



TERMS & CONDITIONS

Last Updated: August 22nd 2022

1.1 The following terms shall have the following meanings:

“Agreement” means these Terms and Conditions together with the SOF and any document referred to in these Terms and Conditions or the SOF.

“tootoot” means tootoot Ltd.

“Services” means the “Stribe” application and any of the services provided by tootoot under these Terms and Conditions, including the provision of access to the Dashboard.

“User” means those employees, agents, independent contractors or end-users of the Customer who are authorised by the Customer to use and/or access the Services.

“Dashboard” means the aggregated dashboard which displays real-time data of multiple Users.

“Customer” means the purchaser of access to the Services from tootoot, as set out in the SOF.

“Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) to the extent incorporated into English law; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

“Initial Contract Term” means the initial term of this Agreement, as set out in the SOF.

“SOF” means the document tootoot provides to the Customer containing specific information relating to the particular services supplied or to be arranged to be supplied by tootoot to the Customer.

“Contract Start Date” has the meaning given to it in the SOF.

“Fees” means the fees payable by the Customer to tootoot for the provision of access to the Services, as set out in the SOF.

“Maximum Users” means the user subscriptions purchased by the Customer which entitle Users to access and use the Services in accordance with this Agreement.

“Lifetime Storage Fee” means the fees payable by the Customer to tootoot for the ongoing storage of Customer Data after the termination of this Agreement, if applicable, and as set out in the SOF.

“Customer Data” means the data inputted by the Customer, Users, or the Supplier on the Customer’s behalf, for the purpose of using the Services, or facilitating the use of the Services.

“controller”, “processor”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “processing” and “appropriate technical and organisational measures” each have the meaning given to them in the Data Protection Legislation.

“Clause” and “schedule” means respectively clauses or schedules in this agreement unless the context shows a contrary meaning. “Now” and “today” means at the date of this agreement. “Comply with” includes “observe and perform”. “Parties” means the parties to this agreement and where the context permits, their successors in title.

COMMENCEMENT AND TERM OF AGREEMENT

2.1 This Agreement is effective from the Contract Start Date and forms an agreement between the Parties in relation to the Services and shall continue for the Initial Contract Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a “Renewal Period”), unless:

2.1.1 either Party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Contract Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Contract Term or Renewal Period; or

2.1.2 otherwise terminated in accordance with the provisions of this Agreement;

(“the Term”).

2.2 To the extent that tootoot offers a pilot period in the SOF, this Agreement shall apply in its entirety during such pilot period. Either Party may terminate the pilot period (and this Agreement) at any point within the pilot period, by phone, writing or email to the other Party. If no such notice is given then, at the end of the pilot period, the Customer’s access to the Services will cease and this Agreement will freeze until the Customer gives notice to tootoot that it wishes for this Agreement:

2.2.1 to terminate, in which case this Agreement will terminate immediately; or

2.2.2 to continue, in which case this Agreement will continue in full force and effect from the date of such notice on the commercial terms set out in the SOF (or, if no such commercial terms are set out in the SOF, on such commercial terms as the Parties may agreed in writing, from the date of such agreement), together with the recommencement of access to the Services from such date, until otherwise terminated in accordance with this Agreement.

PERMISSION TO USE AND CONSIDERATION

3.1 tootoot grants to the User a non-exclusive right during the Term to use the Services in accordance with this Agreement and for no other purpose.

3.2 The Customer shall pay tootoot the Fees in consideration for the provision by tootoot to the Customer of access to the Services. The Customer must pay all amounts due under this Agreement annually in advance, within the payment period outlined in the SOF, with the exception of the Lifetime Storage Fee which shall be payable only on termination of this Agreement and if applicable. The Setup Fees and White Label Fees outlined in the SOF are only payable in the first year of the Agreement.

3.3 tootoot shall audit the usage of the Services by Users during the Term. If such audit reveals that the number of Users of the Services exceeds the Maximum User number, tootoot shall, on a quarterly basis throughout the Term, invoice the Customer in arrears for such additional access calculated on a pro-rata basis taking into consideration the Fees payable by the Customer to tootoot for the Maximum User number, and the Maximum User number (and Fees payable by the Customer in respect of the number of Users) shall be considered increased for the remainder of the Term in accordance with the findings of any such audit.

3.4 tootoot may, in the event that the Agreement continues for any Renewal Period, increase the Fees with effect from the end of the Initial Contract Term or the end of any Renewal Period (as applicable), at the rate of 3% plus any percentage increase in the Retail Prices Index in the preceding 12-month period, where for such purposes "Retail Prices Index" means the Retail Prices Index excluding mortgage interest payments (RPIX) as published by the Office for National Statistics from time to time, or failing such publication, such other index as the Parties may agree most closely resembles such index.

