



# Commercial Terms

Web Management by Colonial Systems, LLC

Applies to services sold under trade names:  
***MADCAP Creative; SERAPIS Cloud.***

Published:  
**01 October 2022**



Prepared by: \_\_\_\_\_

For: \_\_\_\_\_

Website Managed Services (COL-97)

Pricing and Terms Valid Until \_\_\_\_\_

# Managed Services Agreement

This agreement covers Colonial Systems, LLC's Web Managed Services which are advertised under the tradenames **MADCAP Creative** and **SERAPIS Cloud**.

This managed Services Agreement is between Colonial Systems, LLC ("Colonial Systems" or "Service Provider") and the customer who signs below ("Customer" or "you").

The Agreement constitutes the complete and exclusive agreement between the parties regarding the subject matter and supersedes and replaces any prior understanding or communication, written or oral. The individual signing represents to Colonial Systems, LLC that they are authorized to sign on behalf of Customer. Customer accepts the terms of the Agreement, including any document or terms referenced above.

By subscribing to any web management service offered by Colonial Systems, LLC sold under the tradenames MADCAP Creative and SERAPIS Cloud or by executing any Managed Services Agreement with this document included by reference, you hereby expressly acknowledge and accept the Commercial Terms contained herein.



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# General Terms

## **Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia applicable therein.

# Conditions of Service

## **Pricing and Billing**

Services are billed via Credit Card on a monthly recurring basis. Colonial Systems reserves the right to increase or decrease the price of services at any time by providing a 30-day written notice to the customer.

## **Uptime**

No uptime guarantee is included in this agreement.

## **Response Times**

Colonial Systems will respond to all maintenance requests from Client within 24 business hours via email, with a confirmation that the request was received, and an estimated completion date for each action item in the request.

## **Ownership of Resulting Website**

All theme files, pages, database records, creative and design assets, and scripts designed, developed, licensed, and/or otherwise provided by Colonial Systems will remain exclusive property of Colonial Systems, LLC unless otherwise indicated in writing.



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**Limitation of Liability**

In no event shall Service Provider be held liable for indirect, special, incidental, or consequential damages arising out of service provided hereunder, including but not limited to loss of profits or revenue, loss of use of equipment, lost data, costs of substitute equipment, or other costs.

The Service Provider shall not be responsible to Client for loss of use of the Managed Services or for any other liabilities arising from alterations, additions, adjustments, service, repairs, or maintenance which have been made to the Managed Services other than by authorized representatives of the Service Provider.

Neither Party shall be liable – whether in contract, tort (including negligence), breach of statutory duty or otherwise – to the other if it breaches any of its obligations under this Agreement (or arising therefrom), for any loss suffered by the other Party in the form of lost revenue or profit or failure to achieve any benefit expected to be derived from this Agreement, loss of use of any asset, loss of data recorded on any computer or other equipment, loss which is not the direct and immediate consequence of the breach, business interruption or management time, or any other loss which is otherwise indirect, commercial, economic, special or consequential.

The total liability of the Service Provider – whether in contract, tort (including negligence), breach of statutory duty or otherwise – for any and all breaches and/or non-performance of its obligations or liability under this Agreement shall be limited to the total Fees payable by the Client. Further, if any collection action litigated or otherwise, is necessary to enforce the terms of this Agreement, Service Provider shall be entitled to reasonable attorneys’ fees and costs in addition to any other relief to which it may be entitled.

Nothing in this Agreement shall limit or exclude either Party’s liability for death or personal injury or any other liability which cannot be excluded by law.

No action, regardless of form (including in contract, tort or otherwise), arising in connection with the performance of this Agreement may be brought by either party more than one (1) year after the date of the occurrence on which the action is based.

