



Terms of Engagement - BP Metrics IT Services

Last modified: 09 APRIL 2024. Replacing 14 MAR 2018

1. WELCOME TO BP METRICS

A). ESSENTIALS

Thank you for using our Product and Services ("Services"). We are DYNAREAD SPECIAL EDUCATION CORPORATION ("Dynaread"), 1670 Salem Road, Cranbrook, BC, Canada: Performing business as BP Metrics ("BPMetrics"). A British Columbia Corporation, Incorporation Number BC0695082.

We strive to be professional, paper-free, relational, and keep things easy and uncomplicated. These BPMetrics Terms of Engagement, combined with the BPMetrics Privacy Policy constitute the only Agreement or Contract ("Agreement") between you - our Client ("Client") - and us at BPMetrics.

BP Metrics engages in delivering core deliverables, customised IT solutions and deliverables, hosting, data storage, IT consulting, cloud consulting, System Administration, and IT Support services ("Our Services") to her Clients.

The Client should carefully read the Agreement before agreeing to our Services. This is a legally binding agreement. If you do not agree with the Agreement you should not use Our Services.

Payment of BP Metrics related Services invoices constitute acceptance of our Services, including delivered Deliverables, these Terms of Engagement, and our Privacy Policy.

If you are using our Services on behalf of a commercial or a non-commercial or a governmental legal entity ("Legal Entity"), that Legal Entity unreservedly accepts the Agreement.

B). THE OBJECTIVE OF DYNAREAD SPECIAL EDUCATION CORPORATION

BP Metrics is a business unit of DYNAREAD SPECIAL EDUCATION CORPORATION. You will be working with the IT Team of Dynaread. The proceeds of the services you receive from BP Metrics make it possible for us to pursue our objective to help obliterate adolescent low literacy.

C). THE OBJECTIVE OF BP METRICS

BP Metrics is dedicated to deliver effective customised RealTime Metrics solutions to her clients.

We pursue this objective with integrity, dedication, professionalism, and a heart for service.

Except in cases of Dynaread emergencies, BP Metrics client-needs are priority scheduled within the Dynaread IT team.

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2. ABOUT OUR SERVICES

A). WE CARE AND OPERATE IN GOOD FAITH

BPMetrics operates in good faith and with best intentions. Our work is performed by carefully selected professionals, who are human. We operate within a transparent corporate culture that strives for open communication, sound quality control, and testing. We strive to deliver bug-free, stable solutions.

IT development is intrinsically complex. You accept the fact that despite the aforementioned, we can still make mistakes. You acknowledge that unforeseen issues may still generate bugs, inaccuracies, or even failures. You agree to work with us constructively and relationally to resolve these, working as a team, as this represents the fastest and safest way to bridge such situations and restore operational integrity and stability to the services provided by BP Metrics.

You acknowledge that you have read this, and accept that it is your choice to work with us.

B). CUSTOMIZATIONS

Customizations are developed on the basis of previous exploration of the needs between BP Metrics and the Client. BP Metrics will do her best to systemically Seek Confirmation for each and every custom need expressed by the Client. Such Seek Clarification protocol increases development efficiency, avoids waste, disappointment, and disagreement.

In case a specific customization proves to fall short of the envisioned functionality of the Client, the Client agrees to work constructively with BP Metrics to resolve this. BP Metrics pledges to be sympathetic to necessary changes and perform these at reasonable cost. However, the Client confirms that their own progressive insight and newly desired customizations or adaptations, not previously expressed nor confirmed to BP Metrics, effectively constitute new work, and the client accepts to pay the appropriate BP Metrics charges for these.

3. OUR WARRANTIES AND DISCLAIMERS

A). REGARDING OUR SERVICES

BPMetrics offers our Services using a responsible and reasonable level of skill and care, within the premise of our Objectives (SEE 1.b AND 1.c).

B). INITIAL DOWNPAYMENTS and HARDWARE PAYMENTS

Initial Downpayments are refundable until Shipment confirmation of Hardware.

