

General Terms and Conditions

1. PURPOSE AND PREAMBLE

- 1.1. These general terms and conditions (hereinafter the “**Agreement**”) have been entered into by Informatique Pro-Contact Inc. (hereinafter “**Pro-Contact**”), a legal person established under the *Canada Business Corporations Act*, having its headquarters at 1000 Saint-Jean-Baptiste Avenue, Suite 111, Québec, Quebec G2E 5G5, and the client who has accepted this Agreement (hereinafter the “**Client**”), hereinafter referred to collectively as the “**Parties**” and individually as a “**Party**”.
- 1.2. The natural person who represents a Client who is not a natural person for the purposes of this Agreement represents and warrants that they are a Client representative duly authorized to bind the Client under this Agreement.
- 1.3. This Agreement is intended to define the general stipulations, terms and conditions agreed to by the Parties relative to the “Service” or “Services” (as defined below) rendered by Pro-Contact, personally or by means of certain “Subcontractors” (as defined below), for the Client, with these Services ultimately consisting of the Client transferring a portion of the management of their information and communications technology to Pro-Contact in consideration of payment of the agreed-upon remuneration by the Client to Pro-Contact.
- 1.4. The Parties acknowledge that this Agreement must be read in conjunction with the specific Service offer entered into by the Parties at the same time as this Agreement (hereinafter the “**Service Offer**”), which is deemed to form an integral part of this Agreement. The text of the Service Offer prevails over any provision of this Agreement that may be incompatible with such text.
- 1.5. The Services offered by Pro-Contact to the Client under this Agreement are: i) managed services, and ii) hosting services, hereinafter referred to collectively as the “**Services**” and individually as a “**Service**”.
- 1.6. In this Agreement, “Services” must be interpreted as meaning: i) managed services or hosting services, or ii) managed services and hosting services, depending on which Services are actually required by the Client.

2. TERM AND RENEWAL

- 2.1. This Agreement will enter into effect on the date it is accepted by the Client and remain in effect until Pro-Contact has fully delivered all the Services required by the Client, taking into account the feasibility of performing the Services requested and the concept of obligation of means set out in subsection 17.2.
- 2.2. A request for Services will enter into effect on the date it is performed by the Parties. The Client’s right to use the Services identified in a particular request for Services will begin on the start date set out in the request for Services or any other later date agreed upon by the

Parties (hereinafter the “**Start Date**”) and continue for the agreed-upon term set out in the request for Services, counted from the Start Date (hereinafter the “**Initial Term**”).

2.3. The “**Term of the Agreement**” (which includes the Initial Term and any renewal terms) with regard to the Services is determined based on the plan the Client has purchased from Pro-Contact:

2.3.1. **Initial Term.** The Initial Term means the period that begins upon the earlier of the following two (2) events: i) the first payment made by the Client, or ii) the acceptance of this Agreement by the Client, and ends:

2.3.1.1. For the monthly plan, following the lapse of a period of thirty (30) days;

2.3.1.2. For the pre-paid yearly plan, following the lapse of a period of twelve (12) months;

2.3.1.3. For the fixed-term plan, following the lapse of the period for which the Client has agreed to comply with the provisions of the Agreement in accordance with Pro-Contact’s registration process.

2.3.2. **Renewal term.** The “**Renewal Term**” means any period that begins at the end of the Initial Term (or a previous Renewal Term, as the case may be) and ends:

2.3.2.1. For the monthly plan, following the lapse of each subsequent period of thirty (30) days;

2.3.2.2. For the pre-paid yearly plan, following the lapse of each subsequent period of twelve (12) months;

2.3.2.3. For the fixed-term plan, following the lapse of each subsequent period of equivalent duration as the Initial Term.

3. **SERVICES**

3.1. The Client hereby requires that Pro-Contact provide them with remote or on-site information and communications technology services, including managed services and/or hosting services, as applicable to the Client, and Pro-Contact accepts to provide them with such services.

