



Cloud2 - General Terms and Conditions

Contracts

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Version 2.0



These are the standard Cloud2 Terms & Conditions of service. They supplement or extend any purchasing T&Cs provided by our clients and are expected to work in conjunction with them. Specific rules take precedence over general rules. Where conflicts or overlap between these and other purchasing provisions occur, they must be clarified in writing and recorded in the purchasing or contractual documents. If you have any questions or wish to make any amendments, please contact us.

THIS AGREEMENT is made BETWEEN Cloud2 and the Client.
It is governed by the laws of England and Wales.

General Provisions

Performance

All commitments with respect to the timing and scope of a project given to the client by Cloud2 - whether verbal or written - are made in good faith but are made necessarily in advance of knowing the full scope of the difficulty that may pertain to performance on specific points (for example, unforeseeable difficulty in obtaining certain information requested by the client). For this reason, whilst Cloud2 agrees to use all reasonable endeavours to fulfil such commitments to clients on the timing and the scope of consultancy and other projects, we cannot guarantee performance in either respect.

Confidentiality

Cloud2 agrees to hold all information provided by the client confidential where the client so specifies, save where such information is known to Cloud2 already, or exists already in the public domain, until, either the information enters the public domain, or Cloud2 is given the same information by a third party, or is released from its confidentiality requirement by the client, or the client is found in breach of contract with Cloud2 by a court of law (including non-payment of account) or three years have elapsed - whichever is the sooner. The client agrees to hold confidential all information about Cloud2 proposals, fee structures, fees and personnel, within the constraints of the law; Cloud2 acknowledges that legislation, such of the Freedom of Information Act, may place a duty to disclose certain information, the client will limit such disclosure as far as allowed. Where the data sharing or nondisclosure agreement has been put in place then the terms of that agreement supersede or extend this clause.

Materials Supplied

Cloud2 agrees to handle any materials or equipment supplied by the client in a responsible fashion and return them to the client upon request. However, Cloud2 will not be responsible for any wear or tear occasioned nor for any loss or theft that might occur. All such material or equipment is supplied at the client's own risk and no liability for any financial restitution for any direct or indirect value is accepted or any consequential loss.

Conflict of Interest

Cloud2 will decline any third-party contract that would create a conflict of interest with the client's previously agreed instructions, unless approved by the client. Cloud2 will have the right to resign its contract in such circumstances if, in its judgement, it is unable to proceed with the contract and

maintain its fiduciary duty. Cloud2 shall receive payment in full for hours worked and expenses incurred to the date of disclosure. The purpose of this clause is to allow Cloud2 to exit any contract where it is put in an untenable ethical position; it is expected that this will only happen should discussions and negotiations with the client failed to reach a mutually acceptable position.

Rights of Ownership

Cloud2 warrants that all personnel, whether full-time employees or not, will be employed on terms that protect the Clients intellectual property rights. Notwithstanding any payments received from the client, all rights of ownership to all materials prepared by Cloud2, whether written or not, shall remain the property of Cloud2 - copyright and distribution rights are reserved by Cloud2 at its sole discretion, except where these rights are explicitly stated in writing to have been waived or where the contract between Cloud2 and the client explicitly so provides or where the material is so endorsed by Cloud2.

Disputes and time limits

Cloud2 warrants to the Client that the deliverables will comply with the agreed specification (and as amended via CCN or other written instruction) in all material respects for the period of 30 days from the date of delivery or hand over from UAT, whichever is the later. The Client must raise any issues within that 30-day period. Any complaints, disputes or problems will be referred in the first instance to one of the Cloud2 Directors (or in their absence to their duly appointed deputies, as notified from time to time).

Severability

The invalidity or unenforceability of any term shall not in any way affect the remaining terms and rights which shall be construed as if such invalid or unenforceable term or right did not exist.

This Agreement may be terminated immediately by either party giving not less than seven days' notice to the other if

- the other party has convened a meeting of its creditors; or
- a proposal has been made for a voluntary arrangement of the other party within Part I of the Insolvency Act 1986; or
- a proposal has been made by the other party for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors; or
- the other party is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- a trustee, receiver, administrative receiver, or similar officer has been appointed in respect of all or any part of the business or assets of the other party; or
- a petition has been presented or a meeting has been convened for the purpose of considering a resolution (or other steps are taken) for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction); or
- any similar or analogous event has occurred in relation to the other party in this or any other jurisdiction.

Cloud2 may terminate this Agreement if

- the Client has failed to pay any sums due to Cloud2 under this Agreement within 30 days of the dates on which any such sums are due; or
- the Client has committed a material breach of any term of this Agreement which (in the case of a breach capable of being remedied) has not been remedied within thirty (30) days of a written request to remedy the breach (and for these purposes it is agreed that lateness is a remediable breach); or
- the Client or any of its Affiliates has or takes control of any business which is a competitor of Cloud2, unless suitable protections for intellectual property and activity are agreed by Cloud2 and the Client.

