

Club Prophet
Website Platform Order Form
Revision 6/14/2024

Program Name:	Website Platform
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Customer Name and Address	
Customer Name:	Pokegama Golf Course
Customer Address:	3910 Golf Course Rd Grand Rapids, MN 55744

Customer Contact	
Contact Name:	Tom Beaudry
Contact Title:	Director of Golf
Contact Email:	tbeaudry@grandrapidsmn.gov
Contact Phone:	218-326-3444
Billing Contact Name:	Tom Beaudry
Billing Contact Email:	tbeaudry@grandrapidsmn.gov
Billing Contact Phone:	218-326-3444

Term Start:	0
Initial Term:	{Term will be for 12 months}
Payment Terms:	Net 30 Day Invoicing
Setup Fee (US \$):	0
Initial Term Fee (US \$):	0
Initial Monthly Fee:	\$399
Services: See Exhibit A – Description of Services for service details	Website Platform Birdie Package: Fully Responsive Website Design, Hosting, SSL, ADA Widget with AI Detection, SEO Meta Page Titles, Email Marketing with 50,000 Email Sends and 2 automated journeys, Templates and Analytics. Reputation Management

Fee Schedule Customer will pay Provider a monthly fee in the amount of the number of locations utilizing the Services. See Exhibit A – Description of Services for service details.
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This Website Platform Order Form (“Order Form”) is entered into as of the date of the last signature below (“Effective Date”) by and between Club Prophet Software LLC, a Delaware limited liability company (“Provider”), and the entity detailed in the customer fields above (“Customer”). Provider and Customer may each be referred to as a “Party” or collectively as the “Parties.” This Sales Order is subject to the terms and conditions of the service agreement by and between Provider and Customer located at www.pokegamagolf.com (“Service Agreement”) which is hereby incorporated by reference.

1. Definitions

1.1 Applicable Law: means all applicable federal, provincial, state, and local laws, regulations, and rules that are binding upon or applicable to a Party as may be modified and in effect from time to time, including without limitation: (i) the General Data Protection Regulation (EU) 2016/679 (“GDPR”); (ii) the GDPR as incorporated into

UK law by the Data Protection Act 2018 and its amendments; (iii) the California Consumer Privacy Act of 2018 and the California Privacy Rights Act of 2020 and their respective amendments and implementing regulations; and (iv) the Telephone Consumer Protection Act of 1991.

1.2 Company Content: means all content, data, information, and technology on or underlying a Source Website, or added to a Website, the Servers, or the Platform by or at the direction of the Company, including Customer Data and Personal Data but excluding the Platform and any other technology or content provided by Provider or its service providers.

1.3 Customer Data: means any and all data and content from a Source Website, or added to the Website, including but not limited to words, music, images, and videos.

1.4 Platform: means the means the proprietary software platform and interactive user interface used to create, host, and serve the Website.

1.5 Servers: means the computer hardware and other equipment on which the Platform and Website are hosted.

1.6 Services: means the Provider marketing services and, if applicable, other services as described in Exhibit A.

1.7 Source Website: Means Customer's website that is converted via the Platform to create the Website

1.8 Website: means a multi-device accessible or responsive website which is operated by Customer for which Customer is licensing the Platform.

2. Grant of Rights

2.1 Provider License to Customer. Subject to the provisions of this Order Form, Provider hereby grants to Customer a non-exclusive, non-transferable, limited license to use the Platform during the Term solely to create Sites as contemplated by this Agreement (the "License").

2.2 Customer Data. Customer grants Provider the right to use the Customer Data for the sole purposes of performing its obligations under this Order Form, including to provide the Services, and prevent or address service, support, or technical problems. All right, title, and interest in and to Customer Data is held exclusively by Customer. No title to or ownership of any proprietary rights related to the Customer Data is transferred to Provider pursuant to this Order Form and Customer reserves all rights not expressly granted to Provider. Provider agrees to use the Customer Data solely in compliance with this Order Form.

2.3 Proprietary Rights. Provider and its licensors shall solely own the Platform and all rights, title, and interest in and to all copyrights, patent rights, trademark rights, trade secret rights, and other intellectual property rights embodied therein, including derivations, modifications, and improvements thereto. Nothing herein transfers, confers, or grants any rights of ownership or other licenses in the Platform other than the limited license set forth herein.

