

WOODPECKER SYSTEMS' TERMS OF SERVICE

Valid from: 01. January 2025

1. **General.** These Woodpecker Systems' Terms of Service (the **General Terms**) are applicable to the Services provided by **Woodpecker Systems OÜ** (an Estonian limited liability company registered under register number 12852151, located at Mõisa tn 4, 13522 Tallinn, Estonia) (the **Supplier**) and to the use of TimberERP software (the Woodpecker Product).
2. **Definitions.** In these General Terms:
 - **Agreement** is the contract for the use of the Woodpecker Product and Services, which consists of the Special Terms (e.g. Subscription Agreement) and the General Terms
 - **Special Terms** is the part of the Agreement in which conclusion of the Agreement and application of the General Terms is agreed upon.
 - **Customer** is a legal entity that is using the Services or Woodpecker Product;
 - **Parties** are the Supplier and the Customer together;
 - **Party** is either the Supplier or Customer separately;
 - **Subscription Services** include access to and installation of latest software version, configuration of Product, user help and support, issue handling (fixes or workarounds), hosting (optional); pre-screening and first feedback on feature change requests
 - **Additional Services** are the services to be provided by the Supplier under a relevant Agreement. These may include feature change analysis and implementation, design of templates, configuration of user/client devices (e.g. printers, scanners, computers), training, consulting services, data entry e.g. access restriction entries, issue handling related to custom integrations or third parties;
 - **Services** refers to Subscription Services and Additional Services;
 - **Site** refers to each separate installation/instance of the Woodpecker Product.
 - **Users** are employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Woodpecker Product;
 - **Woodpecker Product** is software provided by the Supplier. It may be offered to the Customer as an on-premise implementation under a license or as software as a service (SaaS). The functionality of the Woodpecker Product is further specified at www.timberERP.com
3. **Pricing.** Unless otherwise agreed in the Agreement, the applicable pricing of the Woodpecker Product and related Services are specified at www.timbererp.com/pricing The Supplier reserves the right to unilaterally amend the pricing and terms subject to the same process as described in section 19 below. Any prices indicated are exclusive of VAT. Prices can only change maximum 10% or general inflation at a time. However, the Supplier can make changes only once a year or less often.
4. **The subscription term and renewal.** The subscription period for each Site for the use of the Woodpecker Product is one (1) month (the **Subscription**). The Customer agrees that after the expiry of the current Subscription Term the subscription will each time be automatically renewed with respect to each Site for the duration of another Subscription Term or termination date of the Agreement whichever is shorter.
5. **Services on a time basis.** Unless otherwise agreed in the Agreement, the cost of the Additional Services provided on a time basis is calculated on the basis of the applicable hourly rate of the Supplier's employee (as indicated at www.timbererp.com/pricing) and the actual time spent (time is billed in 1h increments).

No additional services are to be billed without advance notice from the Supplier and explicit confirmation from the Customer.

Regarding feature change requests: when the Customer decides to go forward after first feedback then explicit confirmation is considered given for analysis work. Analysis work is 2 hours if not agreed otherwise. The result



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of the analysis work is detailed offer for implementation (and partial implementation for simpler cases). The detailed offer (of analysis result) is valid for 1 year.

When Additional Services have been provided and written confirmation of completion is sent by the Supplier, the Customer is expected to give feedback in 2 working days. If no claims have been made within 2 weeks, the supplier has right to bill the full amount.

The Customer may have a certain amount of monthly Additional Service hours already included in the price of the subscription fee, any unused hours during a Subscription Term will not accrue and cannot be used during subsequent Subscription Terms.

