Traffic Products in terms of which Trudon charges a Management Fee. For Electronic Traffic Products, a Management Fee as determined by Trudon (shall be borne and paid for by Customer. These Management Fees shall be collected in addition to the actual campaign budget spent and be subject to the applicable terms of payment. Trudon reserves the right to change the amount it charges for its Management Fees at any time. Management Fees are not refundable.
- 7.2 Customer shall inform Trudon of the commencement date of the SEM/SEO campaign (“**Commencement Date**”) failing which, Trudon shall be entitled to invoice the Customer the Management Fee in full. Trudon shall further have the option to cancel the contract and use the Subscription Fees for a fresh SEM/SEO campaign which shall include fresh Management Fee.
- 7.3 Commencement Date shall be no later than one (1) month after date of the Activation Date and/or Start Date.

7.4 All applicable payment terms as set out in the General Terms and/or Advertising Contract, shall apply mutatis mutandis to this Clause.

7.5 Notwithstanding these Product Terms, Customer acknowledges and agrees that the terms and conditions of Third-Party Service Providers in respect of Electronic Traffic Products will be binding on Customer as soon as the Electronic Traffic Products are activated for Customer's use.

8. CANCELLATION

8.1 No cancellation of Advertising Contract is permitted. In the event that the Customer requests that the Advertisements be withdrawn from Publication, the full Advertising Fees shall nonetheless be payable.

9. RE-SCHEDULING AND REPOSITIONING

9.1 Advertisements may be displayed in random rotation and Customer agree that advertisement spaces on which Customer's Advertisements are displayed may display advertisements from other customers by rotation.

9.2 Display of Advertisements is subject to space availability. In the event that any selected space is not available, Trudon reserves the right to re-schedule the date of first Publication of any Advertisement to the next available date.

9.3 Customer may re-schedule the commencement of any Advertising Contract provided that:

9.3.1 written notice thereof is given to Trudon not less than seven (7) Business Days before the original scheduled date; and

9.3.2 the re-scheduled date shall not extend beyond forty-five (45) Business Days from the original scheduled date.

9.4 In the event that Customer is unable to meet one or both sub-conditions (a) and (b) above, Trudon may still accede to Customer's request subject to such other terms and conditions which Trudon may impose on Customer which Customer shall agree to.

9.5 Notwithstanding acceptance of any re-scheduling request by Trudon, Trudon shall be entitled to postpone or re-schedule the Publication of such Advertisement without affecting the obligation of Customer to pay Advertising Fees, for the Publication of the Advertisement and Trudon shall not be liable to Customer for any liability, damages, losses, costs or expense incurred by Customer arising from or in connection with such postponement or re-scheduling of the Publication of any Advertisement.

9.6 In the event that the Advertisement positions are adjusted or changed whether in terms of size, configuration or otherwise, Trudon reserves the right to re-position any Advertisements provided that the value of the position allocated by Trudon is equivalent to the Advertising Fees.

10. EDMS and MOBILE DIRECT MAILERS

10.1 Advertisements which are disseminated by Trudon through EDMs or mobile direct mailers will be sent to email addresses or mobile numbers found in Trudon's database, unless otherwise agreed between Trudon and Customer. Customer agrees that Trudon shall be under no obligation to provide Customer with such email addresses or mobile numbers and other details of persons and/or companies which the Advertisements are sent to.

10.2 Where Advertisements disseminated by Trudon through EDMs or mobile direct mailers are to be sent to email addresses or mobile numbers ("**Client Data**") provided by Customer, the parties agree that:

10.2.1 Trudon Processes Client Data as a data intermediary, and will delete or remove the means by which the Personal Information comprised in the Client Data can be associated with particular individuals as soon as it reasonably considers that: (i) the Purpose for which that Personal Information was collected is no longer being served by retention of the Personal Information; and (ii) retention is no longer necessary for legal and business purposes. Nothing herein shall require Trudon to perform any of its obligations in a manner which exceeds the requirements of the PIPA; and

10.2.2 all provisions in respect of Personal Information in the General Terms shall apply.

