Subscription Terms and Conditions for Umbraco Cloud & Umbraco Heartcore

1. ACCEPTANCE OF SUBSCRIPTION TERMS AND CONDITIONS

1.1 These subscription terms and conditions ("Terms and Conditions") are accepted by ticking off "Accept Terms and Conditions" in the check-out form, or by using the application or services and apply between Umbraco A/S ("Umbraco") and the customer (the "Customer"). If the Customer is a legal person, these Terms and Conditions are accepted on behalf of the Customer. This is a business to business service only and there is no intention to create a contract with any consumer, if you are a consumer and wish to use the services mentioned in these terms then first contact us on contact@umbraco.com.

2. SUBSCRIPTION TERMS AND INVOICING

2.1 The subscription becomes effective upon placement of order and continues to be in effect until terminated in accordance with these Terms and Conditions.

2.2 The subscription period runs monthly. First period is one month from the order date. Subsequent periods are also monthly. Exceptions to the described periods have to be set out in separate agreement or terms for the specific product.

2.3 After placement of order, new customers are entitled to cancel the order free of charge within a period of 14 days.

3. SCOPE AND USE OF SUBSCRIPTION

3.1 In accordance with these Terms and Conditions, the Customer is granted a non-exclusive limited right to use one or more of the listed services determined by the actual order:

Umbraco Cloud - Trial
Umbraco Cloud - Starter
Umbraco Cloud - Standard
Umbraco Cloud - Professional
Umbraco Cloud - Dedicated Resources
Umbraco Heartcore - Trial
Umbraco Heartcore - Mini
Umbraco Heartcore - Starter
Umbraco Heartcore - Professional

Included in the above plans are Umbraco Forms, Umbraco Courier/Deploy and Umbraco TV as listed on www.Umbraco.com.

3.2 The Customer's subscription entitles the Customer to use the Application for the number of users, certified packages, additional modules, environments, domains, Umbraco nodes, media files, etc. specified for each product. If the Customer needs further capacity or functionality, then upon use of any additional users or modules by the Customer or upon any acceptance by Umbraco of any requested increase to entries, users or modules, the subscription will be upgraded automatically and the Customer shall agree to pay the consequential increase in the subscription at the then current rates for such environments, users and modules.

3.3 The Application itself or Umbraco's website provides a list of subscription types and selected additional modules/functions. Some functionalities, services and additional modules may be subject to separate terms and conditions, which must be accepted in addition to these Terms and Conditions before use.

3.4 Versions and upgrades

Umbraco runs a three-digit version control regime e.g. 1.2.3.:

First digit "majors"
Are released typically on a two-year cycle.
There is no automated upgrade process for this however Umbraco strives for a migration path.
Second digit "minors"
Are released between majors and allow for upgrading within the same major.
Upgrades are semi-automatically meaning that you will have to push the upgrade function thus upgrading development site enabling tests prior to pushing the upgrade to live.
This process requires that an Umbraco Cloud Starter adds an extra environment at the going rate.

Third digit "patches"
Are typical maintenance releases including performance enhancements and security batches and runs between minors.
Upgrades of Umbraco are done automatically by Umbraco.
The upgrade process can vary somewhat but can be found in detail at our documentation https://our.umbraco.org/Documentation/Umbraco-Cloud/Upgrades/ including how to opt out of the auto upgrade.

3.5 Non-fair load

If the customer performs tests such as, but not limited to penetration test and load test the customer is obliged to inform Umbraco with a minimum of 5 working days' notice prior to the tests.
Umbraco reserves the right to move the customer to a dedicated resource at the expense of the customer. This right is used when and if the customer's site misbehaves and uses more than its fair share.

3.6 Dedicated Resources

Umbraco offers per the website a dedicated resources set-up

Allow for a lead time up to two hours within business hours for a move to a dedicated resource.
Dedicated resources are typically invoiced in advance to the end of a quarter. Invoicing is done independently from the regular Umbraco Cloud Subscription. This subscription is automatically renewed every quarter unless terminated by the customer.
Termination can in general be done before the end of the subscription period by sending an email to contact@umbraco.com

4. SUPPORT ON UMBRACO CLOUD INCLUDING TIERS AND RESPONSE TIME

4.1 Support is given on sites running on the latest minor version of Umbraco. However, for a six-month period, the major with the highest minor before the launch date of the latest major is supported e.g. we support version 7.9.X. in a 6-month period from the release of 8.X.X.