Thereafter, during a 7 calendar day period following Shipment, BP Metrics is permitted to withhold up to a maximum of 30% to (re)cover Hardware returns and loss of New-status of the hardware..

After 7 calendar days following shipments the purchase of hardware and licence becomes permanent and non-refundable.

Refunds are only honored after receipt of hardware in impeccable order; BPMetrics is allowed to apply further refund reductions to cover hardware imperfections or damage.

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C). FOLLOWING HANDOVER

BP Metrics stands behind the Services handed over to the Client and warrants their proper operational functioning within the agreed design criteria. Specifically:

During the period between Services Handover and Final Payment (typically an 8 week period)

BP Metrics performs all corrections or repairs in line with ascertaining operational functioning and agreed design criteria Free of Charge. It is this period in which the Client is encouraged to thoroughly use, test, and explore all functionalities and operational use, and bring any discerned issues to BP Metrics' attention. Any issue expressed to, and acknowledged by, BP Metrics during this period will be addressed and rectified by BP Metrics in due fashion and Free of Charge.

After Final Payment

Any clear and unambiguous shortfalls in the operational functioning and agreed design criteria will be rectified by BP Metrics Free of Charge.

Explicit Exclusions

Notwithstanding the above, issues triggered by Client-induced or Client-environment (i.e. the Client's staff, Client facilities, Client suppliers, Client's physical environments and so forth) induced changes to, or instabilities in, the IT Infrastructure or Infrastructure-affecting externals are explicitly excluded.

Example: If the User changes a connected piece of hardware and/or software, and thereby breaks or negatively affects operational functioning of the Services, such issues would not be covered under Warranty. The User acknowledges this and will accept to be charged by BP Metrics for work to restore operational usage of the Services.

Results and Benefits are Explicitly Excluded

Although we do our best to deliver results and develop customizations where requested, BPMetrics does not make any Client-specific promises about expected business results or any other form of outcome or results of using our Services. We cannot accept responsibility for appropriateness of our Services, nor for its ability to meet your needs. Such judgement remains the exclusive domain of the Client, and the Client should perform adequate due diligence, and use BP Metrics willingness to answer any and all questions prior to engagement. We provide our Services "As Is." Some jurisdictions provide for certain warranties, like the implied warranty of fitness for a particular purpose. BPMetrics, to the maximum extent permitted by law, excludes all warranties.

4. LIABILITY

Any damages for which we at DYNAREAD, and/or her Business Unit BPMetrics may be liable shall be limited to the amount the Client paid to BPMetrics in the previous 12 (twelve) months.

We also need to include the following capitalised paragraphs. In essence these paragraphs state that we do not accept liability for any loss or damage you, or your business, organisation or institution may incur.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, DYNAREAD, BP METRICS, OUR EMPLOYEES, AGENTS, SUPPLIERS, AND CONTRACTORS ("THE DYNAREAD TEAM"), EXCLUDE LIABILITY FOR ANY LOSSES AND EXPENSES OF WHATEVER NATURE AND HOWSOEVER ARISING OUT OF USAGE OF, OR INTERACTION WITH--WHETHER DIRECTLY OR INDIRECTLY--OUR SERVICES, INCLUDING WITHOUT

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LIMITATION ANY CLAIMED OR POTENTIAL LOSS OR DAMAGE SUSTAINED BY THE CLIENT, THEIR BUSINESS, AND/OR INSTITUTION OR ORGANISATION, WHETHER MATERIAL OR IMMATERIAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL, OR ANY OTHER FORM OF DAMAGES.

