



Terms of Service

These terms and conditions (Terms of Service) cover your use of WriteUpp (Service). Undertaking a 30-day free trial or subscribing to a paid plan constitutes acceptance of these Terms of Service. Our Privacy Policy is incorporated by reference into these Terms of Service.

Definitions

Contract: the contract between you and us for the supply of Services in accordance with these Terms of Service.

Us, Our, We or Company refers to Pathway Software (UK) Limited, a company registered in England with company registration number 06844098, whose registered office is at 85 Watergate Street, Chester, CH1 2LF. Our VAT Number is 948 3831 85.

Data Protection Legislation: the UK Data Protection Legislation and any other applicable legislation relating to Personal Data in force from time to time which apply to a party relating to the use of Personal Data.

UK Data Protection Legislation: all data protection and privacy legislation in force from time to time in the United Kingdom including the General Data Protection Regulation (EU) 2016/679, as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (**UK GDPR**); the Data Protection Act 2018; and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Data Controller, Data Processor, Data Subject shall have the meaning given to them in Data Protection Legislation.

Patients means the Customer's patients.

Patient(s) Data means Personal Data of Patients, including clinical notes, assessments.

Personal Data: means any information relating to an identified natural person that is processed by the Company as a result of, or in connection with the provision of the Services; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from,



such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

Maintenance Release: release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

Privacy Policy: our privacy policy which can be accessed at <https://www.writeupp.com/privacy>.

Standard Contractual Clauses (SCC) the Standard Contractual Clauses for the transfer of Personal Data to processors established outside of the UK (controller-to-processor transfers), as issued from time to time by the Information Commissioner under S119A(1) of the Data Protection Act 2018.

You Your or **Customer** refers to your organisation.

WriteUpp/the Software refers to the software and service provided and developed by us, including any software updates which are supplied to the Customer during this Agreement.

Staff refers to either party's respective employees, workers, agents and subcontractors.

Site means the Company's website at <https://www.writeupp.com>.

Basis of Agreement

Your order constitutes an offer to purchase the Service in accordance with these Terms of Service.

Your order will be deemed to be accepted when we allow you to use the Service on subscribing for the Services whether on a full or a Trial basis at which point a Contract shall come into existence.

These Terms of Services apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these Terms of Service and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms of Service.

Provision of the Service

- The Service is a fully hosted application accessible via the internet. The Software and database is hosted in secure data centres located in the European Union, namely Dublin and Amsterdam in accordance with our Privacy Policy.
- The Service is provided by, set up, managed and maintained by us and our appointed hosting partners.
- To access the Service you must have an internet connection. If you have problems with your own local internet connection this will affect your access to the Service. In the event of your local internet connection not being available you will be unable to access the Service.



- Periodically, we may make changes, add functionality, issue Maintenance Releases or introduce new features to the Service. These changes are made expressly at our discretion and where appropriate we will document these changes if they are material in nature.

Privacy

We only use any Personal Data we collect about you through your use of WriteUpp and the Services in the ways set out in our Privacy Policy.

Processing of Patient Data

Our Privacy Policy includes further details of circumstances in which you will be the Data Controller for the purposes of Data Protection Legislation.

The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Patient's Personal Data via WriteUpp for the duration and purposes of the Services. The Customer acknowledges that for the purposes of the Data Protection Legislation, the Customer will be the Data Controller and that the Company is the Data Processor in respect of such Patient(s) Data.

The Company shall, in relation to any Patient(s) Data processed in connection with the performance by the Company of the Services:

- process Patient(s) Data only on your written instructions. The Company will not process the Patient Data for any other purpose or in a way that does not comply with the Contract or the Data Protection Legislation;
- ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Patient Data and against accidental loss or destruction of, or damage to, Patient Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- ensure that all the Company's Staff who have access to and/or process Patient Data are obliged to keep the Patient Data confidential;
- not transfer or otherwise process Patient Data outside the United Kingdom (**UK**) without obtaining the Customer's prior written consent. Where such consent is granted, the Company may only process, or permit the processing, of Patient Data outside the UK under the following conditions:
 - the Company is processing Patient Data in a territory which is subject to a current finding by the European Commission under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals; or
 - the Company participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that the Company (and, where appropriate, the Customer) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the UK GDPR; or



- the transfer otherwise complies with the Data Protection Legislation (collectively “Appropriate Safeguards”)
- assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- notify the Customer without undue delay on becoming aware of a Personal Data breach;
- within 45 days of the date of termination or cancellation of your Contract delete Patient's Data and copies thereof unless required by Data Protection Legislation to store the Patient Data (and subject always to the provisions below regarding backups); and
- maintain complete and accurate records and information to demonstrate its compliance with these obligations.