4.2 Getting support may require the customer to upgrade to the latest Umbraco release at the discretion of Umbraco.

4.3 Support on Umbraco Cloud Starter is limited to Forum support. Support on how to use, build or implement Umbraco CMS including Umbraco Forms is not included. Support for this can be found via documentation at Umbraco.TV and at our.Umbraco.org.

4.4 Support on Umbraco Cloud - Standard is limited to forum support and the Umbraco Cloud service itself (Chat support) including deployments between environments. Support on how to use, build or implement Umbraco CMS including Umbraco Forms is not included. Support for this can be found via documentation at Umbraco.TV and at our.Umbraco.org.

4.5 Support on Umbraco Cloud Professional includes Forum and Chat Support and on how to use, build and implement Umbraco CMS and Umbraco Forms. It is assigned to a single domain and includes all subdomains as well as two specified development domains.

4.6 Not covered by the Umbraco Support

Any custom builds of Umbraco where the source code has been modified Third-party add-ons, packages, and extensions including custom code
Underlying platform products such as IIS, ASP.NET, SQL Server, and the like.

Umbraco guarantees a response within 24 hours. The 24-hour response time applies to business days, so that weekends, holidays and announced closing days are not part of the 24-hour elapsed time.

Each customer is allowed one active support request at any given time. Additional requests may be submitted at any time, but only the first active request from any account will have the

applicable support terms and response time applied. The customer can upon request get another prioritization then First come first served.

In order to receive support for an issue or question the customer must submit the support request via the in-app support chat.

Umbraco Cloud Professional Customers are also given access to the Umbraco Support Ticket System. Tickets are raised via the Umbraco Support area of the Application or by using the website form.

Bug Fix Warranty – only valid for Umbraco Cloud Enterprise Customers.

Umbraco agrees to resolve any bug identified by a customer, in a covered product and by mutual agreement between the customer and Umbraco.

Umbraco agrees to provide a fix which corrects or mitigates the behaviour introduced by the bug within 7 business days from the date the bug is confirmed by mutual agreement. The fix may require the customer to upgrade to the latest Umbraco release and may be provided as a patch, a manual update, or a full release at the discretion of Umbraco.

The bug fix warranty applies to bugs identified as security vulnerabilities, site stability issues, and bugs resulting in loss of data. In addition, the bug must be reproducible in other environments.

Bugs not related to security, stability, or loss of data are not subject to the bug fix warranty. However, Umbraco will make a best effort to resolve these bugs with the subsequent official release.

Only the Customer is entitled to use the support and the associated umbraco.TV account(s), and the support may not be used for or on behalf of any other parties or the provision of services for other parties than the Customer.

The Customer shall ensure that the support/Umbraco.TV is not used in any manner which reflects adversely upon the name, reputation and/or goodwill of Umbraco or in breach of any applicable law or regulation.

5. PRICES AND TERMS OF PAYMENT

5.1 The terms of payment are net 8 days after invoice date unless order is placed and paid by credit card.

5.2 If the subscription fee is not paid when due, reminder 1 will be sent 7 days after the invoice due date without a reminder fee. If the subscription fee remains unpaid, reminder 2 will be sent 10 days later. Interest on overdue payments accrue in accordance with applicable law. If payment is not received within 7 days after reminder 2, access to the support will be suspended. Access to the service will be unblocked after receipt of payment, unless Umbraco has already canceled the subscription.

5.3 The Customer accepts that invoices and reminders sent by email to the email address provided by the Customer shall be deemed delivered when sent by Umbraco.

5.4 The prices, rates and subscription types in force from time to time can be found on Umbraco's website and may be changed at the end of each calendar quarter on one month's notice. Currencies are DKK, EURO, USD and GBP. All prices exclude VAT which shall be applied at the prevailing rate.

