

## PULSEDESK TERMS OF USE

This User Agreement is an offer by **SPECTRALSOFT LLP** (hereinafter referred to as the **Contractor**) (registration number OS442026) to use the Contractor's Software on the terms set forth in this User Agreement (hereinafter referred to as the **Agreement**), which is addressed to an indefinite number of persons.

By accepting this Agreement or accessing the Service, you agree to be bound by the terms of this Agreement.

The Contractor reserves the right to update and change the Agreement at any time without prior notice. When updating the terms of the Agreement, the Contractor will update the date at the top of this page. By using the Contractor's Software after the publication of a new version of the Agreement, you unconditionally agree to the terms of the new version of the Agreement.

### 1. PROVISION OF THE SERVICE

The Contractor provides services for providing the Client (hereinafter referred to as the **Client**) with access to the Contractor's Software – **PulseDesk** (hereinafter referred to as the **Service**), in accordance with the terms of the Agreement and the Contractor's Privacy Policy.

The online service is distributed as an Internet service in accordance with the SaaS model, as well as a localized version of the Contractor's software. No special steps are required to install the Online Service on the Client's side; the local version is installed via remote access.

### 2. OBLIGATIONS OF THE CLIENT

#### 2.1. Client Account

A Client may need to register for an Account in order to view a demo of the Service, take advantage of a free Trial of the Service, or access and use the Service. The Client agrees to maintain the relevance, accuracy, and completeness of information about its Account so that the Contractor can send notifications and other information to the Client by email or through the Account. The Client undertakes to be responsible for maintaining the confidentiality of its registration data for access to the Account (login, password) and immediately notify the Contractor of any loss, misuse, or unauthorized disclosure of the registration data for accessing the Account or the Personal Data of Users. The Contractor and its affiliates are not liable for any damage or loss that may arise as a result of a violation by the Client of the above obligations.

*If you are using the Contractor's Service as an employee of a company, then you represent and warrant that you have the authority to represent the company, accept the terms of this Agreement on behalf of the company, and sign this Agreement on behalf of the company.*

#### 2.2. Restriction of Use

The Client agrees to comply with the Terms of Use of the Service specified in this Agreement.

The Client agrees not to use the Service to: (a) process data on behalf of any third party other than Client's Users; (b) use the Service in violation of applicable law; (c) store or transmit any content that violates the intellectual property rights of the Contractor and / or any third party.

In addition, the Client will not: (d) license, sublicense, sell, resell, transfer, assign, distribute, or otherwise commercially exploit the Service, or make the Service available to any third party other than Users, and only to achieve the permitted business purposes

expressly permitted by this Agreement; (e) track cookies, run advertising campaigns, or send communications in violation of applicable law; (f) decompile, reverse engineer, reproduce, copy, or otherwise access or discover the source code or underlying program of any part of the Service.

In case this Agreement is terminated for any reason, the Client does not retain the right to use the Service, and support, updating, and maintenance of the Service is terminated.

### **2.3. Payment for Services**

The Client undertakes to pay for the Contractor's Services on time and in the amount established by this Agreement and the Tariff chosen by the Client. The Client has the right to change the previously selected Tariff by sending a notification to the Contractor's email address.

### **2.4. Provision of Information**

At the request of the Contractor, the Client undertakes to provide any information necessary for the Contractor to provide the Service under this Agreement.

## **3. CLIENT DATA**

### **3.1. Data Security**

The parties undertake to comply with the terms of the [privacy policy](#), [data processing agreement](#) and these Terms with respect to the provision and processing of Personal Data. The Contractor will use appropriate technical and organizational measures to protect the Personal Data of the Client and Users (if data concerning them is provided) from unauthorized access, processing, or disclosure. The Contractor's measures are designed to ensure a level of security corresponding to the risk of processing the Personal Data of the Client and Users under the Agreement.

The Client guarantees that they have received the consent of individuals whose personal data may be disclosed during registration, as well as contained in messages sent or received by the Client when using the Service. The Client provides the Contractor with its consent and the corresponding right to process personal data of the specified subjects of personal data in order to execute this Agreement.

## **4. INTELLECTUAL PROPERTY**

4.1. The Service is the intellectual property of the Contractor. All exclusive rights to the Service belong to the Contractor. The Service is a dynamically developing product that is regularly supplemented and changed. Consequently, the Service is provided to the Client exclusively in an "as is" state, which the Client is notified of and agrees to.

4.2. During the Trial period, as well as the Term of this Agreement (clause 7.1 of the Agreement), the Contractor grants the Client limited and non-exclusive rights (a simple, non-exclusive license, hereinafter referred to as the **License**) to reproduce, access, and use the Contractor's Service exclusively in order to use the functionality of the Service and for its own business purposes, including the right to download, install, and use the Service in accordance with the use permitted for the number of Users specified in the Tariff chosen by the Contractor.