11. CONTENT

11.1 Trudon shall own the Website, graphics, user interface, screen designs and the overall 'look and feel' and all programming codes contained therein.

11.2 Trudon shall not be liable for any damages, losses, costs, claims and expenses incurred by Customer due to virus, malfunction, interruption, unavailability, maintenance, suspension and downtime occurring on the Platforms and/or Electronic Products or any part of it. Trudon shall have the right to suspend the Platforms and/or Electronic Products or the services thereat at any time and for any reason, with or without notice, but if such suspension lasts or is to last for more than seven (7) days Customer will be notified of the reason.

- 11.3 Trudon shall be entitled to use all information contained in the Platforms including but not limited to Customer's information and content submitted by Customers for:
- 11.3.1 responding to the Customer's requests and queries;
 - 11.3.2 providing goods and services to Customers;
 - 11.3.3 verifying and Processing Customer's personal particulars;
 - 11.3.4 communicating with Customer;
 - 11.3.5 enforcing Trudon's contractual and legal rights and obligations;
 - 11.3.6 marketing research, user profile and statistical analysis;
 - 11.3.7 sending Customer information, promotions, updates and marketing and advertising materials in relation to Trudon's goods and services and those of third-party organizations';
 - 11.3.8 complying with law, the requests of law enforcement and regulatory officials, or orders of court; and
 - 11.3.9 any other purpose for which Trudon has obtained Customer's consent.

12. THIRD PARTY SERVER

- 12.1 In the event that the Customer utilizes a Third-Party Ad Server to host any Advertisement, Customer shall ensure the following:
- 12.1.1 that the Advertisement must be available on such Third-Party Ad Server at least 24 (twenty-four) hours before commencement of the advertising campaign and remain on such Third-Party Ad Server until at least 24 (twenty-four) hours after the end of such campaign; and
 - 12.1.2 such Third-Party Ad Server shall reside in data centers located in South Africa and unless Trudon agrees otherwise in writing.
- 12.2 Customer shall supply details of the Third-Party Ad Server to Trudon at least 7 (seven) working days prior to the commencement of the advertising campaign. Customer shall not substitute the Third-Party Ad Server without Trudon's prior written consent.
- 12.3 Trudon and Customer or Third-Party Ad Server will track delivery of the Advertisements through their respective ad servers. In the event that there are discrepancies in the activity reports and Trudon's measurements are higher than that of Customer or Third-Party Server (as the case may be), Customer shall nevertheless effect payment of the full Advertising Fees based on Trudon's measurements.

- 12.4 No claim in relation to the non-performance or breach of obligations of Trudon in connection with any of the Services (including of non-publication or any errors or inaccuracies in the publication), shall be brought against Trudon unless written notice of such claim, together with all relevant details as may be required by Trudon, has been given to Trudon on or prior to the date falling thirty (30) days after the date of first Publication of the Advertisement.

13. LIMITATION OF LIABILITY

- 13.1 Without limiting the provisions of the General Terms, the Parties record and agree that, whilst Trudon will use its reasonable commercial endeavours to ensure any Advertisement and/or Publication are displayed correctly and in line with Advertising Contract and standards as prescribed by Digital Media and Marketing Association (“DMMA”) however, Customer shall have no claim of any nature whatsoever against Trudon and/or its Affiliates as a result of any loss or damages including but without being limited to loss of profit, consequential damages which Customer may suffer as a result of, without limiting the generality of the foregoing, any error in or omission from Advertisements and/or Publications on the Platforms and/or Electronic Yellow Pages, or incorrect display in or the omission of any unit of Advertising and/or Publications from the Platform and/or Electronic Yellow Pages.
- 13.2 Where Customer has placed an Advertisement and/or Publication in the Platforms and/or Electronic Yellow Pages, Customer hereby acknowledges and accepts that in no event will Trudon nor its Affiliates will be liable for any loss or damages, loss of profit including consequential damages which Customer may suffer as a result of any downtime of any computer system on which the Platforms and/or Electronic Yellow Pages relies on or to which the Platforms and/or Electronic Yellow Pages is connected, for any reason whatsoever including but expressly without being limited to any act of Force Majeure, computer viruses and the like.
- 13.3 If for any reason whatsoever any of the Advertisements and/or Publication as ordered by Customer in terms hereof and/or Advertising Contract, are not displayed, this will not justify cancellation of the these Product Terms and/or Advertising Contract whether in part or in its entirety, Customer will only be entitled to a pro rata reduction of the Subscription Fees or price benefit equivalent to the price of the adverts not published, as determined by Trudon, in its reasonable discretion.