The Customer authorises the Company to transfer the Patient Data outside the UK provided all transfers by the Company of the Patient Data shall be (to the extent required under Data Protection Legislation) effected by way of Appropriate Safeguards.

The Company (and any sub-processors) may only transfer the Patient Data to (or process Patient Data) in the following countries outside of the UK: United States of America, Republic of Ireland and the Netherlands

If any Patient Data transfer between the Customer and the Company requires execution of Standard Contractual Clauses in order to comply with Data Protection Legislation (where the Customer is the entity exporting Patient Data to the Company outside the UK), the following shall apply in order to provide an appropriate safeguard:

- the parties shall enter the Standard Contractual Clauses agreement;
- the agreement referred to above will be effective upon it being signed by both parties; and
- a copy of the executed agreement shall be delivered to each of the parties.

The Customer hereby provides the Company with a general authority (subject to the terms set out below) to engage another Data Processor whether by addition or replacement, In the event that the Company intends to use this general authority it shall inform the Customer in advance and in such reasonable time to enable any objections to be made. The sub-processor list is available here.

Where the Company engages another Data Processor for carrying out processing activities on behalf of the Customer, the same data protection obligations as set out in this Contract shall be imposed on that other Data Processor by way of a contract or other binding legal means, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of Data Protection Legislation. Before the commencement of any sub-processing the Company shall make sufficient enquiries to ensure that the sub processor is capable of carrying out its data processing obligations.



Backups

You acknowledge and agree that: (a) we may perform weekly backups of all your data held via the Service (including Patient(s) Data); (b) such backups will be retained on our backup systems for 2 years; and (c) for technical and operational reasons, the backup data cannot be deleted before the expiry of that 2-year period.

The backup data is stored in binary form and is anonymised. The data within the backups does not contain any fields or data in those fields and is non-readable by humans. The backups can only be restored and made readable again using certain backup restoration tools provided by our infrastructure provider, access to which is limited to only certain senior people in our business. There are also security measures in place (including two-factor authentication) to protect against unauthorised access to or restoration of the backup data.

Technical Support

Your monthly fee includes access to our Self-Service Help Centre and online technical support.

If you are unable to find an answer to your question in our Self-Service Help Centre you can live chat with a member of the WriteUpp team by clicking [here](#) and then clicking on the chat icon.

Each request should relate to a single or small number of issues and must include the following information:

- a clear and concise description of the problem, issue or question
- details of your environment, including your browser, browser version, operating system and operating system version
- screenshots or videos, should be included if the request is visual in nature

Support requests must not include personal information. Where it is necessary to reference a specific patient record only the WUID (WriteUpp ID) should be provided.

We don't accept support requests by telephone and we don't provide responses by telephone. All technical support is handled online.

Support requests must be logged by an individual that is a registered user on the site that the enquiry relates to.

Whilst we always do our very best to help you we reserve the right to withhold access to online support if:

- requests contain abusive, rude or offensive language
- requests are excessively terse or confrontational
- requests are logged by individuals that are not registered users on the site
- requests are inaccurately or incompletely described
- requests are continually repeated
- replies to investigative questions are repeatedly unanswered



If you submit a feature request via Canny its inclusion in any future release of WriteUpp is expressly at our discretion and we provide no guarantees on timescales.

Within WriteUpp we provide (optional) access to a number of external services (like Stripe, Healthcode etc). We cannot provide technical support for these services and any requests relating to these services should be directed to the appropriate provider.

Data Security

- We are registered with the Information Commissioner's Office (ICO). Our registration number is Z2865352.
- All our Staff are subject to personal checks prior to commencing employment. Additionally, they are required (in accordance with NHS Security Guidelines) to undertake training on Acceptable Use of IT, Data Security and Patient Identifiable Information (PII).
- All our Staff are required to sign a Confidentiality Agreement which includes a provision for them to have access to Patient(s) Data.
- The only members of our team that will have access to your data are those that need to be directly involved in technical support, maintenance or system administration.
- We are ISO27001:2013 Registered (Certificate Number: 275372018).
- Your data is hosted in accordance with our Privacy Policy.