THE DYNAREAD TEAM EXCLUDES LIABILITY FOR ANY LOSSES AND EXPENSES OF WHATEVER NATURE AND HOWSOEVER ARISING, INCLUDING WITHOUT LIMITATION ANY CLAIMED OR POTENTIAL LOSS, LOSS OF USE, LOSS OF DATA, LOSS CAUSED BY A VIRUS, LOSS OF INCOME OR PROFIT, LOSS OF OR DAMAGE TO PROPERTY, CLAIMS OF THIRD PARTIES, OR OTHER LOSSES OF ANY KIND OR CHARACTER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS OUR SERVICES AND OUR SITE OR ANY WEB SITE WITH WHICH IT IS LINKED. YOU ASSUME TOTAL RESPONSIBILITY FOR ESTABLISHING SUCH PROCEDURES FOR DATA BACKUP AND VIRUS CHECKING AS YOU CONSIDER NECESSARY.

5. YOUR COMPLIANCE TO THE LAW

Some Countries, States, Provinces, Districts, or Municipalities may have specific laws in place, or incoming, regulating for specific use or routings of funds, privacy of data, security of systems, safety of hardware, or any other subject or topic. It is the exclusive responsibility of the Client to ascertain that your use or purchase of our Services does not violate law.

Some jurisdictions may feature standing or incoming Laws, Regulations, By-Laws, Orders, Criteria or any other requirements on the type of services offered by BPMetrics (Our Services). It is the Client's responsibility to verify whether or not our Services can be used within the Client's jurisdiction. BPMetrics cannot and does not claim that our Services are appropriate within the Client's jurisdiction.

6. INTELLECTUAL PROPERTY

Regarding our Services: Please respect our property. All intellectual property - source code, design templates, work-flows, business processes, art work, images, patented methods, trademarks, all texts - are either BPMetrics intellectual property, or used under licence by BPMetrics.

You are not allowed to reverse-engineer, copy, distribute, or republish any of the intellectual property of our Services or Site.

A). Unsolicited Ideas

BPMetrics or any of its staff are not obliged to accept or consider unsolicited ideas. The sole purpose of this policy is to avoid potential misunderstandings or disputes when BPMetrics's products or marketing strategies might seem, or in fact are, similar to ideas submitted to BPMetrics. If you voluntarily submit unsolicited ideas or provide feedback on request, then regardless of what your communication states, our 6.C Terms of Feedback and Input (see directly below) shall apply to your submissions.

B). Solicited Ideas

In the course of discussing the Services, their development and customization, BPMetrics and the Client will be in frequent contact. The Client, or any of its staff, may share ideas, inputs, solutions, options, etc. (hereafter: "Input").

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Unless explicitly claimed by the Client in writing, our 6.C Terms of Feedback and Input (see directly below) shall apply to your submissions.

C). Terms of Feedback and Input

BPMetrics encourages and welcomes the Client's feedback and input regarding BPMetrics's products, staff, services, developments, and customizations. Any feedback, input, or ideas you provide to BPMetrics shall be deemed to be non-confidential unless explicitly declared confidential and/or unless intrinsically covered under NonDisclosure. BPMetrics shall enjoy free utilisation and monetization of all input on an unrestricted basis. BPMetrics has the right to file a patent or copyright on any input provided. By submitting your input you voluntarily waive any and all rights to intellectual property contained in your input: if this is unacceptable, we expect you to explicitly inform us in writing about your intellectual property rights or claims.

7. NON-DISCLOSURE

Definition of Confidential Information

For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial value or other utility in the business in which the Disclosing Party is engaged. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning. If Confidential Information is transmitted orally, the Disclosing Party shall promptly provide a writing indicating that such oral communication constituted Confidential Information.

Agreement Pricing forms an integral part of the Confidential Information and may not be disclosed without permission from BPMetrics.

Exclusions from Confidential Information

Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by Receiving Party with Disclosing Party's prior written approval.

Need-to-Know Basis

Parties will handle all received information, whether confidential or non-confidential, with discretion and from a Need-to-Know basis. When in doubt, Parties are encouraged to seek guidance from each other prior Disclosure.

Obligations of Receiving Party

Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. Receiving Party shall carefully restrict access to Confidential Information to employees, contractors and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement. Receiving Party shall not, without prior written approval of the Disclosing Party, use for the Receiving Party's own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the Disclosing Party, any Confidential Information. Receiving Party shall return to the Disclosing Party any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if the Disclosing Party requests it in writing.

