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LiveWhale CMS and LiveWhale Calendar Updated Service Level Agreement

Effective date: July 1, 2018

It is our intent to provide the highest level of customer service available for a higher education software product. By setting down policies in a concrete SLA and channeling requests for help through approved contact methods, we hope to provide better and more responsive service; maintain an accurate profile of user training needs; and ensure a staffing level appropriate to the volume of support requests. This document shall supersede and replace all prior contract language pertaining to the Service Level Agreement.

Contacting support

- All support requests should be emailed to **support@livewhale.com**. For protocol relating to emergency support, see below.

Definitions

- **Support** refers to communications from software users to request help, report bugs, or ask questions. Types of support requests are discussed in more detail below.
- **LiveWhale** refers to the LiveWhale CMS or LiveWhale Calendar software products, whichever product your institution uses, as well as the general technology platform those products are built upon.
- **LiveWhale Core** refers to the source code of LiveWhale, as installed and regularly upgraded. Specifically, the source code of LiveWhale constitutes all files within the non-public **/livewhale/core/** and public **public_html/livewhale/** directories that power your website or calendar.
- **Client-specific code** refers to any code or assets that are specific to your institution's website or calendar. This includes all files on your web server outside LiveWhale Core, like the following:
 - Templates and theme files inside **/_ingredients/** on your server's public root
 - Templates and theme files in **/livewhale/theme/** (except **/livewhale/theme/core/**)
 - Public or private pages on your website
 - Configuration files inside the non-public **/livewhale/** directory
 - Client modules inside the non-public **/livewhale/client/** directory

Terms related to client-specific code apply whether said code was created by White Whale Web Services staff, a developer on your team, or a third party.

- **Billable** items are quoted and priced at our House Rate. As of the Effective Date of this document, our House Rate is **\$200**.

We will notify you in writing of any changes to this hourly rate. In certain circumstances, at our own discretion, we may offer reduced rates for certain billable tasks or work projects, or negotiate a flat fee for specific projects.

- **Business hours** are defined as 6am–6pm Pacific (9am–9pm Eastern) Monday through Friday, excluding federal US holidays and the week between the Christmas and New Year's holidays.

Billable and non-billable support

- A LiveWhale license entitles you to customer support at no cost, for purposes of servicing, repair, or correction to LiveWhale Core. If you report an issue that identifies a flaw or bug in our core software, we'll fix it as promptly as possible.
- All work done to resolve bugs or issues *resulting from client-specific code* is billable at our House Rate.
- We will make every effort to promptly diagnose the source of any bugs or issues that you report. Whether the source of these issues is determined to be LiveWhale Core or client-specific code, diagnostic work is included with your license as non-billable support, unless we determine that such diagnosis could take over two hours; in such cases, we may request that you pre-authorize billable time for diagnosis in case the cause of the issue is eventually determined to be in client-specific code.
- Before beginning work to address issues in client-specific code, we will provide an informal estimate of time and costs to resolve each issue. If you require a formal quotation for each such instance, please let us know.

Software upgrades

- Regular upgrades to LiveWhale will be provided at no charge for the term of this License. Upgrades will be executed by LiveWhale staff.
- For most upgrades, we will provide advance notice of the upgrade; work with you to schedule your upgrade; execute it at a time that makes sense for you, and be available for consultation afterwards. In the case of occasional software patches and bug fixes

that do not affect the operation of the software, we do not typically notify you unless expressly requested.

- Only LiveWhale Core files are modified in upgrades to LiveWhale.
- LiveWhale provides a robust architecture for client-specific customizations that allows great flexibility in designing LiveWhale-powered websites as well as using and modifying the software itself. **Upgrades to LiveWhale Core may cause conflicts with client-specific code.** We do our best to minimize the possibility of such conflicts when executing minor upgrades; in significant version upgrades, conflicts are likely.
- After a LiveWhale upgrade, LiveWhale staff can assist your team in locating and diagnosing potential conflicts with client-specific code; however, we are not responsible for identifying any or all possible conflicts.
- Work to resolve such conflicts is billable at our House Rate.
- We strongly suggest that upgrades be executed first in a development/test environment, to allow time to review, identify, and resolve conflicts.

