

Terms and Conditions

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Terms & conditions

1. Definitions

- 1.1. "West View IT Limited" means West View IT Limited whose registered office is, Office 2, 1st Floor, 12 Bury Street, Stowmarket, Suffolk IP14 1HA
- 1.2. "Customer" means the person who places the order and uses the Service.
- 1.3. "Agreement" or "Service Agreement" means these Terms, together with the Quotation.
- 1.4. "Service Level Agreement" means the document describing how the Service is provided by West View IT Limited and is to be read in conjunction with these Terms and Conditions.
- 1.5. "Start Date" means the date when the Service commences.
- 1.6. "Consumer" means a person who enters into a contract other than in the course of a business.
- 1.7. "Customer Equipment" means apparatus belonging to the Customer which is supported under this Agreement.
- 1.8. "West View IT Limited Equipment" means apparatus belonging to West View IT Limited which is supported under this Agreement.
- 1.9. "Charges" means the West View IT Limited Price List in force and available at customer request
- 1.10. "Site" means the Customer Site where the Service is to be received.
- 1.11. "Service" means installation, connection and supply of the Service described under "Service Specification" on the Order Form.
- 1.12. "Phone Support" means support provided by use of a supplied phone number.
- 1.13. "Email Support" means support provided by use of a supplied email address.
- 1.14. "Remote Support" means a data connection established by West View IT Limited to the Customer's computer via an Internet connection.
- 1.15. "On-site Support" means support provided at the Customer's Site.
- 1.16. "Third Party" means any company that is not West View IT Limited or the Customer.

2. Commencement and duration

- 2.1. This Agreement will commence on the Start Date and shall continue for a Fixed Term of 12 months, this will then renew for a further period of 12 months on the anniversary of the start date unless notice has been provided in line with clause 13

3. Provision of the service

- 3.1. West View IT Limited shall provide or procure the provision of the Service to the Customer in accordance with the terms of this Agreement
- 3.2. Except as otherwise expressly permitted under this Agreement, the Customer may not:
 - 3.3.1 redistribute, copy, or transfer rights to the use of the Service to any Third Party;
 - 3.3.2 disclose details of the Service to any Third Party without West View IT Limited's prior written consent; or
 - 3.3.3 use the Service except in conjunction with the Equipment and Sites supported under this Agreement.
- 3.4 A 2 week lead time is required for any hardware/software and change requests, West View IT Limited shall use all reasonable endeavours to procure the provision of the Service on or before the preferred Start Date, although every effort will be made to provide a quicker response, where possible. Any date provided is an estimate only and West View IT Limited shall not be liable for any failure to meet such date.
- 3.5 Commencement of the Service may be subject to a survey carried out by West View IT Limited and the Service may not be provided where the survey carried out, is incomplete, unsatisfactory or identifies any potential future breach of customer obligations or identifies a significant variance from the information provided on which the quotation has been based. Should any of these circumstances occur West View IT Limited reserves the right to re-issue the quotation accordingly.
- 3.6 Any material change to the scope, specification, or delivery of the Services shall be subject to a written Change Request agreed between the parties. Changes may result in adjustments to Charges and/or delivery timelines.



4 Use of the service

- 4.1 The Customer agrees that West View IT Limited is to provide support services to the Customer relating to information technology and West View IT Limited agrees to provide such services upon these terms and conditions.
- 4.2 The Service is available by telephoning 01449 798119 or by sending email to helpdesk@westviewit.co.uk or by raising a support ticket through <https://support.westviewit.co.uk>.
- 4.3 West View IT Limited will endeavour to keep scheduled interruptions outside of working hours where possible, however, West View IT Limited may have to interrupt the Service or change the specification of the Service for operational reasons (such as maintenance or Service upgrades) or because of an emergency. In these circumstances where possible West View IT Limited will give notice to the Customer of any such interruption however, the Customer shall have no claim against West View IT Limited for any such interruption.
- 4.4 The Customer must not (and ensure its users do not) use the Service:
 - 4.4.1 in a way that does not comply with the terms of any legislation or any licence applicable to the Customer or that is any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;
 - 4.4.2 in connection with carrying out a fraud or criminal offence against West View IT Limited or any other service provider;
 - 4.4.3 to send or procure the sending of any unsolicited advertising or promotional material other than in the case of the Customer and its own customers;
 - 4.4.4 in a way that does not comply with any instructions West View IT Limited has given;
 - 4.4.5 in a way that in West View IT Limited's reasonable opinion could materially affect the quality of any service provided by West View IT Limited; or
 - 4.4.6 in a way that in West View IT Limited's reasonable opinion could affect the experience of other users; including but not limited to; persistent heavy use of the service.
- 4.5 The Customer acknowledges and accepts the following technical limits relating to the Service:
 - 4.5.1 an Internet connection is required in order to provide Remote Support;
 - 4.5.2 a permanent Internet connection is required for the monitoring system to report detected issues in a timely manner;
 - 4.5.3 the Service may not be available to Sites where the Internet connection speed is of poor quality or is regularly interrupted;
 - 4.5.4 the Service may not be available to Sites where only a dial-up connection is available;
 - 4.5.5 if the reported issue involves an interruption to the Internet connection, the Customer may be required to carry out instructions from West View IT Limited in order to restore the connection.
 - 4.5.6 some technical limitations may not become apparent until after the Service has been installed and working for some time. In such circumstances the Service for some Customers may need to be withdrawn; and
 - 4.5.7 The Customer accepts that response time may be increased at peak times.
- 4.6 In the circumstances referred to in Clause 4.4 West View IT Limited will have no liability to the Customer relating to the provision of the Service (or West View IT Limited's inability to provide the Service), the performance of the Service, its effect on other services or the withdrawal of the Service.
- 4.7 All support requests will be handled in line with the West View IT Limited Service Level Agreement which outlines response times and how requests are handled.



