

WP Helper terms and conditions

Please read these Terms and Conditions carefully. All contracts that the Provider may enter into from time to time for the provision of the Provider's services shall be governed by these Terms and Conditions, and the Provider will ask the Customer for the Customer's express written acceptance of these Terms and Conditions before providing any such services to the Customer.

TERMS AND CONDITIONS

1. Definitions

1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

"Charges" means the following amounts:

- (a) such amounts as may be agreed in writing by the parties from time to time; and
- (b) amounts calculated by multiplying the Provider's standard time-based charging rates (as notified by the Provider to the Customer before the date of the Contract) by the time spent by the Provider's personnel performing the Services (rounded down by the Provider to the nearest quarter hour);

"Contract" means a particular contract made under these Terms and Conditions between the Provider and the Customer;

"Customer" means the person or entity opening this support plan or support ticket.

"Customer Personal Data" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Contract;

"Data Protection Laws" means all applicable laws relating to the processing of Personal Data including, while it is in force and applicable to Customer Personal Data, the General Data Protection Regulation (Regulation (EU) 2016/679);

"Effective Date" means the date of execution of the Contract;

"Personal Data" has the meaning given to it in the General Data Protection Regulation (Regulation (EU) 2016/679);

"Provider" means Lakewood media Limited, a company incorporated in England and Wales (registration number 08477710) having its registered office at Kemp House, 160 City Road, London, EC1V 2NX;

"Services" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

"Statement of Work" means a written statement of work agreed by or on behalf of each of the parties;

"Support Services" means the support services specified in Section 1 of the Statement of Work;

"Term" means the term of the Contract, commencing in accordance with Clause 3.1 and ending in accordance with Clause 3.2;

"Terms and Conditions" means all the documentation containing the provisions of the Contract, namely the main body of these Terms and Conditions and the Statement of Work, including any amendments to that documentation from time to time;

"Third Party Software" means that software the rights in which are owned by one or more third parties that the Provider agrees to supply to the Customer under the Statement of Work;

"Third Party Software Licence" means the Third Party Software Vendor's standard licensing terms for the Third Party Software from time to time; and

"Third Party Software Vendor" means a third party that has granted to the Provider the right to distribute the Third Party Software and resell licences for the Third Party Software.

2. Credit

2.1 This document was created using a template from Docular (<https://docular.net>).

3. Term

3.1 The Contract shall come into force upon the Effective Date.

3.2 The Contract shall continue in force until completion, upon which the Contract shall terminate automatically, subject to termination in accordance with Clause 12 or any other provision of these Terms and Conditions.

4. Support Services

4.1 The Provider shall provide the Support Services to the Customer during the Term.

4.2 The Provider shall provide the Support Services in accordance with the standards of skill and care reasonably expected from a leading service provider in the Provider's industry.

4.3 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under the Contract is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

5. Third Party Software supply

5.1 The Provider shall supply the Third Party Software to the Customer by the means and in accordance with the timetable specified in the Statement of Work; providing that if there is no means specified, the Third Party Software shall be supplied by digital download, and if there is no timetable specified, the Third Party Software shall be supplied promptly following the date of the Statement of Work.

5.2 Unless the parties expressly agree otherwise, the Third Party Software shall be supplied in executable form only.

5.3 The Provider shall ensure that a copy of the Third Party Software Licence is supplied or otherwise made available to the Customer upon or before the parties agree to the supply of the corresponding Third Party Software, whether by means of the Third Party Software Vendor's website or otherwise.

- 5.4 The Customer shall be responsible for ensuring that the Customer's use of the Third Party Software is properly licensed.
- 5.5 The parties acknowledge that the Customer's rights to use the Third Party Software, and the restrictions on the Customer's use of the Third Party Software, shall be as set out in the Third Party Software Licence.
- 5.6 The Customer must abide by the terms of the Third Party Software Licence and ensure that all persons using the Third Party Software supplied by the Provider to the Customer abide by the terms of the Third Party Software Licence.
- 5.7 The Provider acknowledges that the Third Party Software Licence creates rights and obligations between the Customer and the Third Party Software Vendor, and that the Provider is not a party to the Third Party Software Licence.

6. Customer obligations

- 6.1 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to the Provider, or procure for the Provider, such:
 - (a) co-operation, support and advice;
 - (b) information and documentation; and
 - (c) governmental, legal and regulatory licences, consents and permits,as are reasonably necessary to enable the Provider to perform its obligations under the Contract.
- 6.2 The Customer must provide to the Provider, or procure for the Provider, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by the Provider to enable the Provider to perform its obligations under the Contract.

7. Charges

- 7.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions.
- 7.2 If the Charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to the Provider any Charges in respect of Services performed in breach of this Clause 7.2.
- 7.3 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated inclusive of any applicable value added taxes.
- 7.4 The Provider may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation, providing that no such variation shall result in an aggregate percentage increase in the relevant element of the Charges during the Term that exceeds 2% over the percentage increase, during the same period, in the Retail Prices Index (all items) published by the UK Office for National Statistics.