3.2. The Client acknowledges that all or any part of the Services may be provided directly by Pro-Contact, by means of one or more of its employees, or by or with the help of one or more subcontractors to be chosen by Pro-Contact at its sole discretion (hereinafter individually a “**Subcontractor**”), with the choice to use such a resource being determined based on the availability and ability of said resource to provide the Services.



- 3.3. The Client acknowledges that, in the course of providing all or any part of the Services, Pro-Contact may use products or services that are offered by or belong to one or more third parties (hereinafter “**Third-Party Provider**” or “**Third-Party Providers**”). Pro-Contact will determine at its sole discretion whether to use Third-Party Providers’ products or services and which Third-Party Providers to choose.
- 3.4. For additional clarity and certainty, the Client agrees that any reference made within this Agreement to Services provided by Pro-Contact also includes Services provided by a Subcontractor or using the products and services of a Third-Party Provider, as applicable and in accordance with necessary adaptations.
- 3.5. When Services are provided by a Subcontractor, as the case may be, Pro-Contact agrees to maintain full responsibility for said Subcontractor and the complete performance of the Services, including, without limiting the generality of the foregoing, responsibility for the quality of the Services performed, the intervention time frame and the performance of the Services for the benefit of the Client.
- 3.6. The Client acknowledges that, by accepting this Agreement, they are bound by the provisions of the various written agreements entered into between Pro-Contact and each of the Subcontractors or Third-Party Providers, as the case may be, for the performance of the Services for the benefit of the Client (hereinafter “**Ancillary Agreements**”), having duly read them in the Legal section of Pro-Contact’s website, available at www.procontact.ca/legal. The Client also acknowledges that each of the provisions of the Ancillary Agreements that has an impact on this Agreement is deemed to be an integral part of this Agreement.
- 3.7. The Legal section of Pro-Contact’s website, available at www.procontact.ca/legal, will be regularly updated by Pro-Contact so that the complete versions of the Ancillary Agreements that are in force and reflect the amendments or changes made are available there, and Pro-Contact will add new Ancillary Agreements to that section as they are entered into. The Client acknowledges that they must consult the Legal section of Pro-Contact’s website, available at www.procontact.ca/legal, from time to time to view the amendments that have been made to the Ancillary Agreements and read any new Ancillary Agreements.

4. **USE OF THE SERVICES**

- 4.1. The Client undertakes to use the Services provided by Pro-Contact exclusively for internal use, in accordance with this Agreement and strictly for purposes permitted by all applicable legislation and regulations, failing which Pro-Contact will be entitled to immediately terminate this Agreement and seek any and all remedies permitted by law and by this Agreement. Furthermore, the Client remains fully responsible for the content of the information and data that is transmitted by Third-Party Providers’ networks or using Third-Party Providers’ services, as well as any activity that the Client performs using the Services.

5. **CALCULATION OF TIME LIMITS**

- 5.1. The Parties acknowledge that time limits under this Agreement must be calculated in accordance with the provisions of article 83 of the *Code of Civil Procedure*, taking into account Pro-Contact's regular business hours, which are generally Monday to Friday, 8 a.m. to 5 p.m., excluding statutory holidays in the province of Quebec.
- 5.2. Notwithstanding the foregoing, the Parties may agree to extend Service coverage to twenty-four (24) hours a day, seven (7) days a week, provided that the terms, conditions and costs of such Service coverage are negotiated by the Parties and included in writing in the Service Offer. In this case, the calculation of time limits will be adjusted to take into account this extended Service coverage.

6. CHANGES TO COMPUTER OR NETWORK INFRASTRUCTURE

- 6.1. The Client undertakes to notify Pro-Contact of their intention to make any change to computer or network infrastructure, including adding new programs, software or hardware, and accordingly undertakes to obtain Pro-Contact's approval before making any such change.
- 6.2. Additional working time related to any issue resulting directly or indirectly from the Client's failure to comply with the previous subsection will be billed to the Client.