3.5 If the Customer is late in paying any part of any monies due to tootoot under this Agreement and such payment remains outstanding for seven days following tootoot providing notice to the Customer of such outstanding payment, tootoot may (without prejudice to any other right or remedy available to tootoot whether under this Agreement or by any statute, regulation or bye-law) do any or all of the following:

3.5.1 charge interest and other costs on the overdue amount due but unpaid at the annual rate of interest set under Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 from time to time from the due date until payment (after as well as before judgment), such interest to run from day to day and to be compounded monthly;

3.5.2 recover tootoot's costs and expenses and charges (including without limitation legal and debt collection fees and costs) in collecting the late payment; and

3.5.3 suspend performance of this Agreement until payment in full has been made.

REFUNDS AND CANCELLATIONS

4.1 In respect of the Services, the following refund and cancellation policy will apply:-

4.1.1 If no free trial period is granted, then a "cooling off" period of 14 days from the date of order processing, during which a full refund of fees paid may be payable by tootoot to the User, in accordance with the following conditions;

1. i. Where The Service has been activated for a User, no refund will be given and any outstanding balance of The Term will be due from the User to tootoot.
2. ii. Where The Service has been agreed, but not yet activated for a User, only a partial refund will be given, equal to the invoice amount less 50% of the first-year cost of The Term.

4.1.2 If a free trial period has been granted, then a “cooling off” period of the agreed trial length from the date of order processing, during which a full refund of any fees paid may be payable by tootoot to the User, in accordance with the following conditions;

1. i. Where The Service has been activated for a User, no refund will be given and any outstanding balance of The Term will be due from the User to tootoot.
2. ii. Where The Service has been agreed, but not yet activated for a User, only a partial refund will be given, equal to the invoice amount less 50% of the first-year cost of The Term.

4.1.3 Cancellations will only be accepted in the following forms: a) in writing to the address shown on www.stribehq.com or b) by email sent to info@stribehq.com.

4.1.4 In the case of payment by credit or debit card, only the card used for the original payment will be refunded;

4.1.5 Refunds will be processed as soon as possible, but within 14 days of the refund being agreed by tootoot; and

4.1.6 Cancellations made after the “cooling off” period will only result in a refund at the discretion of tootoot with full invoice being due payable unless otherwise agreed.

INTELLECTUAL PROPERTY AND CONDITIONS OF USE

5.1 The User acknowledges that tootoot, the Service, and all programs, data, information and other items included in the Services constitute valuable intellectual property and trade secrets of tootoot. The User agrees to take all reasonable steps to protect the intellectual property rights (“IPR”) of tootoot both during and after the Term.

5.2 The User shall not make any use of any tootoot IPR including without limitation any trade marks, service marks, business names, logos, designs or domain names of tootoot without the prior written consent of tootoot.

5.3 The User will procure that it will at all times comply with the restrictions on the use of tootoot and the Services set out herein or on tootoot or otherwise notified to them by or on behalf of tootoot (whether set out in the SOF or otherwise, and including without limitation in respect of any trial or pilot period).

5.4 None of the User, its employees or agents will use any automatic device or manual process to monitor or copy any pages of tootoot or the content contained therein other than in accordance with the proper functionality thereof nor will any of

the foregoing use any device, software or routine to interfere or attempt to interfere with the proper working of tootoot.

DATA PROTECTION

6.1 PERSONAL DATA TYPES AND PROCESSING PURPOSES

6.2.1 The Customer and tootoot acknowledge that for the purpose of the Data Protection Legislation, the Customer is the controller and tootoot is the processor.

6.2.2 The Customer retains control of the Customer Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, including without limitation providing any required notices, undertaking any impact assessments, communicating to Users any relevant justifications and obtaining any required consents (including in respect of any Special Categories of Personal Data to be processed by tootoot as part of the User's access to the Services), and for the processing instructions it gives to tootoot.

6.2.3 Regarding processing conducted pursuant to this Agreement:

i Subject matter of processing: the supply and use of the Services.

ii Duration of Processing: the Term and, if applicable and on payment of the Lifetime Storage Fee, in perpetuity.

iii Nature of Processing: Storage of personal data, transfer of personal data between the Customer and its Users (as the case may be).

iv Business Purposes: the provision of access to the Services for the benefit of Users.

v Personal Data Categories: full name and workplace email address of the Data Subject, and, depending on how the Services are used and what the Customer's specific instructions are, such other information that the Data Subject provides to the Services during use of the Services.

vi Data Subject Types: Users who sign up to use the Services.