- 4.8 The Customer will co-operate with West View IT Limited's reasonable requests for information regarding the Customer's use of the Service and supply such information without delay.

5 Charges

- 5.1 Charging will begin on the Start Date for the Service. Charges will be calculated in accordance with details recorded by, or on behalf of, West View IT Limited as stipulated in this agreement.
- 5.2 The Customer will pay the Charges within 30 days of the date of West View IT Limited's invoice. West View IT Limited may charge daily interest on late payments at a rate equal to 8% per annum.
- 5.3 All Charges exclude Value Added Tax (VAT) at the applicable rate, unless otherwise stated.
- 5.4 West View IT Limited may also make an additional charge (on the basis of additional charges detailed in the appended price list and in the following circumstances:
 - 5.4.1 where a fault relates to equipment or software other than that supported as part of the Service;
 - 5.4.2 where additional equipment is added to the Site, the additional cost will be calculated and invoiced pro-rata;
 - 5.4.3 where On-Site Support is not included in the chosen Service, a call-out charge and an hourly rate will be incurred;
 - 5.4.4 where the Disaster Recovery process applies in the event of a serious outage caused by, but not limited to, hardware failure, fire, flood, theft, or explosion;
 - 5.4.5 where adequate and up-to-date virus protection is not in place
- 5.5 A call-out charge will still be incurred where West View IT Limited are unable to gain access to the Site to carry out the work they were sent to Site to perform;
- 5.6 Charges can be paid by either Bank Transfer or Direct Debit
- 5.7 The Customer understands and agrees that if the Customer fails to make payments of the Charges when they are due, West View IT Limited will suspend the Service, in part or in full, until payment is received in full.
- 5.8 West View IT Limited reserves the right to terminate the provision of the Service to the Customer immediately if the Customer is in default of payment. Such termination is without prejudice to the rights of either party accrued prior to the date of termination.
- 5.9 West View IT Limited reserves the right to vary the Charges from time to time. West View IT Limited will notify the Customer of any variations.
- 5.10 West View IT Limited will carry out an Annual Review of the Charges under this Agreement on the 1st of April in each year, this clause is applicable to all agreements that commenced on a start date prior to the 1st of November of the preceding year of the review falling due.
- 5.11 Following each Review Date, West View IT Limited may, at its discretion, propose an adjustment to the Charges to reflect changes in the cost of providing the Services, inflation, market conditions, or any other relevant factors. West View IT Limited shall notify the Customer in writing of any proposed adjustment no less than 30 days prior to the effective date of the revised Charges (the "Adjustment Notice").
- 5.12 Unless the Customer provides written notice of objection to the proposed adjustment within 14 days of receipt of the Adjustment Notice, the revised Charges shall be deemed accepted and shall take effect from the date specified in the Adjustment Notice.
- 5.13 If the Customer raises a timely objection, the parties shall enter into good faith discussions to seek to agree on the revised Charges. If the parties are unable to reach agreement within [30] days of the Customer's objection, either party may refer the matter to the dispute resolution procedure, see Clause 12.



- 5.14 Pending resolution of any dispute, West View IT Limited shall continue to supply the Services, and the Customer shall continue to pay the Charges previously in effect, without prejudice to any retrospective adjustment agreed or determined through the dispute resolution process.