7. SECURITY

- 7.1. Pro-Contact undertakes to comply with the security measures implemented by the Client, when the Client interacts with both its own personnel and external resources, and to fully cooperate with the Client and/or their partners to this end.
- 7.2. Pro-Contact undertakes to comply with the security policies and procedures put in place by the Client that have been shared with it in writing at the time of requesting the Services as well as instructions that may be communicated to it in writing from time to time by the Client during the term of this Agreement.
- 7.3. All of Pro-Contact's employees and Subcontractors that are called upon to work at the Client's premises, physically or virtually, will comply with the predefined security criteria and adopt the Client's specific programs at its premises and for all sectors in which their presence will be required to perform their tasks.

8. NON-SOLICITATION AND NON-HIRE

- 8.1. The Client undertakes, for the entire term of this Agreement and for an additional period of one (1) year following its termination for any reason whatsoever, not to directly or indirectly periodically retain (or attempt to retain) the services of Pro-Contact's or Subcontractors' employees, or solicit Pro-Contact's or Subcontractors' employees, on their own behalf or on behalf of any other person or entity, without prior written consent from Pro-Contact or the Subcontractor concerned, as the case may be.

- 8.2. Any breach of the provisions of the previous subsection will result in the Client being obligated to pay Pro-Contact or the Subcontractor, as the case may be, a penalty of five thousand dollars (\$5,000.00) per day or part day for as long as said breach continues, without prejudice to any other remedy or proceeding, including any injunction proceeding to put an end to the breach. Without limiting the generality of the foregoing, Pro-Contact or the Subcontractor, as the case may be, will have legal authority to obtain an immediate injunction order in addition to payment of the penalty that may be claimed in accordance with this subsection until a safeguard order, interim injunction, interlocutory injunction or permanent injunction is issued.
- 8.3. The Client undertakes, for the entire term of this Agreement and for an additional period of one (1) year following its termination for any reason whatsoever, not to directly or indirectly mandate, retain the services of, employ or hire Pro-Contact's or Subcontractors' employees, on their own behalf or on behalf of any other person or entity, without prior written consent from Pro-Contact or the Subcontractor concerned, as the case may be.
- 8.4. Any breach of the provisions of the previous subsection will result in the Client being obligated to pay Pro-Contact or the Subcontractor, as the case may be, a penalty equal to seventy-five percent (75%) of the total gross pay of the employee in question over their last twelve (12) months of employment with Pro-Contact or the Subcontractor, as the case may be, without prejudice to any other remedy or proceeding, including any injunction proceeding to put an end to the breach. Without limiting the generality of the foregoing, Pro-Contact or the Subcontractor, as the case may be, will then have legal authority to obtain an immediate injunction order in addition to payment of the penalty that may be claimed in accordance with this subsection until a safeguard order, interim injunction, interlocutory injunction or permanent injunction is issued.

9. **CONFIDENTIALITY**

- 9.1. The Parties undertake to maintain the confidentiality of all information that can reasonably be considered confidential and belonging to the other Party, including, without limiting the generality of the foregoing, trade secrets, management strategy, business projects, financial information, information pertaining to business transactions, services or marketing methods, plans, intellectual property, client or employee information, or any other information of a similar nature to which they received access during the course of fulfilling this Agreement. Furthermore, the Parties agree to use this information only for the purposes of this Agreement unless prior written consent has been obtained from the other Party.
- 9.2. Apart from the disclosures that must minimally be made to third parties under the performance of this Agreement, including when subcontracting Services or using the products or services of a Third-Party Provider, the Parties undertake to keep strictly confidential the stipulations, terms and conditions of this Agreement, the Service Offer and the Ancillary Agreements.

10. **INDEPENDENCE**

10.1. The provisions of this Agreement or their interpretation are not to be interpreted as creating an agency, partnership, franchise, joint-venture, association or employment relationship between the Parties, with neither Party having the authority to bind or obligate the other Party in any way.