4.3. Remuneration for granting a license is included in the cost of services under this Agreement and amounts to 5% of the cost of services.

4.4. The Client is prohibited from:

4.4.1. distributing, processing, copying, or modifying any elements of the Service that are subject to copyright; decompiling, decrypting, or manipulating the Service's source code; and creating derivative works using the Service;

4.4.2. reproducing the Service's design elements, user interface, or visual design when creating websites or conducting commercial activities on the Internet or outside of it;

4.4.3. publishing, displaying, selling, assigning, sublicensing, or otherwise transferring to third parties the rights granted to the Client to use the Service.

4.4. In the event that the Client violates any provision in this section, the Client undertakes to reimburse the Contractor for all losses (including lost profits) caused by the misuse of the Service.

## **5. COST OF SERVICES AND PROCEDURE OF PAYMENTS.**

5.1. The cost of the Contractor's services and frequency of payment is determined in accordance with the Tariff chosen by the Client and the number of Users connected to the Service. Depending on the Tariff chosen by the Client, the following payment frequency is available:

- once every 3 months
- once every 6 months
- once every 12 months

5.2. The cost of the Contractor's services is not charged during the first 14 (fourteen) calendar days of the use of the Service by the Client (hereinafter referred to as the **Trial Period**), which are calculated from the date the Client registers in the Service.

5.3. The Client must make an advance payment for the Contractor's services in a non-cash form of US currency (USD) within 3 (three) working days of the end of the Trial Period by transferring funds to the Contractor's settlement account using the details specified in the invoice that the Client receives from the Contractor. Services are considered paid from the moment the funds are received in the settlement account of the Contractor.

5.4. The Parties to the Agreement undertake to comply with the requirements of the legislation of their respective countries pertaining to taxation. The Client guarantees that the Contractor's settlement account receives an amount equal to the cost of the Tariff chosen by the Client.

5.5. After the period the Client has paid for expires, if the Client does not pay for a new period in accordance with the Contractor's Tariffs that were valid at the time of payment, the Contractor may suspend the Client's (and its Users') access to the System until the Client pays for a new period in accordance with the Tariff selected by the Client.

5.6. The Contractor has the right to change the cost and the list of Services provided at its discretion unilaterally. In the event of a change in the cost or the list of the Contractor's Services within the Tariffs, the Contractor will notify the Client by posting information on the Contractor's official website at <https://pulsedesk.com/>, as well as by sending a notification to the email address specified by the Client when registering for the Service at least 5 (five) working days before the day the changes take effect.

5.7. In case this Agreement is terminated at the initiative of the Client, the funds contributed by the Client as payment for the Contractor's services will be returned for the period starting from the calendar month following the month in which the Agreement was terminated. The amount to be returned is calculated from the Tariff with a payment frequency of once every 3 months.

## **6. PRIVACY OF INFORMATION**

6.1. Each Party will protect the other Party's Confidential Information from unauthorized use, access, or disclosure in the same way that it protects its own Confidential Information of a similar nature or importance, and in any case, using no less reasonable care.

6.2. Unless otherwise expressly permitted by this Agreement, the receiving Party may use the disclosing Party's Confidential Information solely to exercise its respective rights and fulfill its respective obligations under this Agreement, and will disclose such Confidential Information only:

- (i) to employees, representatives, and agents who need to know such Confidential Information for such purposes, and who are bound by obligations to maintain the confidentiality of the Information and not misuse such Confidential Information;

- (ii) as necessary to comply with an order or subpoena of an administrative authority or court in a competent jurisdiction; or
- (iii) if reasonably necessary to comply with an applicable law or regulation.

The provisions of this section supersede any non-disclosure agreement between the Parties entered into prior to this Agreement that shall be intended to maintain the confidentiality of any information shared by the Parties, including Client Data, and such agreement shall have no further effect with respect to the foregoing.

6.3. The receiving Party acknowledges that the disclosure of Confidential Information will cause substantial harm, the recovery of which will not in itself be sufficient remedy, and therefore that, in any such disclosure by the receiving Party, the disclosing Party will be entitled to seek appropriate equitable relief in addition to any other remedies that they may legally have.

6.4. The Contractor has the right to indicate that the Client is one of its partners on the Service's website and (or) the Contractor's website, including the Client's name, logo / trademark / commercial designation, and other similar designations, and to present this information in the Contractor's portfolio and presentation, as well as advertising and informational materials in the media.

The Contractor also has the right to mention the Client in cases placed on the Service's website and (or) the Contractor's website (including a description of the Client's tasks and goals solved through the Service, key metrics achieved by the Client when using the Service, and other information) and in its portfolio, presentation, and promotional materials, as well as in informational materials in the media.