- 13.4 Trudon and Customer acknowledges that the Trudon Terms, Advertising Contract and Order Form, constitutes the entire agreement between the Parties and that these terms and conditions are to be applied in conjunction with the Trudon Terms.
- 13.5 Trudon subscribes to the guidelines as stipulated by the Digital Media and Marketing Association (DMMA) and shall when providing the Services to you, ensure compliance with the terms and conditions applicable to Advertising and Publications. The DMMA Terms and Conditions can be viewed at <http://www.dmma.co.za/about-us/advertising-tcs/>.
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USE POLICIES: USE RULES AND SECURITY POLICY

1. INTRODUCTION

- 1.1 Trudon provides its Services to Customer subject to the provisions of the General Terms (“**General Terms**”), Product Terms (“**Product Terms**”), Privacy Policy relating to relating to protection of personal information (“**Privacy Policy**”) and this Use Rules and Security Policy relating to use rules and security policies (“**Use Rules and Security Policies**”). The Privacy Policy and Use Rules and Security Policies are collectively referred to as “**Use Policies**”). This Use Rules and Security Policies are binding upon Customer by reason of Customer’s acceptance of the General Terms and Product Terms.
- 1.2 Trudon provides its Products and/or Services to Customer subject to the provisions of the General Terms (“**General Terms**”), Product Terms (“**Product Terms**”), Privacy Policy and Use Rules and Security Policies (collectively “**Trudon Terms**”). This Use Rules and Security Policy is binding upon Customer by reason of Customer’s acceptance of the General Terms and Product Terms.

2. GENERAL PRINCIPLES

- 2.1 The Products and/or Services provided by Trudon are intended to allow Customer with access to the Portal, Platforms and a whole range of online information, content, materials.
- 2.2 Trudon views its customer service environment as a virtual community in which Customer interacts with Trudon, other customers and the Internet community at large.
- 2.3 No community is without rules and, as such, Trudon has prescribed the following rules so as to ensure the continued existence of Trudon’ virtual community in a context which respects the rights of all participants.

3. DEFINITIONS

- 3.1 “**Abusive Content**” means (including without limitation text and images) content which is defamatory, discriminatory, obscene, lewd, offensive,

threatening, abusive, harassing, harmful, hateful or which contains child or violent pornography, religious or racial slurs or threatens or encourages bodily harm or the like or which may violate any person's rights regardless of whether such Abusive Content is accessed, transmitted, propagated, distributed, created or stored in a public or private context;