6.2 PROVIDER'S OBLIGATIONS

6.2.1 tootoot will only process the Customer Data to the extent, and in such a manner, as is necessary for the provision of the Services in accordance with this Agreement and/or the Customer's written instructions except where otherwise required by applicable law (and shall inform the Customer of that legal requirement before processing unless prohibited by that applicable law on important grounds of public interest).

6.2.2 tootoot will notify the Customer if, in its opinion, the Customer's instruction would not comply with the Data Protection Legislation and shall be entitled to cease to provide the relevant services until appropriate amended instructions are received.

6.2.3 tootoot will maintain the confidentiality of all Customer Data and will not disclose Customer Data to third parties unless the Customer or this Agreement specifically authorises the disclosure, or as required by law. If a law, court, regulator or supervisory authority requires tootoot to process or disclose Customer Data, tootoot will first inform the Customer of the legal or regulatory requirement and give the Customer an opportunity to object or challenge the requirement, unless the law prohibits such notice.

6.2.4 tootoot will reasonably assist the Customer, at the Customer's cost, with meeting the Customer's compliance obligations in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;), taking into account the nature of tootoot's processing and the information available to tootoot, including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with supervisory authorities under the Data Protection Legislation.

6.2.5 tootoot will ensure that all employees are informed of the confidential nature of the Personal Data and are bound by confidentiality obligations and use restrictions in respect of the Personal Data.

6.2.6 tootoot will at all times implement appropriate technical and organisational measures against unauthorised or unlawful processing, access, disclosure, copying, modification, storage, reproduction, display or distribution of Customer Data, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of Customer Data. tootoot will document those measures in writing and periodically review them to ensure they remain current and complete.

6.2.7 tootoot will implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:

- i the pseudonymisation and encryption of personal data;
- ii the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- iii the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
- iv a process for regularly testing, assessing and evaluating the effectiveness of security measures.

6.2.8 tootoot will promptly and without undue delay notify the Customer if any Customer Data is lost or destroyed or becomes damaged, corrupted, or unusable. tootoot will restore such Customer Data at its own expense.

6.2.9 tootoot will promptly and without undue delay notify the Customer if it becomes aware of:

- i any accidental, unauthorised or unlawful processing of the Customer Data; or
- ii any Personal Data Breach.

6.2.10 tootoot (or any subcontractor) must not transfer or otherwise process Customer Data outside the United Kingdom without obtaining the Customer's prior written consent. Notwithstanding the foregoing of this clause 6.2.10, the Customer hereby consents to Customer Data being sent to the following sub-contractors:

- i Intercom Inc. who provide live chat support services for the Services and who are located in the USA; and
- ii Slack Technologies Inc. who provide company communication tools and who are located in the USA; each on the basis of approved safeguards for the transfer of personal data between the United Kingdom and the USA, which may include (but without limitation) the UK's International Data Transfer Agreement or the standard contractual clauses.

6.2.11 tootoot may only authorise a third party (subcontractor) to process the Customer Data if:

- i the Customer is provided with an opportunity to object to the appointment of each such subcontractor within 7 (seven) days after tootoot supplies the Customer with full details regarding such subcontractor;
- ii tootoot enters into a written contract with the subcontractor that contains terms substantially the same as those set out in this Agreement, in particular, in relation to requiring appropriate technical and organisational data security measures; and
- iii tootoot maintains control over all Customer Data it entrusts to each such subcontractor.

6.2.12 If the Customer:

- i objects to the appointment of any subcontractor within the timescale referred to in clause 6.2.12i then tootoot shall ensure that no Customer Data that it is processing on behalf of the User is transferred to such subcontractor and this Agreement shall automatically terminate one month after receipt of such objection by tootoot on a no fault basis for either Party; or
- ii does not object to the appointment of any subcontractor within the timescale referred to in clause 6.2.12i then the Customer is deemed to have agreed to the engagement of that subcontractor.

6.2.13 Those subcontractors approved as at the commencement of this agreement are as set out in clause 6.2.10 above and, additionally, Digital Ocean LLC and Amazon.com Inc who together provide hosting services for the Services who are both US companies but who keep all personal data on servers at data centres respectively based in the UK and throughout the EEA (and who do not transfer such data to the US at any time). tootoot has appointed such subcontractors on the basis

that the personal data remains within the UK or otherwise within a jurisdiction (being the EEA) that is considered by the Information Commissioner's Office (or such regulator as may take on its responsibilities in the UK from time to time) to provide an adequate level of protection to such personal data.