11. **COMPLIANCE WITH APPLICABLE LAWS**

11.1. Each Party undertakes to obtain and keep in force all permits, licences or certificates required by any regulatory agencies to provide or use the Services, as the case may be. Each Party undertakes to comply with all international, national, provincial, State, regional and local laws, rules and regulations applicable to the performance of their obligations hereunder, including but not limited to all laws applicable to controls, data protection and consumer protection. The Client acknowledges that they are responsible for maintaining the security of sensitive information pertaining to them (credit card numbers and all other information of a personal or confidential nature) and related information about them to which they may have access when completing e-commerce transactions online, subject to Pro-Contact's contractual obligations hereunder.

12. **“FORCE MAJEURE”**

12.1. Notwithstanding any provisions to the contrary, the Parties will not be deemed to be in default of their obligations under this Agreement if such default is the result of an unforeseeable and unavoidable cause, such as, but not limited to, a strike, a lockout, civil unrest, an invasion, a terrorist attack, a rebellion, sabotage, a conflict, a government regulation or a natural disaster.

12.2. The Parties specifically acknowledge that a computer virus or cyberattack that materially affects the systems constitutes a cause of “force majeure” within the meaning of this section.

12.3. The Parties specifically acknowledge that the reduction of system usage capacity or any system degradation resulting from an invasion or uncontrollable hacking despite the use of specialized resources and tools within a reasonable time frame to control the intrusion and its consequences also constitutes a cause of “force majeure”.

12.4. In the event of “force majeure” within the meaning of this section, the Parties' obligations will be limited to making all efforts and using all suitable skills and tools to resolve the situation as soon as possible, provided that Pro-Contact's remuneration set out in the Service Offer will be increased to reflect the additional work to be performed in this context.

13. **SERVICE RESILIATION AND CANCELLATION POLICY**

13.1. The Parties expressly and irrevocably agree to preclude the application of article 2125 of the *Civil Code of Québec* with regard to the unilateral resiliation of the Services requested

by the Client, with the Client expressly and irrevocably waiving the right to unilaterally resiliate any request for Services received by Pro-Contact. Moreover, the Client declares that they have been duly informed of the risks and impacts resulting from this waiver.

13.2. The Parties expressly and irrevocably agree to preclude the application of article 2126 of the *Civil Code of Québec* with regard to the unilateral resiliation of the Services by Pro-Contact, with Pro-Contact being able to, at its discretion, unilaterally resiliate any request for Services received from the Client, for any reason whatsoever, in which case the Client will be entitled to reimbursement of any amounts paid in advance for Services that have not yet been rendered.

14. **AGREEMENT RESILIATION**

14.1. **Prior notice of resiliation.** Notwithstanding article 2125 of the *Civil Code of Québec*, the Client may resiliate this Agreement at any time for any reason whatsoever, but only by providing Pro-Contact with prior written notice an equivalent number of days in advance as prescribed below, with the date on which the resiliation takes effect being calculated from the date Pro-Contact receives the prior notice:

14.1.1. Thirty (30) days' prior notice if the Client purchased a monthly plan;

14.1.2. Ninety (90) days' prior notice if the Client purchased a pre-paid yearly plan, in which case the Client will not be entitled to any reimbursement of the pre-paid amounts, even beyond the ninety (90) days;

14.1.3. Ninety (90) days' prior notice if the Client purchased a fixed-term plan.

In the event that the prior notice of resiliation is not provided by the Client and received by Pro-Contact within the above-mentioned time frames, the Client is automatically deemed to have accepted to renew this Agreement for one (1) Renewal Term.

14.2. **Fees paid in advance.** The Client agrees that they will not be granted any reimbursement of fees paid in advance if they unilaterally resiliate this Agreement and that they must remunerate Pro-Contact until the end of the notice period preceding resiliation. Notwithstanding the foregoing, for plans with a three (3) or six (6) month billing cycle, the client will be reimbursed for the unused months subsequent to the month in which the resiliation date falls, with only full months being reimbursable and no month being partially reimbursed.

15. **BILLING AND PAYMENT**

15.1. The remuneration payable under the Service Offer will be calculated beginning on the Start Date indicated in the request for Services. During the term of a request for Services, the Client will pay the remuneration provided for without deduction or compensation.