Trials

- A credit card is not required to start a 30-day free trial (Trial)
- At the end of the Trial period if you wish to continue using the Service you will need to select one of the Paid Plans and pay using your debit/credit card, via PayPal or Direct Debit by completing an electronic direct debit mandate.

Fees

- To use the Service after the Trial you must select a Paid Subscription
- This Contract grants you the non-exclusive, non-transferable right to use the Service (in accordance with these Terms of Service) while you continue to pay the appropriate monthly fee for the Subscription you have selected
- All monthly fees must be paid monthly in advance
- A valid credit or debit card or UK bank account is required to pay for the Service
- All fees are quoted exclusive of Value Added Tax which is payable in accordance with current legislation
- All credit card transactions are processed by PayPal and all direct debit transactions are processed by GoCardless
- When upgrading or downgrading your subscription your user count will increase/decrease immediately and a new payment cycle will be generated
- Downgrading or cancelling your account may cause the loss of access, content or features of the Service. We do not accept liability for any such loss
- All fees related to the Service, including but not limited to the monthly subscription fees, are subject to change upon 30 days' notice from us. Such notice may be provided at any time



by updates to the WriteUpp website (www.writeupp.com), notices within the Service itself, or by email correspondence

- If you have any questions about charges made to your account, please contact us immediately. If there are charges made in error, we will provide a refund via PayPal or bank transfer (if paying via Direct Debit) for the appropriate amount
- We reserve the right to charge an administration fee for any skipped, failed or late payments in respect of credit/debit card or direct debit payments
- All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

Changes to the Service and Contract

You acknowledge that we may modify:

- the Service at any time, for any reason, and without notice
- these Terms of Service at any time

In the event that we change the Terms of Service we will notify you of the changes and give you a reasonable period of time to notify us that you do not agree to the modified Terms of Service and cease using the Service

Communications

- You agree that we may at times send you communications regarding your account or the Service via email.
- We may also send you communications about upgrades to the Service or other products and services that may be pertinent to your use of WriteUpp.
- If you no longer wish to receive these communications you can unsubscribe from them by clicking on the "unsubscribe" link at the bottom of the email. However, please bear in mind that doing so may mean (if you are paying user) that you are not made aware of new features in the Service that might directly benefit you or your organisation.

Accounts and Passwords

- You must be a registered user to access the Service and a registered user must be a named individual. You must not share user accounts.
- You must provide accurate, up-to-date and complete information when you register and you must ensure that you notify us immediately in the event of any changes to this information. Failure to do so may result in you not receiving important system updates or information about the Service.
- You are solely responsible for keeping your password secure.
- You will be solely responsible and liable for any activity that occurs under your user name
- You must use all reasonable endeavours to prevent any unauthorised access to, or use of, the Service and you must notify us immediately in the event of any unauthorised access or use



Acceptable Use

- This part of the Terms of Service describes the acceptable use of the Service. It ensures that you do not use the Service for illegal or prohibited purposes.
- You are solely responsible for your conduct and your data related to the Service.
- You warrant that you have all rights, licences, authorisations and consents required to use the Service, including without limitation in respect of your data.
- You agree to indemnify us from any and all loss, cost, liability, and expense arising from or related to your data or use by you or your employees, contractors or agents of the Service or violation of these Terms of Service.
- The Service, including any software that forms part of the Service, is made available to you for your personal use or internal business purposes, and such use must comply with all applicable laws, rules and regulations, including without limitation privacy laws, and must not infringe or violate third party rights.
- The Plan you purchase will limit the number of named users that may use the Service. You must not allow any additional users to use the Service or permit user accounts be shared between users.
- We reserve the right to audit your use of the Service, at our own cost and upon giving you reasonable notice, to determine whether your use is in accordance with these Terms of Service and any other terms that apply to the Service. If an audit reveals that you have exceeded the scope of use permitted, you may be required to immediately pay an additional service fee for such use.
- Any unauthorised use of the Service is a violation of these Terms of Service and may breach English law. Such violations may subject you or your staff to civil and criminal penalties.
- We will endeavour to make the Service available 24 hours a day, seven days a week. However, you acknowledge and agree that the Service may occasionally be unavailable during periods of planned or unscheduled maintenance. We may perform unscheduled maintenance at any time, but will do this outside of normal business hours where possible.