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Time Periods

The non disclosure provisions of this Agreement shall survive the termination of this Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

Relationships

Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venturer or employee of the other party for any purpose.

8. ABOUT OUR INPUT OR ADVICE

Our BPMetrics officers and full-time or part-time team members answer questions, and share input in good faith, with a heart to help you, but what we communicate never constitutes nor replaces specific or formal advice, unless it directly pertains to and affects the Services and their development agreed between BP Metrics and the Client.

9. REGARDING PAYMENTS

A). PAYMENT DUE UPON RECEIPT

Payment is due upon receipt of invoice. Why? In our quest to help obliterate adolescent illiteracy and low literacy we are constantly investing, and proper cash flow management helps us do that. We respect delays due to administrative processes, but our terms do not allow you to routinely defer payment until a later date. If your cash flow argues for later payment, then please contact us. We may be able to accommodate you.

B). PAYMENTS

BP Metrics uses the online collection Services of one of North America's leading Merchant Banks: STRIPE. Stripe's online collection services are offered through their own hosted payment gateway.

If you have any concerns, we can arrange alternative means of payment for you. It remains your choice and responsibility how you choose to pay, and you remain fully responsible for outstanding dues/fees. as well as any and all consequences of your choice of payment.

BP Metrics holds the right to suspend or terminate Services if outstanding payments are not fulfilled. BP Metrics will respectfully seek to alert the Client that payments are overdue, and will alert them of pending shutdown to allow the Client opportunity to pay. If payment structurally is denied, BP Metrics will be forced to, and the Client fully accepts full and unrestricted responsibility for, shut down of the Services.

10. A FEW REMAINING TERMS

A). PRIVACY

BP Metrics Privacy Policy forms an integral part of these Terms of Engagement. Please read them.

B). ADHERENCE TO LAW

You agree to use Our Services in a manner consistent with any and all applicable Law, Rules, and Regulations.

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C). TERMINATION OF SUPPORT/SERVICES

BP Metrics may Exit

Following the Client's payment of the final or closing invoice for BP Metrics Services, typically at 'Handover of the Services plus 8 weeks,' BPMetrics is permitted to hand over ownership of the Client's Services Google Cloud environment and any and all code documentation, revision code, databases, and any and all other sources to the User and terminate the relationship. BP Metrics is not intending such an exit, but life is dynamic and circumstances may come our way which force BP Metrics' owner or executives to exit. Such exit is permitted. BP Metrics pledges to facilitate and negotiate and actively assist in the responsible handover of all sources required for continued operation of the Services.

User may Exit

Likewise, following the Client's payment of the final or closing invoice for BP Metrics Services, typically at 'Handover of the Services plus 8 weeks,' the Client is permitted to leave BP Metrics and request BP Metrics support to hand over all collected Client data. The Client acknowledges that BP Metrics will be permitted to charge the Client for the work involved in such hand over.

11. ARBITRATION, SEVERABILITY, AND LAW

A). ARBITRATION

Parties agree to strive to settle, in good faith, any and all disputes, claims, disagreements, or otherwise through Arbitration. Parties agree to mutually identify a single Arbiter, or alternatively a panel of two Arbiters (each selecting one), agreeable to both. Parties further accept that Arbitration may take place through Online Web Conference. Parties agree that the Arbiter's judgement is to be based on, and cannot go beyond, the Terms laid out in these Terms of Use. Parties agree to accept the Arbiter's judgement to be final.

B). SEVERABILITY

In the event that any provision of this Agreement conflicts with the Law under which this Agreement is to be construed or if any such provision is held invalid by a court with jurisdiction over the Parties to this Agreement, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable Law, and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect.

C). LAW

This Agreement shall be construed and controlled by the substantive Laws of British Columbia, Canada. Parties agree to submit any and all legal proceedings to the Courts of Cranbrook, BC, Canada. Parties acknowledge and accept the aforementioned Jurisdiction and Law.