8. Payments

- 8.1 The Provider shall issue invoices for the Charges to the Customer before contract of work commences.
- 8.2 The Customer must pay the Charges to the Provider within the period of 2 days following the receipt of an invoice issued in accordance with this Clause 8.
- 8.3 The Customer must pay the Charges by debit card, credit card, direct debit, bank transfer (using such payment details as are notified by the Provider to the Customer from time to time).
- 8.4 If the Customer does not pay any amount properly due to the Provider under these Terms and Conditions, the Provider may:
 - (a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
 - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

9. Data protection

- 9.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.
- 9.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Contract.
- 9.3 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to the Contract, the Personal Data of data subjects falling within the categories specified in REFERENCE TARGET REMOVED and of the types specified in REFERENCE TARGET REMOVED; and the Provider shall only process the Customer Personal Data for the purposes specified in REFERENCE TARGET REMOVED.
- 9.4 The Provider shall only process the Customer Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 9.
- 9.5 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to any place outside the European Economic Area), as set out in these Terms and Conditions or any other document agreed by the parties in writing.
- 9.6 Notwithstanding any other provision of these Terms and Conditions, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 9.7 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 9.8 The Provider and the Customer shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data, including those measures specified in REFERENCE TARGET REMOVED.

- 9.9 The Provider must not engage any third party to process the Customer Personal Data without the prior specific or general written authorisation of the Customer. The Provider is hereby authorised by the Customer, as at the Effective Date, to engage those third parties identified in, or falling within the processor categories specified in, REFERENCE TARGET REMOVED to process the Customer Personal Data. In the case of a general written authorisation, the Provider shall inform the Customer at least 7 days in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Customer objects to any such changes before their implementation, then the Provider must not implement the changes. The Provider shall ensure that each third party processor is subject to the same legal obligations as those imposed on the Provider by this Clause 9.
- 9.10 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.
- 9.11 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws.
- 9.12 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 9 and the Data Protection Laws.
- 9.13 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.
- 9.14 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Provider's processing of Customer Personal Data with the Data Protection Laws and this Clause 9. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 9.14.
- 9.15 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under these Terms and Conditions, then the parties shall use their best endeavours promptly to agree such variations to these Terms and Conditions as may be necessary to remedy such non-compliance.

10. Warranties

- 10.1 The Provider warrants to the Customer that:
- (a) the Provider has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions;
 - (b) the Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under these Terms and Conditions; and

- (c) the Provider has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.
- 10.2 The Customer warrants to the Provider that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.
- 10.3 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Contract will be implied into the Contract or any related contract.

11. Limitations and exclusions of liability

- 11.1 Nothing in these Terms and Conditions will:
 - (a) limit or exclude any liability for death or personal injury resulting from negligence;
 - (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
 - (c) limit any liabilities in any way that is not permitted under applicable law; or
 - (d) exclude any liabilities that may not be excluded under applicable law.
- 11.2 The limitations and exclusions of liability set out in this Clause 11 and elsewhere in these Terms and Conditions:
 - (a) are subject to Clause 11.1; and
 - (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.
- 11.3 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.
- 11.4 Neither party shall be liable to the other party in respect of any loss of revenue or income.
- 11.5 Neither party shall be liable to the other party in respect of any loss of use or production.
- 11.6 Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.
- 11.7 Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software.
- 11.8 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

12. Termination

- 12.1 Either party may terminate the Contract by giving to the other party at least 7 days' written notice of termination.

- 12.2 Either party may terminate the Contract immediately by giving written notice of termination to the other party if the other party commits a material breach of these Terms and Conditions.
- 12.3 Either party may terminate the Contract immediately by giving written notice of termination to the other party if:
- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Contract); or
 - (d) if that other party is an individual:
 - (i) that other party dies;
 - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.

13. Effects of termination

- 13.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 5.4, 5.5, 5.6, 5.7, 8.2, 8.4, 9.1, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 9.11, 9.12, 9.13, 9.14, 9.15, 11, 13 and 15.
- 13.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Contract shall not affect the accrued rights of either party.
- 13.3 Within 30 days following the termination of the Contract for any reason:
- (a) the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before the termination of the Contract; and
 - (b) the Provider must refund to the Customer any Charges paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of the Contract,

without prejudice to the parties' other legal rights.

14. Subcontracting

- 14.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Provider may subcontract any of its obligations under the Contract.
- 14.2 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.

15. General

- 15.1 No breach of any provision of the Contract shall be waived except with the express written consent of the party not in breach.
- 15.2 If any provision of the Contract is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Contract will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- 15.3 The Contract may not be varied except by a written document signed by or on behalf of each of the parties.
- 15.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under these Terms and Conditions.
- 15.5 The Contract is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Contract are not subject to the consent of any third party.
- 15.6 Subject to Clause 11.1, these Terms and Conditions shall constitute the entire agreement between the parties in relation to the subject matter of these Terms and Conditions, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 15.7 The Contract shall be governed by and construed in accordance with English law.
- 15.8 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract.

STATEMENT OF WORK

1. Specification of Support Services

Installation services, configuration services, integration services, the application of updates and upgrades, helpdesk provision, issue investigation and issue resolution in relation to the Supported Software and the Supported Hardware, providing that the Support Services shall exclude any training services.

By commencing with this support plan or ticket the parties have indicated their acceptance of this Statement of Work together with the terms and conditions attached to this Statement of Work, providing that if there are no terms and conditions attached to this Statement of Work, the parties agree that this Statement of Work shall be governed by the terms and conditions most recently agreed by the parties in writing.