- 3.2 **“Electronic Communication”** means, without limitation, Trudon' email, instant messaging, SMS, chat rooms, discussion boards and similar facilities or other facilities used for the purposes of communicating in real-time or otherwise with other persons whether they are Trudon Customers or not;
- 3.3 **“Destructive Code”** means any computer code which (i) is designed to disrupt, disable, harm, or otherwise impede in any manner the operation of any software, hardware or network (generally referred to as "viruses", "trojan-horses" or "worms"); (ii) would disable any software, hardware or network or impair in any way its operation based on the elapsing of a period of time, exceeding an authorised number of copies, advancement to a particular date or other numeral (generally referred to as "time bombs", "time locks", or "drop dead" code); (iii) would permit any person to access any software, hardware or network of any other person without consent (generally referred to as "trap", "access code", "back door" or "trap door" codes), and (iv) any other similar harmful, malicious or hidden procedures, routines or mechanisms which would cause such software, hardware or networks of any person to cease functioning or to damage or corrupt data, storage media, programmes, equipment or communications, or otherwise interfere with operations.
- 3.4 **“Fraud”** means without limitation to its common law meaning includes, solicitation or inducement of any person to participate in any commercial or non-commercial activities which are in the nature of a financial scam, "pyramid schemes" or "chain letters";
- 3.5 **“Intellectual Property Rights”** means any and all rights, title and interest in (whether registered or not) any intellectual property, including, past and future copyright, related rights, patents, utility models, trademarks, trade names, service marks, designs, know-how, trade secrets and inventions (whether patentable or not), goodwill and all other identical or similar

intellectual property as may exist anywhere in the world and any applications for registration of such Intellectual Property Rights;

- 3.6 **“Misrepresentation”** means, without limitation to its common law meaning, the following actions:
- 3.6.1 actions designed to deceive, mislead, defraud or otherwise make misrepresentations to any person regarding any fact or circumstance;
 - 3.6.2 impersonate or attempting to impersonate or otherwise misrepresent Customer’s identity to any person for whatever purpose;
 - 3.6.3 altering the content of communications received by Customer and thereafter forwarding same to others without indicating the nature of the alterations; and
 - 3.6.4 forging or otherwise manipulating origination details and data on any electronic data message generated by Trudon’ Communication Facilities with a view to disguising or deleting the origin of anything posted or transmitted using Trudon’ Communication Facilities including, without limitation, spoofing, the use of "Socks Proxies", "EZBounce", "Vhosts", "BNC's" and/or any other software or hardware methods used to disguise or misrepresent Customer own IP address.
- 3.7 **“Spamming”** means without limitation, the posting or cross-posting of unsolicited communications and/or the sending of unsolicited bulk email of any kind using Trudon’ Communication Facilities.
- 3.8 **“System Abuse”** means any conduct which does or may have the effect of damaging, impairing, overburdening or disabling any system of any person (including Trudon’ system) using Trudon Services or which does or may have the effect of interfering with any other person's use of the Internet or of Trudon’ Services or compromising or tampering with the security of Trudon or any other person's software, hardware, systems, networks or Services including, without limitation, Spamming and mass messaging, the use of software and technologies known as "floodbots", "clonebots", nuking.

4. GENERAL RULES PERTAINING TO THE USE OF THE SERVICES

- 4.1 In using Trudon's Portal, Platforms, Products and/or Services, Customer undertakes to refrain from performing or attempting to perform any of the following actions or facilitating the performance or attempted performance of such actions by other persons:
- 4.1.1 any action which violates any of the Trudon Terms;
 - 4.1.2 Spamming in relation to Trudon Electronic Communication Facilities;
 - 4.1.3 Misrepresentation;
 - 4.1.4 Posting or transmitting any Abusive Content by any means through Portal, Platforms and Electronic Communications or replicating or storing on Trudon's servers any Abusive Content;
 - 4.1.5 Acting in a manner inconsistent with generally accepted Internet etiquette including, without limitation, the excessive use of capitalised text, the excessive use of inflammatory or antagonistic criticism ("flaming"), or wastefully and unnecessarily including previous communications in any postings,
 - 4.1.6 Fraud;
 - 4.1.7 Violation or infringement any Intellectual Property Rights;
 - 4.1.8 System Abuse;
 - 4.1.9 The propagation, distribution or transmission of Destructive Code regardless of whether damage is actually caused thereby;
 - 4.1.10 Cancelling any communications of any person other than Customer's own or repeatedly posting gratuitous off the topic communications;
 - 4.1.11 Perusal and acting upon any communication received which was not intended to be received by Customer and failing to delete such communication;
 - 4.1.12 Gathering personal or commercial information including, without limitation, e-mail addresses and/or names from any Internet facilities,

whether managed by Trudon or by any other party, for commercial, political, charity or any other purpose without consent of the owners of such information or in violation of the privacy of any person;