- 15.2. The Client acknowledges that Pro-Contact may, from time to time, adjust the remuneration payable by the Client for its Services to reflect any increase in costs claimed by a Third-Party Provider from Pro-Contact.
- 15.3. From time to time, Pro-Contact will send the Client an invoice for all applicable fees. All invoices are payable within thirty (30) days of being sent by Pro-Contact to the Client. One-time fees, including late fees, invoice processing fees and returned cheque (NSF) fees, may apply at any time. No reimbursement or invoice adjustment will be granted for one-time fees. No reimbursement or invoice adjustment will be granted for recurring fees for the current month when downgrading to a less expensive plan or eliminating one or more options.
- 15.4. Any invoice that remains unpaid thirty (30) days after being issued will bear interest at a rate of eighteen percent (18%) per year.
- 15.5. Any failure on the part of the Client to pay Pro-Contact the agreed-upon amount of remuneration within the time frames permitted will result in the immediate suspension of the provision of Pro-Contact's Services until the situation is fully remedied, without prejudice to Pro-Contact's right to claim the full balance of the agreed-upon amount if, following seven (7) days' prior written notice provided by Pro-Contact to the Client regarding this matter, the Client continues to fail to meet their obligations, thereby triggering immediate term acceleration without further notice or formality.

16. **EXCESSIVE USE**

- 16.1. It is the Client's responsibility to monitor their accounts and limit their use in accordance with the limits specified in their plan, so that their use does not affect the activities of Pro-Contact's other clients. If the Client's use exceeds the limits set out in their account based on the plan they purchased or disrupts the activities of Pro-Contact's other clients, the Client accepts that Pro-Contact take the measure(s) it deems necessary from among the following options:
- 16.1.1. Debiting an amount corresponding to the Client's excessive use from the Client's credit card or billing said amount on the Client's next invoice;
- 16.1.2. Upgrading the Client to a larger plan or increasing the limits in their account to normalize their excessive-use situation;
- 16.1.3. Suspend or terminate the Client's account for reason of violating this Agreement.

17. **LIMITED WARRANTY**

- 17.1. Products and Services are sold and/or provided to the Client with the applicable manufacturer's warranty. Pro-Contact offers no warranty, express or implied, that the products and Services sold and/or provided under this Agreement are free of programming errors or will function without interruption, omission or defect, or that no error will be discovered or that discovered errors will be corrected.

17.2. Although Pro-Contact agrees to undertake all measures necessary for the proper provision of the Services, Pro-Contact offers no other warranty, verbal or written, express or implied, being strictly bound by an obligation of means for the provision of the Services. The Client remains entirely responsible for their use of the products and Services sold and/or provided under this Agreement.

17.3. Pro-Contact does not in any way represent or warrant that the products and Services it sells and/or provides (i) can be used in the combination in which the Client intends, or (ii) meet the Client's operational or technical requirements or professional needs, even if the Client has informed Pro-Contact of such needs and requirements.

17.4. Pro-Contact does not represent or warrant that the software, Services or data it provides under this Agreement are relevant or suitable for any purpose whatsoever, and offers no warranty, express or implied, as to merchantability or fitness for a particular purpose. It does not represent or warrant that the Client's use of the Services will not infringe upon patents, copyrights, trademarks or other rights of third parties.

18. LIMITATION OF LIABILITY

18.1. To the full extent permitted by applicable law and notwithstanding any provision to the contrary in this Agreement, the Client accepts that Pro-Contact's maximum blanket total cumulative liability for any past, present or future claims, demands, fines, penalties, actions, causes of action, applications, suits, judgments, damages, civil liability costs, expenses, injuries or losses, including reasonable legal fees resulting from or related to this Agreement, are limited to actual and direct damages and will not in any case exceed the total amount paid by the Client to Pro-Contact under this Agreement, for all receivables that may be claimed by any person.