Termination

Either party shall have the right to terminate the Contract if the other party is in material breach of these Terms of Service and does not rectify the breach within 30 days of written notification

Without affecting any other right or remedy available to us, we may terminate the Contract with immediate effect by giving you written notice if:

- You fail to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- You suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or you admit inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- You commence negotiations with all or any class of your creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent



- amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up;
 - an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over you;
 - the holder of a qualifying floating charge over your assets has become entitled to appoint or has appointed an administrative receiver;
 - a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
 - a creditor or encumbrancer of attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
 - any event occurs, or proceeding is taken, with respect to the you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause;
 - you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business.

Cancellation

- You are solely responsible for the cancellation of your account.
- You can cancel your account at any time in the Settings->Account section. Email or phone requests to cancel your account are not considered a cancellation.
- Subject to the provisions above regarding backups, all of your content and data will be deleted 45 days after cancellation or termination of your account. This information will not be able to be recovered. Prior to cancelling your subscription we recommend that you perform a Data Export using the Tools provided in WriteUpp.
- Failure to pay your subscription fees will result in your account being suspended. Accounts are suspended for a maximum of 45 days before the account may be terminated by us. We are not responsible for any loss you suffer as a result of such suspension or termination. A suspended account can be reactivated by supplying valid payment credentials and resuming your subscription.
- If you cancel your account before the end of your currently paid month the service will continue to be available until Midnight before your next payment date. You will not be entitled to a refund.
- At our sole discretion we have the right to suspend or terminate your account and refuse any and all current or future use of the Service, for any reason, at any such time. Such termination can result in the deactivation or deletion of your account.
- We reserve the right to refuse service to anyone for any reason at any time.

Limitation of Liability

Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence;



(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

Subject to (a)(b) and (c) above, our total liability to you shall not exceed 1 month's fees paid by you. Our total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.

Except as expressly stated above:

We shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- special damage even if the Supplier was aware of the circumstances in which such special damage could arise;
- loss of profits;
- loss of anticipated savings;
- loss of business opportunity;
- loss of goodwill;
- loss or corruption of data,

the total liability of the Company, whether in contract, tort (including negligence) or otherwise and whether in connection with this licence or any collateral contract, shall in no circumstances exceed a sum equal to the Fee; and

the Customer agrees that, in entering into the Contract, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in the Contract or (if it did rely on any representations, whether written or oral, not expressly set out in these Terms of Service) that it shall have no remedy in respect of such representations and (in either case) we shall have no liability in any circumstances otherwise than in accordance with the express terms of this clause.

We will not be liable for any losses arising out of a Force Majeure Event

Warranties

We, and our suppliers, make no warranty or representation that your use of the Service will be uninterrupted or error-free or regarding the results that may be obtained from the use of the Service, the security of the Service, or that the Service will meet your requirements.

We are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.



You understand and agree that the Service is provided "as is" and, to the extent permitted by law, we disclaim all warranties or representations of any kind, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose.

Your use of the Service is at your sole risk. You will be solely responsible for any damage to you resulting from the use of the Service. The entire risk arising out of use, security or performance of the Service remains with you. If there is any loss or damage to your data, your sole and exclusive remedy will be for us to use reasonable commercial endeavours to restore the lost or damaged data from the latest backup of such data maintained by us or our hosting partner.

Intellectual Property and Data

We claim no Intellectual Property Rights over the data or other material you provide to the Service.

Your data will not be used for marketing purposes or for statistical analysis.

You acknowledge that we own all rights, title and interest in and to the Service, including without limitation all Intellectual Property Rights, and you shall have no rights in or to the Software other than the right to use it in accordance with the terms of the Contract.

Except to the extent that applicable laws prevent us from restraining you from doing so, you agree that you will not copy, reproduce, alter, modify, or create derivative works from the Service.

You acknowledge that all Intellectual Property Rights in the Software and any Maintenance Releases belong and shall belong to us or the relevant third-party owners (as the case may be).

Assignment

The rights in these Terms of Service are granted exclusively to you. You may not assign your rights in respect of the Service to any other person or organisation (without our prior consent).

Waiver

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

Remedies

Except as expressly provided in these Terms of Service, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

Severance



If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.

If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

Third-party rights

A person who is not a party to the Contract shall not have any rights 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.

No partnership or agency

Nothing in the Contract intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

You confirm you are acting on your own behalf and not for the benefit of any other person.

Force majeure

Neither party shall be in breach of these Terms of Services nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances [the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

Law

The Contract is governed by and construed in accordance with the laws of England and Wales.

The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with these Terms of Service

Questions

If you have any questions about these Terms of Service, please contact via live chat by clicking [here](#) and then clicking on the chat icon.

Company Information



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