Response time for support requests

Type	Examples	How to report	Expected time to first response
Emergency	Server outage, entire site won't load, homepage won't load, no editors can login to the CMS	Email support@livewhale.com with "URGENT" in the subject line	<ul style="list-style-type: none">• During business hours: < 30min• Within 24 hours of a site launch or upgrade: < 30min• All other times: < 1 hour
Bug Reports	Broken CMS feature, page won't load	Email support@livewhale.com	< 1 business day
Informational	Requests to review unexpected behavior, questions or advice on best practices	Email support@livewhale.com	< 3 business days
Feature Requests	Requests for enhancements or changes to the LiveWhale Core	Email support@livewhale.com	< 5 business days

All of the above types of customer support are provided at no additional charge as they pertain to LiveWhale Core or LiveWhale Cloud Hosting. Support pertaining to *client-specific code* or *self-hosted clients* may be billable; see details below.

Emergency support

- For the purposes of this contract, *emergencies* are defined as failures of the LiveWhale software or LiveWhale Cloud Hosting that prevent the normal functioning of a LiveWhale-powered website. These are typically (a) *front-end outages* on your public site, when LiveWhale-powered pages do not load in current versions of popular browsers; and (b) *back-end outages*, in which no users with LiveWhale accounts can log into the administrative backend.
- **Emergency support requests must be made by emailing support@livewhale.com with the word “URGENT” in the subject line.** This is the fastest way to reach our entire team and get your request resolved immediately.
- For 24 hours after the completion of a LiveWhale upgrade, emergency support requests can be made at any time, and will be answered within 30 minutes.
- There is no additional charge for emergency support service if the request is properly defined as an emergency as stated above. *Please note that any outages caused by client-specific code do not meet this definition.*
- We will provide estimates in advance if circumstances allow, but **we require that you pre-authorize up to two hours of billable work** for any emergency support request, in the event we later determine the issue to be (a) inappropriate for the emergency channel, or (b) the result of client-specific code.

Bug reports

- If you report an issue that is determined to be the result of a LiveWhale bug (defined here as a failure or unintended result of functionality in the LiveWhale Core), we will address the bug at no cost to you. We reserve the right to determine if a given support request is a bug report.
- We reserve the right to schedule bug fixes where appropriate and convenient on our roadmap, but we will make every effort to address bugs that actively interfere with the normal maintenance of your website as quickly as possible.
- Sometimes bugs are the result of client-specific code. We may bill retroactively at our House Rate for time spent working on bugs that, once resolved, are determined by mutual agreement to be the result of client-specific code.
- We will provide estimates in advance if circumstances allow; if we have not provided an estimate for work that is eventually determined to be caused by client-specific code, we may bill retroactively for no more than two hours at our House Rate.

Feature requests

- Support requests that call for functionality that does not currently exist in LiveWhale are classified as *feature requests*. We reserve the right to determine if a given support request is a feature request, and will notify you of our determination before starting work.
- When we receive a feature request, we will first determine whether the requested feature belongs in LiveWhale's core feature set. If it does, we will add it to our roadmap of new feature plans, to be implemented at a timeline of our choosing, with no cost to you.
- If we determine that a feature request is not appropriate for LiveWhale core, you may request that we build the desired functionality as a custom project for your LiveWhale installation only. Custom work is typically billed on an hourly basis with an advance estimate of likely project cost; we require a signed contract and approved quote before undertaking any custom code projects.
- If your feature request is deemed appropriate for our roadmap but you require the desired functionality on a more immediate timeline, you may contract with us to provide the feature as soon as possible. In this case, we'll work with you to determine the soonest possible delivery date for your feature given our work supporting other customers. We will bill these projects on the same hourly basis as custom projects, but offer a 50% discount for the development of features that will be incorporated as is into the LiveWhale Core.

Informational support

- Support requests that do not fall into the above categories are considered *informational support*. These may include questions about the proper use of LiveWhale; questions or requests pertaining to the coding of webpages by White Whale during the site buildout process, and not related directly to LiveWhale; requests to review unexpected behavior and provide advice; and other general requests.

Who may make support requests

- Emails to support@livewhale.com may be sent by any registered user of your LiveWhale account. However, specific individuals identified by you as "designated LiveWhale administrators" are typically the initial point of contact for end user support, with most support requests coming to us from these individuals.
- We will only perform billable support work under the terms of this agreement when requests come from designated LiveWhale administrators. When support requests are submitted by other users to support@livewhale.com, we will forward those requests to your designated LiveWhale administrators (if performing requested tasks would be billable), or reply with copy to your administrators (for quick fixes and easy answers).

- Emergency support requests may come only from designated LiveWhale administrators.

Support documentation

- Online support documentation is available at **docs.livewhale.com**. We are always looking to make our support documentation as accurate, helpful and responsive as possible to the needs of day-to-day CMS and calendar users, and we invite the participation of our developer community in writing and editing support documentation.