2.4 Feedback. If Customer or any of its employees or contractors sends or transmits any communications or materials to Provider suggesting or recommending changes to the Platform or the Services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), Provider and its service providers are free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback.

3. Customer Obligations

3.1 Use Restrictions. Customer will not: (i) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Services or the data contained in the Services; (ii) modify, copy or create derivative works based on the Services; (iii) reverse engineer the Services; (iv) intentionally interfere or disrupt the integrity or performance of the Services or third party data contained therein; or (v) attempt to gain, or allow others to gain unauthorized access to the Services.

3.2 Additional Obligations. Customer will at all times during the Term: (i) ensure that the Services is used in compliance with this Order Form and Applicable Law; (ii) provide and maintain, in good working order, software

materials, equipment, and cooperation necessary for accessing the Platform and/or as required for Provider to perform the Services; (iii) be solely responsible for the accuracy and quality of the Customer Data and the means by which Customer acquires its data; (iv) use all reasonable efforts to prevent unauthorized access to or use of the Services and notify Provider promptly of any unauthorized access or use thereof; and (v) carry out its responsibilities as set forth in this Order Form in a timely manner.

4. Payment Terms and Fees

4.1 Services Fees. Subject to the terms and conditions of this Order Form and the Service Agreement, the fees in the above fee structure (“Fees”) provide the Customer with access and use of the Platform or other specified products and services. Fees are fixed for the duration of the Initial Subscription Term period but may increase by five (5) percent per year for any Renewal Term. Provider shall provide Customer at least thirty (30) days’ notice of any change in Fees for a Renewal Term.

4.2 Payment Method. Provider will invoice Customer on a net thirty-day basis and accept payment via direct deposit or check.

4.3 Payment Terms. During the Term, the Customer shall pay Fees to Provider on a monthly basis. INVOICING WILL BEGIN THIRTY DAYS FROM THE TERM START, REGARDLESS OF PROGRAM STATUS, UNLESS PROVIDER IS SOLELY RESPONSIBLE FOR IMPLEMENTATION DELAYS.

4.4 Tax and Other Charges. Customer shall be solely responsible for and agrees to pay, indemnify, and hold Provider harmless from any and all sales, use, communications, excise, or similar tax or duty, and any other tax not based on Provider’s net income, including penalties and interest and any associated professional fees, and all other imposts levied upon or chargeable with respect to the use, license, sale, or delivery of the services or other deliverables in respect of this Order Form, and any costs associated with the collection or withholding of any of the foregoing items.

4.5 Irrevocable Order. The terms and conditions set forth in this Order Form are irrevocable in all respects, subject only to termination pursuant to the express terms of this Order Form or the Service Agreement. Fees may be invoiced for the duration of the Term once this Order Form is signed. By executing this Order Form, the Customer agrees to pay all Fees for the Term.

5. Term and Termination

5.1 Term. The Order Form shall commence on the “Term Start” set forth above and shall continue for the period in the “Initial Term” set forth above (“Initial Term”). Thereafter, the Services shall renew automatically for an additional term length (each, a “Renewal Term”, and, together with the Initial Term, the “Term”) unless either Party provides the other Party with written notice of its intent not to renew at least ninety (90) days prior to the expiration of the Renewal Term, or unless earlier terminated in accordance with this Order Form or the Service Agreement.

5.2 Termination. Provider may immediately cease providing Services and/or terminate this Order Form for cause, without notice if: (i) Customer fails to pay any amount to Provider when due; or (ii) Provider believes that the provision of the Services or Customer’s use of the Services may violate Applicable Law; or (ii) Provider believes Customer has violated any of the Use Restrictions set forth in Section 3.1 or the Additional Obligations set forth in Section 3.2.