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2. CANADA PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT

BPMetrics strives to comply with the Canada Personal Information Protection and Electronic Documents Act and its associated guidelines as published by the Office of the Private Commissioner of Canada.

BPMetrics does not share your email address with third-parties. We only email in direct and logical followup to actions initiated by you, or in response to you engaging one of our services.

If we choose to distribute non-personal mailings, you can simply UNSUBSCRIBE through either clicking a provided Unsubscribe link inside emails, or (e.g. in case of Support Ticket conversations) by emailing us or calling us, indicating your desire to Unsubscribe.

3. WHAT WE COLLECT THROUGH YOUR USE OF THE SERVICES

We may automatically and manually collect the following data: User Interface data, such as web browser details, operating system, ISP full domain (xyz.name.com), IP Address (xxx.xxx.xxx.xxx), Access route from other sites (Full URL), hyperlinks followed from our site, visits to individual web site pages and documents (including

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time/date/duration stamps), search criteria, and any and all other browsing details typically collected by industry standard UI logging systems and visitor tracking systems such as Google Analytics.

We may further collect all data you voluntarily enter and submit on the forms or other user interfaces published on our sites or apps.

We may further collect, under the Client's orders, all User data pertaining to using BPMetrics Services, including but not restricted to all (cost)metrics data, and related usage dates and times.

We may further collect all electronic communication received from you, including email, email attachments, support tickets, electronic data submissions, server uploads to our server space, voice mails, and fax transmissions. We may further collect payment and payment transaction details exchanged in the context of BPMetrics Services.

Collectively, all collected data and information represents data ("the Data").

4. WHY WE COLLECT DATA

We may collect the Data to be able to provide the Services.

We may collect the Data for internal purposes only. No information is shared with third parties unrelated to BPMetrics through subcontracting or otherwise, unless with your explicit permission.

We may collect the Data in order to keep track of our web site usage and to incidentally monitor whether or not a specific person or organisation has accessed a specific page or downloaded a specific file or document.

We may collect the Data in order to be able to better serve you and respond to your queries and requests, with appropriate ability to reference historically earlier communications, transactions, and other activities.

We may collect the Data to allow you automatic access to pages requiring initial registration or login authorization.

5. HOW DO WE COLLECT AND STORE DATA

All data is electronically collected on BPMetrics server and office equipment and/or BPMetrics leased and operated equipment and/or on equipment of BPMetrics subcontractors.

Data is routinely stored inside Canada, United States of America, Israel, and Singapore. BPMetrics does use server equipment in the said jurisdictions, inside the secure premises of the INTERNET cloud infrastructure of our Partners, or Industry Leader Google Cloud, and/or her competitor Amazon Web Services.

Data stored on our servers is secured by use of industry standard security measures. It is further secured with the security features in place at the Data Centers where our server equipment is operated.

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6. DO WE USE COOKIES

Yes, we may choose to do so, in order to facilitate the aforementioned automatic access to pages and the personalised experience. These cookies are stored on your own computer system and may be deleted by you at any time and at your own discretion.

7. WHO HAS ACCESS TO DATA

Only BPMetrics officers, full-time or part time team members and subcontractors have access to the data - on a Need-to-Know basis only. Access to data is limited to BPMetrics purposes only. The BP Metrics client obviously has right of access to all data pertaining to their BP Metrics Services.

8. TO WHOM IS DATA DISCLOSED

Client-Services specific (cost)metrics data is never ever disclosed to any party.

All other Data (e.g. browser or operating system statistics and other usage data, wholly unrelated to (cost)metrics data or client property) is never disclosed in a manner as to reveal the identity of any party, except when prior consent is explicitly requested and received from the party from whom the data was retrieved.

9. HOW IS DATA DISPOSED

Data disposal depends on the role of the data. Some data is disposed of within seconds or hours, sometimes we choose to archive and retain information for long term reference purposes. Disposal is typically done through deleting the data from the storage device.

10. CAN I ASK FOR MY DATA

Feel free to contact us regarding data pertaining to you.

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