- 4.1.13 Reproducing, duplicating, copying, selling or reselling any of Trudon's Products and/or Services, Portal, Platforms and Electronic Communication or any portion thereof, or the information or data contained within Trudon's Products and/or Services, P Portal, Platforms and Electronic Communication. This prohibition extends to any aspect of Trudon's Products and/or Services, Portal, Platforms and Electronic Communication that constitutes the provision of a telecommunication service in terms of the applicable legislation;
- 4.1.14 repeatedly or in a rapid manner transmitting material or content in such a manner as to have the effect of harassing a recipient;
- 4.1.15 Transmission of any materials or content of which Customer is not the owner of or does not have a right of publication or distribution whether under law or under contract. Such materials or content include, without limitation, proprietary and confidential information or materials or content subject to third party Intellectual Property Rights;
- 4.1.16 Accessing, without authorisation, any of Trudon's Products and/or Services Portal, Platforms and Electronic Communication or any similar services of any other person or any network through hacking, password mining or any other means; and
- 4.1.17 Any illegal or unlawful activities including, without limitation, promotion and facilitation of access to, use of or sale of dangerous substances and/or devices.

5. RULES SPECIFIC TO SECURITY

- 5.1 In order to ensure security and reliable operation of the: (i) Trudon's network infrastructure and e-commerce network infrastructure, (ii) Trudon's business, (iii) Portal, Platforms and Electronic Communication (iv) systems and software applications; and (v) any of the Products and/or Services, Trudon reserves the right to take whatever action Trudon deems necessary to preserve the security and reliable operation of its

network infrastructure, e-commerce network infrastructure, Portal, Platforms and Electronic Communication Trudon' business, systems and software applications and any of the Services.

- 5.2 Customer shall not utilise Trudon's network infrastructure, e-commerce infrastructure, Portal, Platforms and Electronic Communication systems and software application and/or any of Product and/or Service, to compromise the security of the Trudon network infrastructure, e-commerce infrastructure, Portal, Platforms and Electronic Communication systems and software applications and/or Services in any manner whatsoever.

6. THIRD PARTY USE RULES

- 6.1 When Customer is using a third-party service, which is accessed by means of Trudon's Services, Customer is required to comply with all rules of use (if any specified) of that third-party service in addition to this Use Policy. To the extent that there is a conflict between the third party's rules of use and this Use Rules and Security Policy, Customer is expected to conduct Customer himself/herself itself in a manner which is least prejudicial to Trudon's interests.

7. TECHNOLOGICAL SPECIFICITY

- 7.1 To the extent that Trudon has not provided a rule of use specifically or generally in respect of a particular Product and/or Service or technology that forms part of Trudon's Portal, Platforms, Electronic Communications, Products and/or Services, this Use Rules and Security Policy shall apply mutatis mutandis to such Portal, Platforms, Electronic Communications, Products and/or Service or technology that forms part of Trudon' Services.

8. ENFORCEMENT OF THESE RULES

- 8.1 Should Customer violate any of the rules herein set forth, the fact of which is subject to Trudon's sole determination, then Trudon shall be entitled, without prejudice to any other rights which Trudon may have in terms of the General Terms or under any applicable law, to:-

- 8.1.1 issue with a warning, should Trudon so elect, Please note that Trudon's failure to issue Customer with a warning will not preclude Trudon from exercising any of the remainder of Trudon' rights under this clause 8;
 - 8.1.2 without notice, suspend Customer access to the Portal, Platforms, Electronic Communications and Services forthwith;
 - 8.1.3 terminate Trudon's relationship with Customer in accordance with the General Terms.
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