codeframe

Software Support
Terms and Conditions
v1.0.4
October 2022

Definitions

Agreement means the Software Support Agreement between Codeframe Limited, Registered in England & Wales No 11801099 (Codeframe, we, us) and the 'Customer' as set forth in the **Workflow Report**.

Workflow Report means the document emailed to the Customer at the end of each month detailing the current agreed level of support, associated costs and previous month's support and development activity

Software Support means the consultancy services provided by Codeframe to the Customer under 'Scope of Services'.

Prevailing Rate shall be the rate charged for the time being by Codeframe for Software Support.

Customer means the person, company or entity specified in the invoices raised for receiving software support from us.

Intellectual Property Rights means all patents, rights to inventions, copyright and related rights, trade marks and services marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

1. **Terms**
   1.1. This Agreement shall become effective on the date upon which it is accepted by Codeframe. Unless agreed in writing otherwise, this Agreement shall remain in full force and effect for a one (1) year period at the Prevailing Rate charged by Codeframe and shall be automatically renewed for a further period of one year, unless either party gives written notice at least ninety (90) days prior to the renewal date that it does not wish to continue with this Agreement.
   1.2. Unless agreed in writing otherwise, the Customer shall pay in advance a support fee at the Prevailing Rate in the first year. Subject to Clause 1.1, subsequent years will be automatically renewed and paid by the Customer in advance at the same rate as the previous year plus a price increase calculated as the Consumer Price Index in the previous January, + 2%

1.3.   In consideration of the rights and obligations contained in this Agreement, the Customer shall pay the support fee without any right of deduction or set-off.

2.   **Scope of Services**

2.1.   Codeframe's Standard Software Support Service is limited to support during our regular working hours (09.00 to 17.30, Monday to Friday, excluding Public Holidays and the Christmas shutdown from 24th December to 1st January inclusive). Telephone support shall consist of advice and guidance to the Customer on installation and operation of the software, common operation methods and any other matters relating to software supplied by Codeframe and covered by this Agreement

2.2.   Requests for support should be sent to support@codeframe.co.uk or by calling +44(0)118 324 6442

2.3.   Codeframe's Premium Software Support Service extends our support service to outside of normal office hours and at weekends.

2.4.   Minor revisions, technical fixes and maintenance patches, subject to availability from the software author(s), manufacturers or distributors.

2.5.   Notwithstanding the Software Support provided by Codeframe under this Agreement, the Customer is reminded that no representation and/or warranty is given by Codeframe guaranteeing that a solution will be found to any problem brought to its attention. Codeframe's obligations are limited to the provision of advice and guidance only.

2.6.   Codeframe can also provide remote access support either using a product specified by the Customer or using Codeframe's preferred method,

2.7.   Hosting of the software within one or more datacentre facilities as selected by Codeframe,

2.8.   Daily offsite backup service,

2.9.   Weekly data restoration testing from the backups

3.   **Customer Obligations**

3.1.   As a condition of receiving the support services set out in this Agreement, the Customer must:

3.1.1.   promptly load and test all software provided by Codeframe.

3.1.2.   perform all reasonable software tests requested by Codeframe in the event of software problems.

3.1.3.   provide on request written reports of software problems by email.

3.1.4.   provide Codeframe with complete cooperation in resolving any software problems;

3.1.5.   use any software in accordance with the suppliers' operating instructions;

3.1.6.   limit direct access to Codeframe's support service to designated Customer staff who have received appropriate training;

3.1.7. ensure that only properly trained employees operate or use the system in accordance with the operating instructions;

3.1.8. not make any modifications or additions to the software or system, except with Codeframe's prior written consent;

3.1.9. agree to treat as proprietary to Codeframe and confidential all information, data, drawings, specifications, documentation, software listings, source or object code which Codeframe may have imparted and may from time to time impart to the Customer relating to the software support services. The Customer hereby agrees that it shall use the same solely in accordance with the provisions of this Agreement and that it shall not at any time during or after the expiry or termination of this Agreement disclose the same, whether directly or indirectly to any third party without Codeframe's prior written consent.

3.1.10. ensure that, where mutually agreed, remote access to the Customer's computer systems is available to Codeframe.

4. **Services not covered by this Agreement**

4.1. Development of software functionality that has

4.1.1. not yet been completed,

4.1.2. not yet been requested,

4.1.3. previously accepted as existing

4.1.4. remained untested by the Customer more than 30 days after deployment

4.2. Problems and questions arising, in the reasonable opinion of Codeframe, from operation of the software outside its design specification.

4.3. Support services provided outside the Customer's agreed Support coverage hours, and any consultations provided at any time.

4.4. Services in respect of defects or errors resulting from any modifications or enhancements to the software not made by Codeframe or made without the prior written consent, or resulting from incorrect use of the software.

4.5. Codeframe is not obliged to provide support where any user is not using a current version of any supporting software or if the Customer fails to maintain the software at Codeframe's specified release level (unless expressly agreed in advance by Codeframe).

4.6. Codeframe will only undertake responsibility for software on a designated hardware system if the hardware is covered by this Agreement or is the subject of a separate hardware maintenance agreement between the manufacturer of the hardware and a reputable third party maintainer.