6. TERMINATION

6.1 The subscription is interminable the first month, thereafter it can be terminated to the end of a subscription period.

6.2 The Customer terminates the subscription by sending an email to contact@umbraco.com or from within the application by deleting the project.

6.3 Umbraco is entitled to terminate the subscription at the end of any subscription period by giving more than 6 months' notice or immediately on written notice if the Customer commits a material breach of these Terms and Conditions or becomes insolvent or has a receiver or administrator appointed over its assets.

7. OPERATIONAL STABILITY AND CHANGE

7.1 Umbraco strives towards the highest possible operational stability on this service, but shall not be responsible or liable for any breakdowns or service interruptions, including interruptions caused by factors beyond Umbraco's control, such as power failures, defective equipment, Internet connections, telecoms connections or the like.

7.2 The Application and the service is provided "as is" and Umbraco expressly disclaims any further representations, warranties, conditions or other terms, express or implied, by statute, collaterally or otherwise, including but not limited to implied warranties, conditions or other terms of satisfactory quality, fitness for a particular purpose or reasonable care and skill.

7.3 In the event of an interruption of service Umbraco will use reasonable commercial endeavors to restore normal operations as soon as possible.

8. INTELLECTUAL PROPERTY

8.1 Any information provided by the application and/or the service, other than the Customer's data, is protected by copyright and other intellectual property rights and is owned by or licensed to Umbraco A/S unless stated otherwise by Umbraco.

The Customer shall notify Umbraco of any actual or suspected infringement of Umbraco's intellectual property rights and any unauthorized use of the Application that the Customer is aware of.

8.2 No intellectual property rights are assigned to the Customer.

8.3 In relation to any and all material uploaded by the Customer and any and all Customer data, the Customer grants to Umbraco, its suppliers and subcontractors, a non-exclusive worldwide irrevocable license to run, maintain and provide for the Application and related services. The Customer represents and warrants that no uploaded material or Customer data will infringe third party rights or intellectual property rights and will not contain any material that is obscene, offensive, inappropriate or in breach of any applicable law.

8.4 The Umbraco CMS software it self is open sources software licensed under MIT (https://github.com/umbraco/Umbraco-CMS/blob/v10/contrib/LICENSE.md)

9. ASSIGNMENT

9.1 Umbraco is entitled to assign its rights and obligations vis-à-vis the Customer to a group company or to a third party.

9.2 The Customer accepts that Umbraco is entitled to use subcontractors in all matters.

10. UMBRACO'S LIABILITY

10.1 Umbraco disclaims all liability and shall not be liable in contract, tort (including negligence), statutory duty, pre-contract or otherwise arising out of or in connection with these Terms and Conditions or the service rendered for any (a) consequential, indirect or special loss or damage; or (b) any loss of goodwill, reputation or data; or (c) any economic losses (including loss of revenues, profits, contracts, business or anticipated savings). In each case whether advised of the possibility of such loss or damage and howsoever incurred.

10.2 The maximum liability of Umbraco in contract, tort (including negligence), statutory duty, or otherwise arising out of or in connection with the Terms and Conditions; shall, in respect of any one or more events or series of events (whether connected or unconnected) taking place within any twelve month period, be limited to the Fees paid by Customer in such period.

10.3 The Customer undertakes to indemnify Umbraco against any costs due to service/product liability loss, third party loss or other third party claims due to the Customer's use of the services rendered.

11. INFRINGEMENT OF THIRD PARTY RIGHTS

11.1 Umbraco must indemnify Customer for any claims submitted by a third party that the Application and/or service infringes patents, copyright or trademark rights or misuses trade secrets pursuant to this clause.

11.2 Customer must immediately notify Umbraco in writing of any third party claim regarding infringement of rights. Umbraco will then be allowed to defend itself against such a claim regarding infringement of third party rights and pay any costs related thereto.

11.3 If a final judgment is entered in favour of a third party where infringement is established, Umbraco is, at its own discretion, entitled to obtain a valid license for the Application and/or service or to terminate the infringement by modifying or replacing the Application and/or service with a solution that in all material respects has the same functionality as the Application and/or service. In the alternative, Application and/or service is entitled to terminate the Agreement with immediate effect against repayment of the license fee for the terminated part of the Application and/or service.