6. Customer Warranties. Customer represents and warrants that: (i) Customer will obtain end user consent prior to submitting personal information in connection the Services; (ii) Customer Data and the Company Content does not contain any data or content that is infringing, obscene, threatening, libelous, defamatory, tortious or otherwise harmful to third parties, including but not limited to content or material harmful to children or which violates third party proprietary rights; (iii) Customer will not engage in practices that are unfair or deceptive under the consumer protection laws of any jurisdiction, including chain letters and pyramid schemes, or impersonate any person or entity, or falsely state or otherwise misrepresent its affiliation with a person or entity or otherwise engage in malicious, fraudulent, objectionable or offensive activities; (iv) Company Data and the Company Content do not contain any software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs of any kind; (v) will comply with Applicable Laws; (vi) and (vii) Customer use of

the Services will comply with the terms of this Order Form and the Service Agreement.

7. Indemnification. The Customer shall indemnify, defend, and hold Provider its officers, directors, employees, and the successors and assigns of the foregoing harmless from and against any and all claims, regulatory action, damages, penalties, liabilities, and costs, including reasonable attorneys' fees, arising out of or related to: (i) Customer's alleged or actual violation of Applicable Law; (ii) Customer alleged or actual infringement on third party intellectual property rights; (iii) any actual fraud, gross negligence, or willful misconduct of Customer; and (iv) any claim with respect to Customer Content or Customer Data.

8. Limitation of Liability.

8.1 PROVIDER WILL NOT BE RESPONSIBLE FOR, OR HAVE ANY LIABILITY IN CONNECTION WITH, ANY USE OR MISUSE OF CUSTOMER DATA, OR CUSTOMER WEBSITES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, NEITHER PARTY NOR ITS RESPECTIVE AFFILIATES, RESPECTIVE LICENSORS OR SUPPLIERS MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE WEBSITE, THE PLATFORM, THE SERVICES, OR ANY OTHER MATTER, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE AND ANY IMPLIED WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH PARTY SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING THE PROFITABILITY OF THE ARRANGEMENT CONTEMPLATED HEREBY FOR THE OTHER PARTY

8.2 EXCEPT FOR CUSTOMER INDEMNIFICATION OBLIGATIONS AS SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS ORDER FORM, OR ANY LOSS OF REVENUE, PROFITS OR BUSINESS, COSTS OF DELAY, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE; ALL WHETHER IN CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE), AND REGARDLESS OF WHETHER THE PARTIES KNEW OR HAD REASON TO KNOW OF THE POSSIBILITY OF THE LOSS, INJURY OR DAMAGE IN QUESTION.

8.3 PROVIDER'S ENTIRE LIABILITY FOR ANY CLAIMS ARISING IN CONNECTION WITH ANY OBLIGATIONS UNDER THIS ORDER FORM SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED THE AGGREGATE FEES PAID BY CUSTOMER UNDER THIS ORDER FORM IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THAT THE CAUSE OF ACTION AROSE.

8.4 PROVIDER IS NOT LIABLE FOR ANY CLAIMS OF THIRD PARTIES TO THE EXTENT SUCH CLAIMS ARISE FROM PROVIDER'S USE OF CUSTOMER CONTENT.

8.5 THE PARTIES ACKNOWLEDGE AND AGREE THAT THESE LIMITATIONS OF LIABILITY ARE FUNDAMENTAL TO THE BASIS OF THE BARGAIN UNDER THIS AGREEMENT, AND THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH LIMITATIONS.

9. Control. In the event of a conflict between the terms and conditions of this Order Form and the Service Agreement, the terms and conditions of this Order Form shall control with regard to the terms and conditions of the Services. The terms of this Order Form will not amend the terms and conditions applicable to any other Order Form unless expressly stated by reference to the Order Form amended.

10. Changes. Provider may revise and update the terms and conditions of this Order Form from time to time in Provider's sole discretion. All changes are effective immediately when posted at www.pokegamagolf.com and apply to all access and use of the Marketing Services thereafter. Continued use of the Marketing Services following the posting of revised Order Form means that the Customer accepts and agrees to the changes.

Signature Page Follows:

This Order Form is hereby accepted and agreed to by duly authorized representatives of Customer and Provider:

CUSTOMER: Pokegama Golf Course	Club Prophet Software LLC
Signature:	Signature: <i>Dawn Houser</i>
Name (printed):	Name (printed): Dawn Houser
Title:	Title: Engage Account Manager
Date:	Date: 12/16/24