Managed cloud hosting services: terms and conditions

If you elect to host LiveWhale/LiveWhale Calendar in-house or via a third party, you must agree to the following, repeated at the end of this document for signature:

“We do not intend to utilize the LiveWhale Cloud hosting service for our installation of LiveWhale/LiveWhale Calendar. We accept responsibility for server-level support, including server software installation, maintaining up-to-date security patches, database support, system user/permissions management, SSL certificate management/ installation, and other server management duties outside the operation of the CMS/ Calendar itself. We understand that LiveWhale support requests requiring involvement with these tasks may be billable.”

If you elect to use LiveWhale Cloud Hosting, the following terms apply:

- Hosting services will be provided by a third-party subcontractor of White Whale Web Services. White Whale will select and manage this subcontractor relationship to provide the necessary hardware, software, networking, storage, and related technology required to efficiently run LiveWhale Cloud. All terms and conditions related to our selected hosting vendor will be made available for your review.
- Emergency service request response time guarantee is one hour. Emergency requests related to software hosting may be submitted 24 hours a day.
- Outages, as described in the software SLA, must exceed 5 minutes to be considered an outage under the terms of this LiveWhale Cloud SLA.
- White Whale staff will monitor your LiveWhale Cloud server(s) for potential events that could or do result in an outage, so that we can take preventative measures and respond quickly in emergencies.
- Outages may be the result of a failure on the part of the third-party subcontractor, a failure on the part of White Whale staff, or the result of custom code written by and/or

maintained by representatives of the Client. White Whale staff will investigate all outages and provide a post-mortem of each outage. White Whale is the sole authority on determining the relative percentage of outage responsibility between these three parties.

- If an outage is deemed to be the result of action or inaction by the third-party subcontractor, their SLA governs the event. White Whale will provide a copy of the third-party subcontractor's SLA, which the Client must also accept. White Whale will remit any funds to the Client that are refunded to us as a result of outages covered by the third-party subcontractor's SLA.
- If an outage is deemed to be the direct result of action or inaction by White Whale staff, then White Whale will refund up to 0.5% of your annual Cloud Hosting fee (for LiveWhale CMS) or calendar license fee (for LiveWhale Calendar) for each 30 minutes of network downtime, up to 5% of the fee per instance.
- Outages resulting from denial of service attacks, virus activity, hacking attempts, or any other circumstances that are not within White Whale's or the third-party subcontractor's control do not merit fee refunds under this SLA.
- White Whale considers client's Content to be client's private material. However, law enforcement requests to White Whale may require disclosure of client's Content or other data, subject to the following White Whale policies:
 - White Whale will not release non-public information about users unless it has received a subpoena, court order, or other valid legal process document.
 - Unless required not to do so by court order, White Whale will inform users whose non-public information has been requested via subpoena, court order, or other valid legal process document.
 - White Whale will disclose only such information as is required by a subpoena, court order, or other valid legal process document and will otherwise seek to protect the privacy of the users of its network.
 - To the extent client requires access in order to comply with a subpoena, court order, or other valid legal process document, White Whale will cooperate, reserving the right to invoice client for time spent at our House Rate.
- Upon termination of this agreement for any reason, your content will be archived and preserved for six months from date of termination, and then deleted permanently.

Modifications to Service Level Agreement

You agree that White Whale may provide you with notices, including those regarding changes

to this Service Level Agreement, by email or regular mail; provided, however, that notice of changes to the Service Level Agreement shall be provided to you no less than sixty (60) days prior to their effective date. Should you not agree to changes in the Service Level Agreement, you may terminate any contracts associated with this agreement without penalty by providing notice to White Whale prior to the changes' effective date. Upon termination for this reason, you will receive a refund of any prepaid fees, prorated over the then-current term.

Acceptance of Service Level Agreement

Signed contract may be returned by mail (1904 Franklin Street, Oakland CA 94612); fax (510-452-1874); or by email to support@livewhale.com.

Date: **April 26, 2018**

Date: _____

For: **White Whale Web Services, Inc.**

For: _____

Print Name: Jason Pontius

Print Name: _____

Signature: 

Signature: _____

Self-Hosting: Acceptance of Responsibility

For customers electing to host LiveWhale/LiveWhale Calendar in-house or via a third party, the following must be signed by a representative authorized to make server-level decisions:

“We do not intend to utilize the LiveWhale Cloud hosting service for our installation of LiveWhale/ LiveWhale Calendar. We accept responsibility for server-level support, including server software installation, maintaining up-to-date security patches, database support, system user/permissions management, SSL certificate management/installation, and other server management duties outside the operation of the CMS/Calendar itself. We understand that LiveWhale support requests requiring involvement with these tasks may be billable.”

Date: _____

For: _____

Name: _____

Signature: _____