6. **Payments.** The Customer shall pay the invoices within [14] calendar days from their date of issue, unless otherwise indicated on the invoice. If the Customer fails to pay an invoice by the due date, then the Supplier may claim from the Customer a late payment interest for each delayed day at a rate of 0.05% until payment in full. Supplier has the right to switch the Woodpecker Product to read-only mode if the Customer fails to pay an invoice within 60 days from due date and there is no communication about this from the Customer.
7. **On-premises model.** Where the Agreement entitles the Customer to use the Woodpecker Product on-premises under a license, then the Supplier grants to the Customer for the period of validity of the Subscription Term a limited, non-exclusive, non-transferable, revocable license to use the Woodpecker Product for its ordinary business purposes. The Customer will be solely responsible for the proper functioning of the infrastructure where the Woodpecker Product is installed and backing up the database. All analysis and implementation work related to issues caused by Customer directly interacting with the database is subject to be billed as Additional Services. The Customer provides the Supplier access of database copy for development and testing purposes.
8. **SaaS model.** Where the Agreement entitles the Customer to use the Woodpecker Product as software as a service, then the Supplier for the duration of the Subscription Term grants the Customer access to the Woodpecker Product to be used by the Customer for its ordinary business purposes. Under the SaaS model the Woodpecker Product is made available to the Customer on infrastructure that is maintained by the Supplier and subject to reasonable usage limits. The Customer retains control over timing of version upgrades of the Woodpecker Product used under the SaaS model. The Supplier uses modern infrastructure from a well-established hosting provider which implements daily backups and keeps them for at least 7 days. Supplier will make reasonable efforts to keep the Woodpecker Product operational and available, however, certain technical difficulties or maintenance may, from time to time, result in temporary interruptions. All planned interruptions for e.g. maintenance are communicated to the Customer at least 3 business days ahead and where possible shall be re-scheduled if requested so by the Customer.
9. **Warranty.** Supplier assures that the Woodpecker Product is reasonably accessible and usable during the subscription period under Subscription Services. The Supplier will employ its best efforts to ensure the highest level of quality, safety and security of the Woodpecker Product and Services, however the Supplier makes no warranty that the use of the Woodpecker Product will be uninterrupted, accurate, timely or error-free or that defects will be corrected. The Supplier is not liable to the Customer if any systems or data are accessed, intercepted, changed or destroyed by unauthorized third parties. The Supplier makes no other express warranties, written or oral, and all other warranties are specifically excluded including, but not limited to, any warranty of merchantability or fitness for a particular purpose.
10. **No transfer of intellectual property rights.** Unless expressly agreed otherwise all intellectual property rights belonging to or developed by a Party, together with any modifications, developments or derivatives thereof will remain vested in that Party. Unless expressly agreed otherwise any developments ordered by the Customer to the Woodpecker Product, may be included in the Woodpecker Product to be used by any other customers of the Supplier.
11. **Term.** If not otherwise agreed in the Agreement, the Agreement shall be valid, after signature by both Parties, without specified term.



12. **Ordinary termination.** The Agreement may be terminated at any time without cause by either Party with three month's prior notice to the other Party. Where the Agreement has been made for a fixed period the same applies for premature termination.
13. **Consequences of termination.** Upon termination of the Agreement for any reason the Customer and its Users must cease their usage of the Woodpecker Product. The Supplier is entitled to deny access to the Woodpecker Product and suspend the Services. Upon termination of the Agreement for any reason either Party shall immediately return to the other Party all material and computer programs and any copies thereof it has obtained unless otherwise agreed in the Agreement.
14. **Service levels (SLA) for customer support.** Customer support shall be provided by the Supplier as follows:

Support via e-mail – the support e-mail address of the Supplier is available at www.timberERP.com:

E-mail is the primary support channel that Parties should use (including prior to a phone call)

Support via telephone or Teams (or in special cases other screen sharing solutions e.g. Skype, Zoom, TeamViewer) – the support telephone number of the Supplier is available at www.timberERP.com

Customer is nicely asked to send basic info to e-mail before a call.

Available: during working days between 09:00–17:00 Estonian time; 17:00-20:00 is not charged as Additional Services but is not guaranteed to be available. Supplier is aware that the Customer has a need to work up to 24h shifts and needs to always have access to the software.

Support outside working hours is subject to billed as Additional Services unless the support case is attributable to a fault in Woodpecker Product.

SLA response times:

2 working days for support and consultancy requests

5 working days (after receiving full info including answers to questions) for feature change requests

SLA resolution times:

1 week for normal issues (some feature is affected for some users)

8 hours for critical issues (whole system is affected for most users) at working time

Customer is aware that issue resolution times for bugs (faults, errors) are highly dependent on the nature of each case. In some rare situations issues might be classified as “accepted bugs” meaning they will never be corrected. The numbers above however are “normal targets” for most situations.