6 Customer obligations

- 6.1 To enable West View IT Limited to carry out its obligations under this Agreement, the Customer will at all reasonable times provide West View IT Limited employees, and anyone acting on West View IT Limited's behalf, who produces a valid identity card, with access to any Site and any other premises outside of West View IT Limited's control.
- 6.2 West View IT Limited will normally only require access during its usual working hours but may, on reasonable notice, require the Customer to provide access at other times.
- 6.3 If through no fault of West View IT Limited, West View IT Limited is unable to gain access to the Site, West View IT Limited will notify the Customer and may raise an abortive visit charge of £120.
- 6.4 The Customer hereby gives permission to West View IT Limited and its employees, agents or contractors to:
- 6.4.1 execute any works on the Premises for, or in connection with, the Service;
 - 6.4.2 enter the Premises to inspect any Customer Equipment kept on the Site or elsewhere for the purposes of providing the Service.
- 6.5 Where this Agreement or the Service is terminated for any reason West View IT Limited will be entitled to enter the Site to remove any West View IT Limited Equipment installed there or uninstall any software installed by West View IT Limited for use of the Service. If West View IT Limited is denied access to the Site or otherwise prevented from recovering any West View IT Limited Equipment within 7 days of a written request, the Customer will be liable to pay West View IT Limited the replacement cost (at West View IT Limited's then-current list price) of any West View IT Limited Equipment not returned, plus any reasonable costs of recovery.
- 6.6 The Customer undertakes:
- 6.6.1 to comply with all instructions West View IT Limited may notify to the Customer for use of the Service;
 - 6.6.2 not to allow the Customer Equipment supported by this Agreement to be repaired or maintained other than by an unauthorised representative of West View IT Limited;
 - 6.6.3 not to damage, modify or in any way interfere with the Customer Equipment supported under this Agreement; and
 - 6.6.4 not to add to or remove Customer Equipment supported under this Agreement without first notifying West View IT Limited to ensure that doing so will not adversely affect other Customer Equipment.
- 6.7 The Customer agrees that West View IT Limited must first approve any modifications to the system such as the addition of hardware or software. This must be in written form.
- 6.8 The Customer agrees to have adequate and up-to-date protection in place against viruses, spyware and other malicious threats, as deemed appropriate by West View IT Limited.
- 6.9 The Customer shall implement and maintain appropriate administrative, physical, and technical safeguards to protect their systems, software, and data. West View IT Limited shall not be liable for any failure of the Service caused by inadequate security measures at the Customer's premises or within its infrastructure.
- 6.10 The Customer agrees to have an adequate and regular backup process in place as deemed appropriate by West View IT Limited.
- 6.11 The Customer agrees that the Service is not a means for West View IT Limited to carry out routine admin tasks for the Customer. Where help is requested regularly for the same task, West View IT Limited may provide the customer with written instructions for future occurrences.



7 West View IT Limited obligations

- 7.1 West View IT Limited shall supply the Customer with the relevant information to enable the Customer suitably to prepare the Site for use of the Service.
- 7.2 West View IT Limited will:
 - 7.2.1 provide the Customer with Phone Support between the hours agreed in the associated agreement;
 - 7.2.2 provide the Customer with Email Support between the hours agreed in the associated agreement;
 - 7.2.3 provide the Customer with Remote Support between the hours agreed in the associated agreement;
 - 7.2.4 provide On-Site Support for up to 8 hours per day during weekdays at the Customer's Site (if specified as part of the agreement) alternately it will be charged at the agreed hourly rate.

8 Intellectual property rights

- 8.1 The Customer acknowledges that the Customer shall have no rights to the intellectual property rights arising as a result of any uses of the Service.
- 8.2 Unless otherwise agreed in writing, all deliverables, scripts, configurations or materials created by West View IT Limited in the course of providing the Services shall remain the sole property of West View IT Limited.
- 8.3 Any and all intellectual property right used or embodied in or in connection with the Service shall be and remain the sole property of West View IT Limited or West View IT Limited's licensors. No title or intellectual property rights therein or in any modification or extension thereof shall pass to the Customer unless specifically stated under this Agreement.
- 8.4 The Customer acknowledges such title, interest and rights and the Customer shall not take any action to jeopardise, limit or interfere in any manner with West View IT Limited's (or any Third Party supplier's) title, interests or rights with respect to the Service, included but not limited to, using West View IT Limited's trademarks or trade name.
- 8.5 Where software is provided to enable the Customer to use the Service, West View IT Limited grants the Customer, for the duration of this Agreement, a non-exclusive, non-transferrable licence to use the software for that purpose.