11.4 Umbraco's obligations do not apply to the extent where a claim or a final judgment is based on:

Customer's non-compliance with the Agreement, the general terms or any other applicable terms including license terms;
Customer's integration of the Application and/or service with a product, data or business processes not provided by Umbraco, including third party add-ons or programs;
use of the Application and/or service for other purposes than the intended purpose and/or contrary to the instructions regarding proper use.
This clause is Customer's only remedy for breach in the event of infringement of a third party's intellectual property rights.

11.5 Customer will indemnify and defend Umbraco from and against all third party claims arising from or in connection with Customer's use of the Application and/or service or Customer's data, or any use thereof, without regard to any limitations of liability.

12. DUTY OF CONFIDENTIALITY AND DATA SECURITY

12.1 Umbraco will only process Customer data in accordance with the Customer's instructions and not for its own, unauthorized purposes.

12.2 Umbraco will keep confidential all of the Customer's confidential information that the Customer provides to Umbraco save to where such information has come into the public domain other than by breach of this clause, or where Umbraco has obtained the information from a third party without a duty of confidence or where it is required to be disclosed by a regulatory or government body or court of competent jurisdiction.

12.3 Umbraco shall take all necessary technical and organizational security measures in order to ensure that no data is accidentally or illegally destroyed, lost or impaired. Furthermore, Umbraco shall take all necessary technical and organizational security

measures to ensure that no data comes to the knowledge of an unauthorized person, is abused or moreover is treated in violation of the relevant legislation. Umbraco shall upon demand from the Customer give the Customer sufficient information so that the Customer can ensure that the above mentioned technical and organizational security measures are taken.

12.4 Where the Customer provides information, usernames or passwords in relation to any third party systems, information feed or service to Umbraco, the Customer shall warrant that the provision of such information or the storage and use by Umbraco of such information shall not breach the terms and conditions for such service or any other third party rights. The Customer shall indemnify and hold harmless Umbraco from any and all loss, damage, cost and expense arising from breach of this clause.

12.5 The Customer is responsible for and warrants that the personal data that the Customer instructs Umbraco to process, can be lawfully processed by Umbraco, including that the processing of person data is necessary and objective and that the Customer has obtained specific consent from the registered person, when specific consent is required.

13. CUSTOMER DATA

13.1 As between the parties, the Customer shall own any and all data it provides to Umbraco or the Application. The Application permits the Customer to export records and data held by the Application and the Customer agrees to export any and all data prior to termination of the subscription. Where the subscription expires or is terminated by the Customer, Umbraco shall use reasonable commercial endeavors to permit the Customer to use the export function in the period of 10 days after such termination. Trial on Umbraco Cloud are automatically and permanently deleted at the end of the trial period.

13.2 Umbraco reserves the right to delete Customer data 30 days after termination of the subscription regardless of the reason for termination, and Umbraco is not obligated to store any Customer data after such time.

13.3 Umbraco shall be entitled to store Customer data after termination in anonymized form for statistical and analytical purposes only.

13.4 Umbraco may disclose Customer data to third parties and public authorities in connection with judgments, public authority orders, the Customer's bankruptcy, death or the like.

14. CHANGE OF TERMS AND CONDITIONS

14.1 Umbraco may update these Terms and Conditions from time to time. The current version of the Terms and Conditions in force from time to time is available on Umbraco website. Umbraco shall endeavor to provide reasonable notice of any changes by posting such changes on the web site.

Further use of the Application/service after any change to the Terms and Conditions shall be deemed to be acceptance of such Terms and Conditions. It is the Customer's responsibility to check the website regularly to keep updated on any changes to these Terms and Conditions.

15. DISPUTES

15.1 These terms and conditions shall be construed in accordance with the laws of Denmark and each party hereby irrevocably submits to the exclusive jurisdiction of the courts of Denmark.

16. VALIDITY

16.1 These Terms and Conditions become effective on August 16th 2022, and supersede all previous terms and conditions.