

Circle Terms for G-Cloud 14

Definitions:

We attempt to communicate at all times in clear English avoiding unnecessary jargon. To that end, we use the following legal terms:

You/your refers to your organisation or its representatives.

We/us/our refers to Circle Interactive or its representatives.

Scope of the Services:

On a monthly basis we will ensure your system remains available and we will provide software maintenance, backups and support according to the terms of this agreement.

Hosting

We provide a fully managed service, which includes hosting, automated backups and security upgrades. Our hosting is located in high-security data centres in the UK. It is based on high-performance cloud resources for additional resilience. We manage the operating system and application software, including security upgrades. We also provide automated backups and monitoring.

We guarantee 100% network availability to our servers. However due to the fact that occasional scheduled maintenance to hardware and software may be necessary occasionally we only guarantee 99.9% uptime for your site.

Data Backup and Disaster Recovery

We will perform daily backups of all files and data and ensure the availability of these backups. Circle Interactive will restore your site from a backup version only after discussion with you. On termination of this contract all copies of your data will be permanently removed from our systems.

Software Maintenance

The software maintainers release security updates from time to time. We will keep your installation up to date with minor-version upgrades (e.g. 1.2 to 1.3) and security patches which we aim to apply in a timely manner. Not every release will be required since some may cover minor vulnerabilities in contributed modules that are not in use on your system. Our maintenance does not automatically cover major version upgrades (e.g. 1.x to 2.x).

Support

Circle Interactive will provide technical support for your system comprising and limited to the following:

- Fault diagnosis, analysis and where possible recommendations for correction following a report of a problem to Circle Interactive.

- Provision of the Support Services will, in the first instance, be carried out remotely. If it becomes necessary to carry out further Support Services at your site, such work will be chargeable at our then prevailing daily rate, including reasonable travel costs.
- We will respond to all tickets within normal business hours in accordance with the response times detailed below. A 'response' is defined as: a fix, a plan of action to deal with the problem, or a request for more detailed information.
- We will not provide Support Services outside of our UK business hours of 9am to 5pm, Mondays to Fridays, or on public holidays, unless agreed under the terms set out under "Cover" below.
- Speed of Web Pages is affected by too many variables in the chain between our server and a user's browser therefore we can offer no guarantees regarding this. However, time to first byte (TTFB) is generally sub-1 second from our server environment.

Support Cover

Support will be performed during normal working hours 9am – 5pm UK time. Out-of-hours support services may be provided by prior arrangement and will be charged for at double our hourly rate unless agreed otherwise.

We will provide you with a user account (or accounts) for our support site so that you or your agent can create and track support tickets through this interface and so you can upload images (such as screen shots) relevant to the issue.

We will monitor all tickets created through this system regularly throughout the working day.

We guarantee to respond to all tickets according to the following schedule:

Fault Level	Response Time	Resolution Time
Level 1	2 working hours	8 working hours. If resolution within eight (8) hours is not possible, we will draw up a plan for a solution, and ask you to review and agree to this.
Level 2	4 working hours	16 working hours. If resolution within sixteen (16) hours is not possible, we will draw up a plan for a solution, and ask you to review and agree to this.
Level 3	8 working hours	24 working hours. If resolution within twenty-four (24) hours is not possible, we will draw up a plan for a solution, and ask you to review and agree to this.

Level 1 Fault - means a fault which causes a complete failure of any part of the system;

Level 2 Fault - means a fault which interferes with the normal working of the system and causes you or your clients problems;

Level 3 Fault - means a fault which can be circumvented by the Customer without difficulty or disruption and which does not lead to a loss of data;

We do not guarantee this service level if the support request is sent directly to any staff member or company inbox or reported by phone.

Please note that where we require critical information from the client in order to solve a ticket, any delay in conveying that information back to Circle may impact the response times above.

Support Billing

Support is charged in increments of 15 minutes at our standard support rate. Support is charged on a time and material basis, including investigation and administration of the ticket submission. When reporting a bug in the software, if there is a patch available for the bug, we will apply the patch free of charge. If you want us to write code to fix the bug, this is chargeable work.

Requests for estimates and changes

If you are requesting new functionality or a change to the system, we will discuss the details and give you a quote before beginning implementation.

Security

Network Security

The solution incorporates all traffic being encrypted over Secure Socket Layer (SSL) using an SSL certificate.

We will only use ciphers and protocols that are not deprecated. This means currently we only support TLS 1.2 and above and at least 128 bit ciphers.

Server Security

We operate stripped down systems and have total control over security updates. Access to all resources is restricted to IP addresses owned by Circle Interactive and our infrastructure provider.

We run malware scanning software on all our servers and we will happily submit the system to any penetration testing that is deemed necessary, and comply with any further recommendations that the testing generates.

We will ensure that the servers are fully patched and access restricted to essential/cleared staff.

Your Responsibilities

You will provide all pertinent information relating to the issue, including web browser, operating system and the URL of any pages where the problem exists, through our ticketing system. Screenshots should be provided if these are requested. Remember *HELP* us to help you. **H**ow did it happen? **E**rror message? **L**ink? **P**icture?