Execution by the Contractor of the actions specified in clause 6.4. of this agreement does not constitute disclosure of Confidential Information.

## **7. TERM OF THE AGREEMENT.**

7.1. The Agreement is recognized as concluded from the moment the Client unconditionally accepts the terms of this Agreement, as expressed by the Client's registration on the Contractor's website located on the Internet at <https://pulsedesk.com/> and will be valid during the Trial Period, as well as the period selected and paid for by the Client in accordance with the Contractor's Tariffs.

7.2. Either Party may terminate this Agreement by written notice to the other Party if:

- (i) the other Party is in material breach of this Agreement and fails to remedy such breach within thirty (30) days of such notice;
- (ii) immediately in the event that the other Party becomes the subject of a bankruptcy petition or any other insolvency proceeding, receivership, liquidation, or assignment to creditors.

7.3. Each of the Parties has the right to terminate this Agreement before the expiration of the paid period at its own initiative, provided that a written notification is sent to the email address of the other Party at least 30 (thirty) calendar days before the date of termination of the Agreement.

7.4. Neither Party may assign any of its rights or obligations under this Agreement, legally or otherwise, without the prior written consent of the other Party. Any attempted assignment in violation of this section will be void.

## **8. SUSPENSION AND TERMINATION OF SERVICES**

8.1. The Contractor may suspend the Client's access to the Service (including the Client's Account) on the following grounds:

- (i) late payment / non-payment of the Contractor's Services;
- (ii) non-renewal of the Services by the Client;
- (iii) violation by the Client or its Users of the terms of use of the Service;

- (iv) in the event that the Contractor deems a suspension of Service necessary to prevent or eliminate the introduction of malicious software, a security breach, or other harm to the Client, the Contractor, or other clients of the Contractor. The Contractor will notify the Client of any such suspension. The Contractor will make every effort to attempt to limit, where commercially possible, the suspension for affected Users and will immediately restore its availability as soon as the problems leading to the suspension are resolved. Such suspension shall in no way affect the Client's other obligations under this Agreement.

8.2. If the Client does not pay for the Contractor's Service at the Tariff chosen by the Client at the end of the Trial period, the Contractor may suspend the Client's (and its Users') access to the System. The Client must export its data before the end of the Trial Period, otherwise the Client's data will be permanently deleted. The Contractor is under no obligation to maintain or store the Client's data after the end of the Trial Period or the paid period.

8.3. After this Agreement expires or is terminated for any reason, the Client's access to the Services and the Service of the Contractor may be terminated. The Contractor strongly recommends that the Client export all Client Data before the Client's Account is closed. The Contractor provides the Client with a Data Export Period of 14 (fourteen) days from the effective date of closing the Client's Account in connection with:

- (i) termination or expiration of this Agreement, or
- (ii) termination or expiration of the applicable Data Export Period.

*Provided that the Client fulfills its payment obligations as described in Section 5, if the Client Data is stored by the Contractor and can be exported, the Client may contact the Contractor during the Data Export Period to request that the Contractor export its Client Data. Upon expiration of the Data Export Period, the Contractor reserves the right to retain Client Data for a period of three (3) months prior to the deletion of all Client Data in the normal course of business, except as necessary to comply with the Contractor's legal obligations, maintain accurate financial and other records, resolve disputes, or enforce its agreements. Client data cannot be recovered once it has been deleted.*

## **9. RESPONSIBILITIES OF THE PARTIES**

9.1. The Parties are liable for failure to fulfill or improper performance of their obligations in accordance with the terms of this Agreement and applicable law.

9.2. The Client is responsible for authorized access to its Account and for keeping its authorization data secure. The Contractor shall not be liable for losses incurred by the Client as a result of third parties obtaining access to the Client's Account that occurred through no fault of the Contractor. If any person other than the Client or its Users authorizes access to the Client Account, then all actions performed by this person will be considered performed by the Client.

9.3. The Contractor shall not be liable for any losses that the Client may incur as a result of using the Contractor's Services, including any loss of profits or damage.

9.4. The Contractor is not responsible for the actions of third parties intended to violate information security or the normal functioning of the Service, including failures in the operation of the Service caused by computer viruses or other malicious programs, the occurrence of which is associated with illegal actions of third parties.

9.5. As an object of intellectual property, the Service is provided to the Client as is ("as is"). The Contractor does not provide the Client with any guarantee that the use of the Service will not be interrupted, will be available at all times convenient for the Client, and will not be subject to errors or failures. In the event of a failure in the operation of the Service that creates obstacles to its use, the Contractor undertakes to immediately notify the Client and will seek to eliminate these problems within a reasonable amount of time.