6.2.14 Where any subcontractor fails to fulfil its obligations under such written agreement between tootoot and that subcontractor, tootoot remains fully liable to the Customer for the subcontractor's performance of its contract obligations.

6.2.15 The Parties consider tootoot to control any Customer Data controlled by or in the possession of its subcontractors.

6.3 SENSITIVE PERSONAL DATA

6.3.1 The Customer acknowledges that the use of the Services by Users will mean Users provide Special Categories of Personal Data (as defined in Data Protection Legislation) to the Customer by means of the Services. The Customer shall ensure that it has sufficient consent to the processing of such Special Categories of Personal Data from the relevant User Data Subject including (but not limited to) ensuring that the consent is freely given (so giving of the consent must not be a pre-condition of the Data Subject being entitled to use the Services), specific and informed (so the Data Subject must be advised that the data will be sent to tootoot and its sub-processors, why it has been sent, and what data will be sent) and an unambiguous indication of consent.

6.3.2 If the consent referred to in clause 6.3.1 is withdrawn at any time then the Customer must notify tootoot immediately, following which tootoot will cease processing such Special Categories of Personal Data.

6.3.3 The Customer shall indemnify tootoot against any losses, claims, damages, liabilities, fines, sanctions, interests, penalties, costs, charges, expenses, compensation paid to data subjects, demands and legal and other professional costs (calculated on a full indemnity basis and each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Customer of its obligations under clause 6.3.

6.4 COMPLAINTS, DATA SUBJECT REQUESTS AND THIRD PARTY RIGHTS

6.4.1 tootoot will, at no additional cost, take such technical and organisational measures as may be appropriate, and promptly provide such information to the Customer as the Customer may reasonably require, to enable the Customer to comply with:

i the rights of Data Subjects under the Data Protection Legislation, including subject access rights, the rights to rectify and erase personal data, object to the processing and automated processing of personal data, and restrict the processing of personal data; and

ii information or assessment notices served on the Customer by any supervisory authority under the Data Protection Legislation.

6.5 DATA RETURN AND DESTRUCTION

6.5.1 At the Customer's request, tootoot will give the Customer a copy of or access to all or part of the Customer Data in its possession or control in the format and on the media reasonably specified by the Customer.

6.5.2 On termination of this Agreement for any reason or expiry of the Term, tootoot will securely delete or destroy or, if directed in writing by the Customer, return and not retain, all or any Customer Data related to this Agreement in its possession or control, save where the Customer, prior to termination, has requested the continued storage of the Customer Data by tootoot after termination and the Customer has paid the Lifetime Storage Fee, in which case tootoot will retain all Customer Data in perpetuity, until instructed otherwise by the Customer.

6.5.3 If any law, regulation, or government or regulatory body requires tootoot to retain any documents or materials that tootoot would otherwise be required to return or destroy, it will notify the Customer in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

6.6 AUDIT

tootoot shall, in accordance with the Data Protection Legislation, make available to the Customer such information that is in its possession or control as is necessary to demonstrate tootoot's compliance with the obligations placed on it under this Agreement and to demonstrate compliance with the obligations on each Party imposed by Article 28 of the GDPR (and under any equivalent provisions of any Data Protection Legislation), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 6.6).

LIMITATION ON LIABILITY

7.1 All content, materials and information on the Site are provided on an "as is" and "as available" basis without any representation or endorsement made and without warranty of any kind whether expressed or implied, including but not limited to the implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy.

7.2 Subject to clause 7.4, and to the fullest extent permitted by applicable law, tootoot shall not be liable whether in tort (including without limitation for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any indirect or consequential loss or damage whatsoever (including without limitation loss of business, profits, contracts, goodwill and/or any other economic loss).

7.3 tootoot makes no warranty that the Site or any Services available on the Site will meet your requirements, that content will be accurate or reliable, that the functionality of the Site or any Services available on it will be uninterrupted or error-

free, that defects will be corrected or the Services or server that makes them available are free of viruses or anything else which may be harmful or destructive.

7.4 Nothing in these terms and conditions shall be construed so as to exclude or limit the liability of tootoot for death or personal injury as a result of the negligence of tootoot, or any other liability that cannot be excluded or limited at law.

7.5 Subject to clause 7.4, tootoot's total aggregate liability in contract, tort (including without limitation negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to (i) £250,000 in respect of any breach by tootoot of clause 6, and (ii) in respect of all other claims, 110% of the total Fees paid by the Customer to tootoot during the 12 months immediately preceding the date on which the claim arose.