9 Warranties

- 9.1 The Service will be provided without warranty or representation of any kind, whether express or implied. West View IT Limited disclaims and excludes all such warranties and representations, including without limitation, any warranty or representation that the Service is free of defects of satisfactory quality, fit for a particular purpose or non-infringing of Third Party rights. The Customer accepts all risk and liabilities associated with the use of the Service.
- 9.2 The Customer agrees that West View IT Limited is not responsible for faults with Third Party Software that West View IT Limited has not developed (eg. Windows). West View IT Limited will use reasonable endeavours to keep the Customer informed of any fixes released by the Third Party.

10 Limitation of liability

- 10.1 Nothing in this Agreement shall exclude or limit liability for death or personal injury resulting from the negligence of either party or their servants, agents or employees.
- 10.2 Neither party shall be liable in contract, tort, pre-contract or other representations (other than fraudulent or negligent misrepresentations) arising out of or in connection with this Agreement for:
 - 10.2.1 any economic losses (including, without limitation, loss of revenue, profits, contracts or business); or
 - 10.2.2 any special, indirect or consequential losses or any destruction of data, arising out of or in connection with the provisions of this Agreement.



- 10.3 Subject to Clauses 10.1 and 10.2 "West View IT Limited's total aggregate liability in respect of all claims, losses, or damages, whether in contract, tort (including negligence), or otherwise, shall in no event exceed the total Charges paid by the Customer for contracted service provision (with the exclusion of costs relating to the purchasing of any assets) under this Agreement in the 12 months preceding the date the claim arose.
- 10.4 To the fullest extent permitted by applicable law, West View IT Limited shall not be liable for any indirect, incidental, special, consequential, or punitive damages, or any loss of profits or revenues, whether incurred directly or indirectly, or any loss of data, use, goodwill, or other intangible losses, resulting from any cyber attack or security breach.
- 10.5 Each provision of this Agreement, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.
- 10.6 The Customer indemnifies West View IT Limited and its suppliers against any claims or damages arising from the Customer's use of the Service.

11 Force majeure

- 11.1 If either party is unable to perform any obligation under this Agreement because of a matter beyond the party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes (whether or not involving that party's employees), or acts of local or central Government or other competent authorities, or events beyond the reasonable control of that party's suppliers, the party will have no liability to the other for the failure to perform.
- 11.2 If any of the events detailed in Clause 11.1 continue for more than 3 months either party may serve notice on the other terminating this contract.

12 Dispute Resolution

- 12.1 Initial Resolution - If a dispute arises out of or in connection with this Agreement or the performance, validity, or enforceability of it (a "Dispute"), the parties shall use all reasonable endeavours to resolve the matter amicably and in good faith. In the first instance, the Dispute shall be referred to the Customer's [Contract Manager/Authorised Representative] and West View IT Limited's [Service Delivery Manager/Account Manager] for resolution through informal discussions.
- 12.2 Escalation - If the Dispute is not resolved within 10 Business Days of referral under Clause 1, it shall be escalated to a senior representative of each party with authority to settle the Dispute. The parties shall meet (in person or virtually) within [10] Business Days of such escalation and seek to resolve the Dispute.
- 12.3 Mediation - If the Dispute is not resolved within 20 Business Days of escalation under Clause 2, the parties agree to refer the matter to mediation in accordance with the CEDR (Centre for Effective Dispute Resolution) Model Mediation Procedure. Unless otherwise agreed, the mediator shall be nominated by CEDR, and the mediation shall take place in London, England. The costs of the mediation shall be shared equally between the parties.
- 12.4 Court Proceedings - If the Dispute is not resolved within 30 days after the appointment of the mediator, or if either party refuses to participate in mediation, either party may commence legal proceedings. Nothing in this clause shall prevent either party from seeking interim or injunctive relief from the courts at any time.
- 12.5 Governing Law and Jurisdiction - This Agreement and any Dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute or claim.

13 Termination

- 13.1 The Customer may terminate this Agreement after the initial Fixed Term by giving written notice to West View IT Limited of at least 3 months.
- 13.2 Where West View IT Limited procures third-party licences (including Microsoft licences) on the Customer's behalf and those licences are committed for a minimum term or are otherwise non-cancellable. Upon termination of this agreement for whatsoever reason, including a breach by either party, during its term, the Customer shall remain liable for the non-cancellable third-party charges that either the Customer or West





View IT Limited is obliged to pay for the remainder of the relevant commitment, to the extent that West View IT Limited cannot reasonably mitigate (including by reallocation or assignment where permitted).