19. INTELLECTUAL PROPERTY

19.1. With the exception of the rights expressly granted to the Client by this Agreement, the Parties agree that all trade secrets, formulas, logos, processes, signs, symbols, slogans, plans, text, images, training material, working documents and know-how used by Pro-Contact, its Third-Party Providers or its Subcontractors, as the case may be, in the course of providing Services or created in this context belong to and remain the exclusive property of Pro-Contact, its Third-Party Providers or its Subcontractors, as the case may be, and no provision of this Agreement must be interpreted in any way as transferring intellectual property rights to the Client or licensing their use by the Client.

19.2. The Client warrants and represents to Pro-Contact that they are entitled to use any content that is patented, subject to copyrights or the property of a third party as well as any trademarks that the Client uses, posts or transfers by any means whatsoever on or using Pro-Contact's, its Third-Party Providers' or its Subcontractors' servers.

19.3. The Client acknowledges that they are strictly prohibited from directly or indirectly trying to decode the source code, reverse engineer, modify, decompile or otherwise study any intellectual property belonging to Pro-Contact or one of its Third-Party Providers or Subcontractors.

20. **NOTICES**

20.1. All notices required under this Agreement must be given in writing, by bailiff, messenger, registered mail or any other means of communication providing proof of receipt, including by email, to the address set forth below for Pro-Contact and to the address provided by the Client to Pro-Contact for the Client, or any other address either Party may specify in writing to the other Party from time to time. These notices may also be delivered by hand. Notices will be deemed to have been received on the date of delivery, except if they are sent by registered mail, in which case they will be deemed to have been received on the second (2nd) working day after being mailed.

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Tel.: 418-871-1622
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Email: info@procontact.ca

21. **PRECEDENCE OF AGREEMENT**

21.1. This Agreement takes precedence, as far as the Parties are concerned, over any previous agreement signed between them regarding the matters governed by this Agreement that may be incompatible with the provisions of this Agreement, and the Parties expressly waive the right to invoke the application of such provisions of any previous agreement.

21.2. The Parties declare and agree that this Agreement supersedes any previous agreement having the same effect.

21.3. The Parties agree that the Ancillary Agreements will take precedence over any provision of this Agreement or the Service Offer that may be incompatible with the provisions of the Ancillary Agreements, and, in that case, the Parties expressly waive the right to invoke the application of such provisions of this Agreement or the Service Offer.

22. **AMENDMENT**

22.1. This Agreement may be amended or changed in whole or in part at the Parties' option; however, any amendment or change will become effective only when it is attested by a written document that is duly signed by the Parties.

23. **GOVERNING LAW**

23.1. The Parties agree that the provisions of this Agreement must be governed and interpreted in accordance with Quebec law (Canada).

23.2. The Parties elect domicile in the judicial district of the city of Québec, in Quebec, Canada, and grant the courts of this judicial district exclusive jurisdiction to hear and decide on any dispute that may pertain to this Agreement or its interpretation.

24. **SEVERABILITY**

24.1. Each provision of this Agreement is distinct and separate, such that any court decision to the effect that any one of the provisions herein is void or unenforceable in no way affects the validity of the other provisions herein or their enforceability.

25. **NON-WAIVER OF RIGHTS**

25.1. The fact that one Party to this Agreement has not insisted upon the full performance of any of the undertakings herein or has not always exercised any of their rights hereunder may not be considered a future waiver of such right or the performance of such undertaking. Except as otherwise provided for herein, any waiver by one Party to this Agreement of any of their rights will be effective only when established in writing, and such waiver will apply only to the rights and circumstances expressly concerned by the waiver.

26. **FINAL PROVISIONS**

26.1. Each of the Parties expressly represents and warrants that the provisions of this Agreement have not been imposed or written by one of them, but that rather, they were freely discussed between the Parties.

26.2. Each of the Parties expressly represents and warrants that the provisions of this Agreement bind the Parties and their respective heirs, successors and assigns.

26.3. Each of the Parties declares that they obtained adequate explanations on the nature and scope of each of the provisions herein and that they are satisfied with the readability and clarity of this Agreement.

26.4. Each of the Parties expressly waives the right to invoke the nullity of any of the provisions of this Agreement on the grounds that it is incomprehensible, illegible or abusive.

Jean-Philippe Couture
For Informatique Pro-Contact inc.

Client