You will place all subsequent calls relating to the system only to the agreed support telephone number(s).

You guarantee not to upload any content which is illegal under UK law, which promotes hatred towards persons belonging to any ethnic group, religion or sexual orientation or which infringes on any other party's copyright.

Intellectual Property

You guarantee that all material, both text and images, supplied by you and used in the construction of the web site is your property and free to use without breach of copyright laws. All such material will remain your property.

We guarantee that we have the right to use and distribute all material supplied by Circle Interactive. In some cases this will be our copyright or intellectual property. In the case of some imagery, you will have a non-exclusive licence to use the image as provided by a third party. You will always have a licence to continue using any system we produce for you in its entirety, although this does not amount to owning the intellectual property represented in the underlying code.

Confidentiality

Circle Interactive are committed to protecting your privacy. You may from time to time receive email alerts from us on security issues that we believe may affect you or changes that may be relevant. However, your email address will categorically not be passed on to anyone.

Sometimes we will require access to some of your systems as part of the development process. We guarantee to undertake this under the strictest confidentiality and are always happy to sign any additional confidentiality agreements you may require when this kind of work is taking place.

Both parties will keep secret and not disclose or make use of any confidential information relating to the other and this obligation will remain in force even after termination of this agreement for any reason whatsoever. Circle Interactive shall ensure that all its staff enter into a confidentiality agreement on terms no less onerous than those contained in this agreement.

Any agreement on confidentiality will not apply to information which:

- comes into the public domain through another channel; or
- the disclosing party can prove was in their possession free of restriction prior to this agreement; or
- which is required to be disclosed by court order, legal or regulatory obligation.

The provisions of this confidentiality clause shall survive termination, cancellation or expiry of this agreement.

Data Protection

Both parties undertake to comply with the Data Protection Act 2018, the Telecommunications Data Protection and Privacy Regulations 1999 and all applicable laws and regulations relating to the processing of personal data or privacy or any amendments and re-enactments thereof, and shall ensure that their employees, agents and subcontractors shall observe the provisions of the same.

Circle Interactive agrees that it will have at all times during the term of the Agreement appropriate technical and organisational measures in place to prevent unauthorised or unlawful processing of any personal data provided to it by you. Measures will also be in place to protect this personal data against

accidental loss, destruction or damage. Circle Interactive will also take all reasonable steps to ensure the reliability of any of its staff who will have access to this personal data.

We undertake that we will not process or transfer any personal data outside the UK, without your consent.

Circle Interactive undertakes that upon expiry or termination of this Agreement for any reason it will immediately return or, at your option, destroy any personal data held.

Both parties agree that they will notify the other in the case of any data or other security breach. In the event of such a breach, we may suspend the availability of the site while measures are taken to rectify the situation.

Licensing

The software is licensed under the GNU AGPL 3. You can find details of the licensing at <http://www.gnu.org/licenses/agpl.html>

Liability

We will host and support the specified software as is with no guarantee of suitability to your purpose either explicit or implied. While we will help you report any bugs discovered to the relevant development teams and while we will try to fix any bugs related to modules which we have developed, you should be aware that the software you are using is open source and both the core products and various extensions are developed by a very wide range of third parties.

Nothing in the Contract shall limit or exclude our liability for:

- death or personal injury caused by the negligence of our employees, agents or subcontractors;
- fraud or fraudulent misrepresentation; or
- breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

Subject to any express contractual terms of this agreement, in no event shall either party be liable to the other party for:

- loss of profits;
- loss of business;
- depletion of goodwill or similar losses;
- loss of anticipated savings;
- loss of goods; or
- loss of use,

provided that this clause shall not prevent claims for direct financial loss that are not excluded by any of these categories.

Except for any liability under the indemnities given elsewhere, the total liability of either party, whether in contract, tort (including negligence) or otherwise and whether in connection with this agreement or any collateral contract, shall in no circumstances exceed the value of the contract.

Nothing in this agreement shall limit or exclude the liability of either party for death or personal injury resulting from negligence, fraud, fraudulent misrepresentation, breach of any of the obligations under the Sale of Goods Act 1979 or the Supply of Goods and Services Act 1982, which may not be excluded by contract.

Termination and Duration

There is no fixed term duration for our services and we consider it a rolling contract. You may terminate the agreement by giving us one month's notice. Such notice may be given at any time but no sooner than three months after the sign up date.

We may terminate the agreement by giving you three month's notice. Such notice may be given at any time but no sooner than 12 months after the sign up date.

In either case all files including database dumps will be made available to you in a secure directory within 5 working days of notice being given provided payments on the account are up to date.

Force Majeure

We shall be under no liability to you in respect of anything which, apart from this provision, may constitute breach of this Agreement arising by reason of force majeure, namely, circumstances beyond our reasonable control of which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosions, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority; inability to provide the website as a result of the breakdown of equipment.

Waiver

Failure or neglect by us to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of our rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice our rights to take subsequent action.

Law

The parties agree that the Agreement terms and conditions shall be construed in accordance with English Law.

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Company Registered in England No. 05540067
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