9.6. In the event of force majeure and (or) man-made circumstances, it is possible to suspend the operation of the Service without prior notice to the Client. These include, but are not limited to, the following: accidents or failures in electrical power, computer networks, electrical communication systems, or software and hardware systems of third parties working with the Contractor aimed at suspending or terminating the operation of the Service.

9.7. The Client undertakes to reimburse the Contractor in full for any losses incurred if such losses were caused by the action and (or) inaction of the Client, including cases where the Client violates the terms of this Agreement or applicable law of the relevant jurisdiction.

## **10. DISPUTE RESOLUTION**

10.1. The Parties will make every effort to resolve all disputes and disagreements through negotiations arising from the fulfillment of this Agreement or in connection with it.

10.2. In case of failure to reach a compromise through negotiations, a claims procedure for resolving disputes is mandatory.

10.3. If the Client discovers deficiencies in the Services provided (in terms of quality and / or volume), the Client must immediately send the Contractor a written claim containing the Client's reasonable comments on the Services and a list of necessary improvements. Comments on the Services that go beyond the requirements agreed upon by the Parties in the relevant Agreement are not acceptable. The obligation to prove non-compliance of the Services rendered within the requirements agreed upon in the Agreement shall rest with the Client. If the Client does not submit claims within a reasonable amount of time, the Services are considered to be properly provided.

10.4. A claim will be considered by the Contractor within a period not exceeding 14 (fourteen) working days from the date of receipt of the claim.

10.5. If it is impossible to settle disputes and disagreements through negotiation or the claims procedure, the subject of the dispute is subject to consideration by the Specialized Court of England and Wales.

## **11. FINAL PROVISIONS**

11.1. This Agreement is an official document and is published on the Internet on the Service's website <https://pulsedesk.com/>.

11.2. The Contractor has the right to amend this Agreement at any time by posting a new version on the site <https://pulsedesk.com/>.

11.3. A new version of the Agreement comes into force on the day it is posted on the website <https://pulsedesk.com/>, unless expressly stated otherwise.

11.4. If the Client continues to use the Contractor's Service after the terms of the Agreement have been changed, the Client is considered to have agreed with the new version of the Agreement.

11.5. The Agreement, its conclusion, and fulfillment shall be governed by the current law of the United Kingdom (applicable law), without application of conflict of laws rules. All matters not regulated by the Agreement or not fully regulated shall be governed by applicable law.

11.6. Any notices under the Agreement, unless the Agreement provides otherwise, may be sent by one Party to the other Party:

- (i) by email
- (ii) to the email address specified by the Client when registering in the Service,
- (iii) from the Contractor's email address specified in this Agreement,
- (iv) by mail with acknowledgment of receipt or by courier with proof of delivery.

## 12. DEFINITIONS

**Account** – the Client’s registration record, which contains information provided by the Client when registering on the Contractor’s website <https://pulsedesk.com/>, which is protected from free access by a combination of a unique login and password.

**Confidential Information** – all information disclosed by one Party to the other Party, either orally, in writing, or electronically, which is designated as “confidential” (or similarly marked) or that a reasonable person would understand to be confidential given the nature of the information and the circumstances of the disclosure. Confidential Information does not include any information that: (a) was publicly known or became publicly available in the public domain prior to the time of disclosure by the disclosing Party; b) becomes publicly known and available to the public as a result of any act or omission of the receiving Party; c) is already in the possession of the receiving Party at the time of disclosure by the disclosing Party; (d) is received by the receiving Party from a third party without violating such third party’s confidentiality obligations; or (e) is independently developed by the receiving Party without using or referring to the disclosing Party’s Confidential Information.

**Client Data** – all electronic data, text messages, or other materials, including, but not limited to, Personal Data provided to the Service by the Client or its Users through the Client Account in connection with the Client’s use of the Services and another data’s as it identified under Private Policy.

**Personal Data** – data relating to a natural person who is or can be identified either from the data or from the data in combination with other information that is or may come into the possession of the data controller (as defined under applicable data protection laws and Private Policy.).

**Services** – Services for providing access to the Online Service in the manner and on the terms established by the Parties to this Agreement.

**Tariff** – the cost of a certain list of Services provided by the Contractor. Information about current Tariff plans is posted on the website

**User** – any natural person authorized by the Client to use the Services, including the Account administrator, employees, consultants, contractors, and agents of the Client or its affiliates, as well as third parties with which the Client or its affiliates do business.

**Registration** – filling out the registration form by the Client by entering data, as a result of which an Account with a unique login and password is created in the Service for the Client.

**PulseDesk (Service)** – the Contractor’s software (computer program), which is a system for collecting, recording, processing, and analyzing customer inquiries.

## 13. CONTRACTOR’S DETAILS

### **SPECTRALSOFT LLP**

Address: Palliser House, Palliser Rd, London W14 9EB, UK

e-mail: [support@pulsedesk.com](mailto:support@pulsedesk.com)