- 13.3 Either party may terminate this Agreement or the Service provided under it immediately, on notice, if the other:
- 13.3.1 commits a material breach of this Agreement, which is capable of remedy, and fails to remedy the breach within 15 days of a written notice to do so;
 - 13.3.2 is repeatedly in breach of this Agreement; or
 - 13.3.3 is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors or goes into voluntary (otherwise than for reconstruction or amalgamation), or compulsory liquidation or a receiver or administrator is appointed over their assets.
- 13.4 If any of the events detailed in Clause 12.2 occur as a result of Customer default, West View IT Limited may suspend the Service without prejudice to its rights to terminate this Agreement. Where the Service is suspended under this Clause 12.3 the Customer must pay the Charges for the Service until this Agreement is terminated.
- 13.5 West View IT Limited may terminate this Agreement immediately upon written notice to the Customer if:
- 13.5.1 West View IT Limited is ordered to cease the Service by a competent regulatory authority;
 - 13.5.2 the Customer fails to comply with any of the material terms or conditions of this Agreement and the Customer does not remedy such failure within 15 days of a request to do so.
- 13.6 Upon termination of this Agreement the Customer shall immediately stop using the Service and the Customer's right to use the Service shall immediately terminate.
- 13.7 If either party delays in acting upon a breach of this Agreement that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Agreement that waiver is limited to that particular breach.
- 13.8 If the Customer gives notice to terminate, they will not be entitled to any refund of Charges paid to West View IT Limited, unless West View IT Limited is in material breach of this Agreement, where the refund shall be calculated pro-rata on the basis of the remaining period.
- 13.9 Upon termination of this Agreement, West View IT Limited shall provide to the designated incoming provider the necessary credentials to facilitate the migration of the Customer to such provider, subject to payment of West View IT Limited's applicable fees for such transition of services, as applicable.

14 Confidentiality

- 14.1 The parties will keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under or in connection with this Agreement or the Service and will not without the written consent of the other party disclose that information to any person (other than their employees or professional advisors, or in the case of West View IT Limited or their suppliers, who need to know the information in order to provide the Service).
- 14.2 Clause 13.1 will not apply to:
- 14.2.1 any information which has been published other than through a breach of this Agreement;
 - 14.2.2 information lawfully in the possession of the recipient before the disclosure under this Agreement took place;
 - 14.2.3 information obtained from a Third Party who is free to disclose it; and
 - 14.2.4 information which a party is requested to disclose and, if it did not, would be required by law to do so.
- 14.3 Clause 13.1 will remain in effect for 2 years after the termination of this Agreement.



15 Data protection

- 15.1 West View IT Limited and the Customer each agree to comply with their respective obligations under applicable data protection legislation and maintain all relevant registrations, including (in relation to the Customer) such registrations and consents as the Customer should obtain and maintain to enable West View IT Limited to process personal data in connection with the performance by West View IT Limited of its obligations under this Agreement.
- 15.2 The Customer agrees that West View IT Limited may put their name and other details obtained from the Order Form into a computerised directory for internal use and to enable West View IT Limited to provide the Service.
- 15.3 The Customer can view all information held by West View IT Limited about the Customer by logging into <https://support.westviewit.co.uk> with their supplied username and password.
- 15.4 Rights of data subjects will be in accordance with the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018.

16 Notices

- 16.1 Notices given under this Agreement must be in writing and may be delivered by, email, hand, by courier or first class post to the following addresses:
 - 16.1.1 to West View IT Limited, at the address of the West View IT Limited office, or email address, shown on the Order Form or any alternative address which West View IT Limited notifies to the Customer; or
 - 16.1.2 to the Customer at the address to which the Customer asks West View IT Limited to send invoices, the address of the Customer's premises, or, if the Customer is a limited company, its registered address.

17 General provisions

- 17.1 This Agreement (along with quotation and SLA) will constitute the entire agreement between the parties and will supersede all prior and contemporaneous agreements, communications and representations (except for fraudulent or negligent misrepresentations) whether oral or written, between the parties.
- 17.2 A person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 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 that Act.
- 17.3 If any provision of this Agreement (whether in part or in whole) is held by a court of competent jurisdiction to be illegal, invalid or unenforceable the remaining provisions of this Agreement shall remain in full force and effect.
- 17.4 Any waiver of any breach of any provision of this Agreement will not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions of this Agreement.
- 17.5 The Customer may not assign or otherwise transfer, by operation of law or otherwise, this Agreement or any rights or obligations therein without the prior express written consent of West View IT Limited.
- 17.6 The headings to the sections of this Agreement are for convenience only.