**All Other Warranties**

COLONIAL SYSTEMS LLC DOES NOT WARRANT THAT THE MAINTENANCE SERVICES WILL MEET THE CLIENT’S EXPECTATIONS OR REQUIREMENTS. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE IS WITH CLIENT. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, COLONIAL SYSTEMS LLC PROVIDES ITS SERVICES “AS IS” AND WITHOUT WARRANTY OF ANY KIND. THE PARTIES AGREE THAT (A) THE LIMITED WARRANTIES SET FORTH IN THIS SECTION ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED BY EACH PARTY, AND (B) EACH PARTY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THIS AGREEMENT, PERFORMANCE OR INABILITY TO PERFORM UNDER THIS AGREEMENT, THE CONTENT, AND EACH PARTY’S COMPUTING AND DISTRIBUTION SYSTEM. IF ANY PROVISION OF THIS AGREEMENT SHALL BE UNLAWFUL, VOID, OR FOR ANY REASON UNENFORCEABLE, THEN THAT PROVISION SHALL BE DEEMED SEVERABLE FROM THIS AGREEMENT AND SHALL NOT AFFECT THE VALIDITY AND ENFORCEABILITY OF ANY REMAINING PROVISIONS.



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### **Confidentiality & Non-Disclosure**

The Service Provider and its agents may use Client information, as necessary to or consistent with providing the contracted services. Service Provider acknowledges that through its relationship with Client, service provider may become aware Confidential Information or trade secrets proprietary to Client. Service Provider agrees to protect and not to disclose or otherwise make available Client's Confidential Information and/or trade secrets. Service Provider shall take appropriate action by instruction, agreement, or otherwise with any respect to Service Provider's employees who are permitted to access Client's Confidential Information and trade secrets. In order to fulfill Service Provider's duties and responsibilities of maintaining network security and confidentiality, administrative passwords will be retained by Service Provider and not released to third parties without written consent from the Client.

Confidential Information shall mean information, whether oral or written (including information provided in electronic format), provided by Client, or received by Service Provider by virtue of the relationship created from this Agreement, provided that such information shall not be Confidential Information if the information provided (i) is known to the trade or public at the time of its disclosure, (ii) becomes generally available to the trade or public other than as a result of Colonial Systems, LLC, (iii) was in the possession of Service Provider in a non-confidential basis prior to its disclosure, (iv) was disclosed to Service Provider by a third party not reasonably known by Service Provider to be under an obligation of confidentiality, (v) was disclosed pursuant to a legal or regulatory requirement, or (vi) was disclosed with the written consent of Client.

### **Period of Service and Automatic Renewal**

Either party may terminate this agreement for any reason whatsoever, either with or without cause, upon giving the other party no less than thirty (30) days prior written notice of such termination (the "Notice Date"). In the event that the Client initiates a termination, the client will be responsible for the any outstanding charges. No partial refunds will be provided.

This Agreement shall renew automatically at the end of the prior Agreement term for a period of twelve (12) months unless Service Provider or the Client affirmatively terminates it in accordance with the conditions set forth in this Agreement.



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# Appendix A: Commercial Rates

**Commercial Rates (Private Business, Commonwealth Agencies, Local Gov Eligible)**

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<b>Commercial Labor Category</b>	<b>Rate (HR)</b>
Senior Project Manager	\$204.00
Project Manager	\$176.00
Microsoft 365 Architect	\$187.00
Strategist	\$176.00
Quality Assurance Analyst	\$165.00
Account Manager	\$242.00
Senior Systems Administrator	\$231.00
Senior Developer	\$220.00
Developer	\$187.00
Senior Front-end Developer	\$231.00
Front-end Developer	\$176.00
User Experience Designer	\$182.00
Visual Designer	\$182.00
Solutions Architect	\$231.00
CMS Developer	\$176.00
CMS Content Specialist	\$110.00



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# Appendix B: Requesting Support

All Client end-users are authorized to request service using the processes and provisions detailed within this Agreement unless otherwise noted herein.

Support requests must be made in writing to [support@colonialsys.com](mailto:support@colonialsys.com).

## General Information to Include with Request

When you submit a request using email, ensure that you include the following detailed and complete information:

- Your name and location and where and how to contact you in case of a problem.
- A description of the problem including any error messages or actions being taken at the time the problem occurred.
- The impact, severity and urgency of the problem
  - Can the end-user(s) remain productive or are they halted? (How severe?)
  - Do the end-user(s) have a viable workaround currently?
  - How urgent is the request?
- Any changes made recently.