ASSIGNMENT AND SUB-LICENCE

8.1 This Agreement is personal to the Customer who may not without tootoot's prior written consent a) assign or dispose of it; b) part with any interest in it; or c) grant any lease or licence or delegate any of the rights conferred by it.

TERMINATION

9.1 In addition to both Parties rights under clause 2.1, either Party may at any time by written notice, terminate this Agreement or suspend its performance of all or any of its obligations under it immediately and without liability for compensation or damages if the other Party:

9.1.1 commits a material breach of this Agreement and if such breach (if capable of being remedied) remains un-remedied fourteen days after being called to the attention of the other Party in writing by the non-breaching Party; or

9.1.2 becomes or is declared insolvent or a resolution is passed for the winding up of the other Party or the other Party convenes a meeting of its creditors or makes or proposes to make any arrangement or composition with its creditors or becomes subject to any other insolvency procedure in any jurisdiction or any person takes any step to appoint an administrator or a liquidator, an administrative receiver, a receiver, manager, trustee, custodian or analogous officer is appointed (whether out of court or otherwise) in respect of all or any part of its property, undertaking or assets or which entitle the court to make a winding up or bankruptcy order.

CONSEQUENCES OF TERMINATION

10.1 On the termination of this Agreement, the Customer shall at his own expense promptly withdraw and return to tootoot or otherwise dispose of, as tootoot instructs, all samples, publicity material or other documents relating to tootoot which the Customer has in its possession or under its control.

10.2 The expiration or earlier termination of this Agreement shall not affect (a) such of the provisions that are expressed to operate or have effect afterwards; or b) any

right of action already accrued to either Party in respect of any breach of this Agreement by the other Party.

10.3 The Customer shall as promptly as reasonably practicable after the termination, and in any event within 7 days of the date of termination, remove tootoot from all samples, publicity materials, documents or any web or internet site.

10.4 In the event that the Customer wishes tootoot to continue to store Customer Data after the date of termination of this Agreement, the Customer must notify tootoot of such wishes no later than seven days before such date of termination, and pay the Lifetime Storage Fee in accordance with the provisions of this Agreement.

FORCE MAJEURE

11.1 Subject to clause 7.4, tootoot shall not be liable for any failure in the performance of any of its obligations under this Agreement caused by factors outside its control.

ENTIRE UNDERSTANDING

12.1 This Agreement is the exclusive statement of the agreement between the Parties related to the subject matter hereof. It supersedes all understandings and prior agreements, whether oral or written, between the Parties in respect of the subject matter hereof. The Parties both agree that they did not rely on any statement made by the other Party before entering into this Agreement and hereby waives any remedy which might otherwise be available to them in respect of any untrue statement (whether made innocently or negligently) before entering into this Agreement.

LAW AND JURISDICTION

13.1 This Agreement shall be governed by and construed in accordance with the laws of England, and the rules and regulations of any intermediary organisation or entity through which any Services are provided, as any of the same may be amended from time to time, and the Customer acknowledges that use of the Services following any amendment shall be deemed to be the Customer's consent to such amendment. The customer hereby irrevocably submits to the exclusive jurisdiction of the courts of England over any action or proceeding relating to this Agreement.

13.2 tootoot makes no claim that the Services are appropriate for access or use in any particular jurisdiction, and cannot be held responsible for non-compliance with any local laws or regulations in relation to the contents or the Services. Access and/or use of the Services and their contents is at the Customer's and each User's own risk, and the Customer is responsible for compliance with the laws of any jurisdiction to which the Customer is subject.

NOTICES

14.1 Any notice given under this Agreement shall be in writing and may be served:-

1. **a)**by registered mail to the address provided to tootoot at the commencement date; **b)**by e-mail provided to tootoot at the commencement date

14.2 At Each party's address for the service of notice shall be its above mentioned address or such other address as it specifies by notice to the other notice shall be deemed to have been served:-

1. **a)**if served by registered mail 48 hours after it was posted; and **b)**if it was served by e-mail at the time of transmission.

GENERAL

15.1 tootoot may from time to time vary these Terms and Conditions by giving to the Customer reasonable notice, and the continued use of the Service by the Customer after expiry of such notice shall constitute the Customer's acceptance of the variation.

15.2 If any provision of this Agreement is declared invalid or unenforceable, such provision shall be struck out and the remaining provisions shall remain in full force and effect.

15.3 The headings are for convenience of reference and shall not affect the construction or interpretation of this Agreement.

15.4 A third party who is not a party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 (the "Act") to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Act.