Hosting SLA: 99,8% (applicable to SaaS model)

In case of a long “system down” the Supplier will spin up a parallel main system within 1 working day after getting hold of a data backup.

15. **Limitation of liability.** To the maximum extent permitted by law, the Supplier shall not be liable for any damages, loss of profit, expenses or other consequences resulting from (i) anyone's use or inability to use the Services or Woodpecker Product, (ii) unauthorised access to or interruption, alteration, loss or deletion of the Customer's data or data transmissions, (iii) any other matter relating to the Services or Woodpecker Product. Liability in case of failure to provide Subscription Services is proportionally deducted from and does not exceed current month's fee. The aggregate liability of the Supplier shall under no circumstances exceed the amount that the Customer has actually paid to the Supplier for the Subscription Services during the three (3) months immediately preceding that month in which the event giving rise to the Supplier's liability occurred. Nothing in these General Terms shall limit the liability of the Supplier which cannot be limited under applicable law.
16. **Personal data.** The Supplier collects and process certain personal data in compliance with applicable data protection legislation. The Customer or Users may need to provide certain personally identifiable information for using the Woodpecker Product. The Customer confirms having the necessary rights to disclose, transfer and process personal data using the Woodpecker Product.



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17. **Customer data.** The Supplier claims no intellectual property rights or title over the data the Customer enters to the databases linked to the Woodpecker Product or that is otherwise disclosed to the Supplier as part of the Services. The Customer is solely responsible for implementing and monitoring appropriate operational and security procedures in relation to Customer data, and for making appropriate backup copies of all Customer data.
18. **Confidentiality.** Except as otherwise required by law or for the purposes of carrying out the intent of the Agreement, the Supplier and the Customer may not disclose to any third party any information related to the business activities or plans of the other Party, which are not public and which are generally considered business secrets. The Customer is liable to ensure that its representatives, employees and Users who have access to confidential information are informed of the confidentiality obligation and are subject to confidentiality obligations similar to the confidentiality obligation in the Agreement.
19. **Right to amend the General Terms.** The Supplier reserves the right to make changes to these General Terms, foremost if amendments are necessary to comply with statutory requirements or to reflect changes in the Supplier's service offering, costs or business model. The Supplier will provide the Customer with reasonable prior notice of such changes. However, the Supplier can make changes only once a year or less often. If the Customer objects to such changes, the Customer may not be able to continue to use the Woodpecker Product or Services. In such case the Supplier is obligated to continue providing Subscription Services under current terms for 1 (one) year unless changes are required to meet statutory requirements.
20. **Diagnostic data.** The Customer is aware and accepts that Woodpecker Product contains a functionality to send certain diagnostics, usage and performance data about the Woodpecker Product to the Supplier. Such data is meant for system improvements and does not contain any personal data or Customer data.
21. **Force majeure.** The Supplier and the Customer shall not be liable for non-fulfilment or inadequate fulfilment of contractual obligations if this is caused by *force majeure*. *Force majeure* are circumstances which are beyond the control of the party and which, at the time the contract was entered into, the party could not reasonably have been expected to take into account, avoid or overcome the impediment or the consequences thereof which the party could not reasonably have been expected to overcome.
22. **Governing law.** The Agreement shall be governed by the laws of Estonia. The Parties acknowledge and agree that the United Nations Convention on Contracts for the International Sale of Goods shall have no application to the Agreement.
23. **Dispute resolution.** All disputes, differences or claims arising out of or in connection with the Agreement shall be finally settled by the Harju County Court (*Harju Maakohus*), Estonia.
24. **Final provisions.** The Customer may not assign any rights or obligations arising from these Terms to a third party without the prior written consent of the Supplier.

The invalidity or enforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision hereof.

The Agreement may be amended, modified or terminated only in writing signed by the Parties hereto.

The Agreement, together with its appendices, annexes, schedules, constitutes the entire agreement between the Parties with respect to the subject matter thereof. The Agreement shall terminate all previous oral and written agreements of the Parties that concern the scope of application of the Agreement.

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