4.7. Major new software versions or releases.

4.8. Codeframe is not obliged to support the software if malfunctions are due to incorrect use of the software or for any reason external to the software

including, but not limited to, failure or fluctuation of electrical supplies, hardware failures, accidents or natural-disasters.

4.9. Should the authors of the software make such changes that require 3rd party modules to be updated or purchased, the Customer must purchase or upgrade such software or risk losing functionality as a result. No claim can be made against Codeframe or the appropriate author for reimbursement.

5. Charges

5.1. Unless agreed in writing otherwise, the annual Software Support charge shall be invoiced once each year and shall be paid by the Customer on or before the first day of the Agreement or immediately upon receipt of the invoice, whichever is later.

    5.1.1. If the said invoice is not paid on or before the first day of the Agreement, Codeframe reserves the right to charge the Customer a £250 setup fee.

5.2. Codeframe reserves the right to charge the Customer for the supply of media and all taxes, duty, handling and shipping costs relating to the supply of software upgrades which will be transferred at cost.

5.3. Codeframe reserves the right to charge the Customer the current daily rate at the time for time spent investigating problems which fall outside Software Support as defined in this Agreement.

5.4. In consideration of the rights and obligations contained in this Agreement, The Customer shall pay the Fee without any right of deduction or set-off.

6. Limitation of Liability

6.1. Nothing in this Agreement shall limit or exclude the liability of either Party in respect of death or personal injury resulting from negligent acts or omissions or for fraud or breach of confidentiality obligations or any other liability which cannot be excluded or limited at law.

6.2. Neither Party shall be liable to the other Party for any:

    6.2.1. loss of profit; or

    6.2.2. loss of business and/or goodwill;

    6.2.3. loss of anticipated savings; or

    6.2.4. loss or corruption of data or information; or

    6.2.5. any special, indirect or consequential loss, costs, damages, charges or expenses.

6.3. Save for the indemnities granted under this Agreement, which shall be unlimited, and subject to Clauses 6.1 and 6.2, the aggregate liability of Codeframe in respect of any claim, loss, damage, costs or expenses arising out of the performance of its obligations under this Agreement (whether in contract, tort (including negligence or breach of statutory duty) or otherwise) shall be limited to the total value of the recurring Charges paid or payable by

the Client to Codeframe pursuant to this Agreement in the twelve (12) month period immediately preceding the relevant claim or £1,000,000 whichever is the lower.

6.4.   Codeframe shall not be liable for any damages whatsoever to the Client's Hardware or property at the Client Premises resulting from the installation, configuration, repair, or removal of Hardware carried out by Codeframe or by its contractors unless such damage is caused by Codeframe's wilful misconduct or negligence and subject always to the limitations of liability in Clause 6.3.

6.5.   Except as expressly set out in this Agreement, all representations, warranties, terms and undertakings, express or implied by statute, common law or otherwise (including those relating to quality and fitness for purpose) are hereby expressly excluded to the extent permitted by applicable law.

6.6.   The Customer will indemnify and defend Codeframe and its employees in respect of any third party claims which arise from any performance by Codeframe carried out on the instructions of the Customer or the Customer's authorised representatives.

6.7.   The Customer will also indemnify Codeframe in respect of any losses or expenses incurred by Codeframe as a result of the Customer's failure to maintain adequate current licences for any third party software which Codeframe needs to use.

7.   Data Protection

7.1.   The Customer and Codeframe further agree to handle all personal data in accordance with all applicable data protection legislation and in particular the UK Data Protection Act 2018 or any subsequent amendment thereto, or replacement legislation under English law.

8.   Miscellaneous

8.1.   If any provision of this Agreement shall be held invalid, illegal or unenforceable for any reason, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

8.2.   Failure by the Customer to perform an obligation or covenant under this Agreement shall constitute a default. In the event of a default, Codeframe may at its sole discretion terminate this Agreement immediately upon written notice to the Customer.

8.3.   With regard to any dispute which give rise to the Customer commencing legal proceedings against Codeframe in connection with or arising out of this Agreement, this Agreement is governed by the laws of England and Wales to the exclusive jurisdiction of whose courts the parties submit, but this shall not prevent Codeframe from starting proceedings in any jurisdiction where the Customer are carrying on business.

8.4. The Customer shall not assign or otherwise transfer all or part of this Agreement without written consent of Codeframe.

8.5. Force Majeure: Codeframe shall not be responsible for any failure to provide software support services or perform any obligation under this Agreement because of any act of God, strike, lock-outs or other industrial disputes (whether involving the workforce of Codeframe (or any other party) or compliance with any law of governmental or any other order, rule, regulation or direction, accident, fire, flood, storm or default of suppliers, work stoppage, war, riot or civil commotion, equipment or facilities shortages which are being experienced by providers of telecommunication services generally, or other similar events beyond its reasonable control.

8.6. All Intellectual Property Rights in any software shall remain with their respective authors and no interest or ownership therein is conveyed to the Customer under this Agreement. Nothing in this Agreement shall be construed to mean, by inference or otherwise, that the Customer has any right to obtain source code to which they do not have clear, uncontested rights to.

8.7. Whereby any custom modifications are made to the Software, whether charged to the Customer or provided free of charge, the Intellectual Property Rights in such modifications shall remain entirely with the author of said software.

8.8. We may occasionally monitor and record calls made to or by us for the purpose of training and improving customer care services, including complaint handling.