The Client may terminate this Agreement where Cloud2 has committed a material breach of its obligation to provide the Services and failed to remedy it within thirty (30) days of a written request to remedy the breach (and for these purposes it is agreed that lateness is a remediable breach).

On termination of this Agreement

- Cloud2 will immediately cease to provide the Services under this Agreement, unless subject to any further decommissioning arrangement put in place; and
- Cloud2 will return a full copy of all Client Data then held by Cloud2 and provide a full copy of all other materials in respect of which the Client then owns the Intellectual Property Rights (in each case, which Cloud2 then has in its possession); those copies will be given to the Client within 30 days in whatever format they are then held, and Cloud2 will then destroy all other copies of the Client Data;
- the Client shall have no continuing rights or interests in any assets, licences, people or any other matter used to provide the Services whatsoever;
- the Client will stop using and destroy the Outputs (and all copies of each of them) in its possession or under its control; and
- all Fees and other sums payable under this Agreement shall become immediately due and payable by the Client, including without prejudice to the generality of the foregoing, any Fees and other sums not previously invoiced by Cloud2 but relating to activities which occurred prior to the date of termination.

Time Basis for Contracts

Where applicable, activity time is calculated inclusive of travel time from the prior non-client activity (such as from the consultant's home, office, or third-party premises). Where the unit of activity is by the hour, all travel, office, administrative, preparatory, production and telephone time in addition to actual client meetings and external interviews, are chargeable at the agreed rate for the individual concerned.

Expenses

Expenses are reimbursable immediately and the client accepts that they are not subject to any credit terms or delayed payment clauses that may relate to some or all our professional fee. Allowable expenses are charged to the client at the gross invoice value. Expenses will be charged inclusive of any sales taxes. Any additional charge for incidental expenses such as telephone, fax, copies of client

commissioned reports, and presentation materials would normally be waived, except where such costs represent a significant proportion of the project value.

Location and Delivery

Cloud2 services will be delivered in the most appropriate location, as agreed with the client. Where no explicit agreement is made Cloud2 will use its judgement to decide whether and when our staff need to operate at the client's premises or work remotely and where and how to deliver the services.

Cancellation Rights

The contract shall be regarded as a whole unless there are break points within it agreed in advance or it is divided into stages or where it is subject to periodic renewal. Where no such division is agreed in advance and stipulated in the contract, the client shall be liable for the totality of the value of the contract - including all expenses incurred to the date of cancellation - whether or not the client wishes the work to be completed.

VAT

All pricing, whether disclosed in discussion, email, proposal or other communication, is *exclusive* of VAT, unless explicitly stated otherwise.

Payment Terms

The client agrees to be bound by the payment terms, which are that all invoices are payable within 30 days of the invoice date, unless otherwise stipulated in the contract, quotation or proposal.

If the client fails to make any final payment without giving notification of due cause, then Cloud2 shall be entitled to withhold delivery of any final reports or configurations and will not be responsible for any inconvenience, loss or damage so caused. The client agrees to pay all government taxes and duties, regardless of origin, that may apply to all payments to Cloud2.

Cloud2 shall be entitled to charge interest at the 'statutory interest' rate on all amounts that remain unpaid 30 days after the agreed payment date. This is 8% plus the Bank of England base rate for business to business transactions.

Liability for Advice Given

Cloud2 provides information, advice and services in good faith based upon information available at the time. We do not warrant the accuracy of information provided. It is for the client to decide whether or not to accept our advice in making his own management decision.

Limitation of Liability

Without prejudice to other more restrictive limitations elsewhere in this contract, liability on the part of Cloud2 is limited to the value of the contract with the client or the value of the loss whichever is the smaller. Cloud2 accepts no liability for the consequences of its information, opinions and advice, whether direct or indirect. Death and injury cover is to the limit of Cloud2's public and product liability insurance.

Force Majeure

Whilst Cloud2 agrees to use its best endeavours to perform the contract for the client as specified, Cloud2 will not be responsible for any delays or failure to complete the contract which are beyond control and which could not have been reasonably predicted.

Integration

The client agrees that all the terms herein form part of the contract between Cloud2 and the client. The use of any services from Cloud2 arising from a quotation or proposal referring to these terms by means of a summary indicates an agreement to these terms and conditions.

Non-poaching

The Client shall not, without the prior written consent of Cloud2, at any time from the date of the Contract to the expiry of twelve (12) months after the completion of the Services, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of Cloud2.

Personal Data Processing

Cloud2 may sub-contract the processing of personal data to the extent necessary to continue to deliver the services in the event of a failure or unavailability of its own IT systems and/or infrastructure, by

- Selecting an appropriate third party processor which provides sufficient guarantees to implement appropriate or technical organisational measures, in such a manner that the processing will meet the requirements of data protection law
- Ensuring that the third party processor acts only on the instructions of Cloud2 and/or the client
- Entering into a written agreement with the third party which incorporates terms which are substantially similar to those set out in this clause and which otherwise meet the requirements of data protection law.

Cloud2 shall remain liable for acts or omissions of any third-party processor appointed pursuant to this clause. Cloud2 shall provide details of third-party processors when requested by clients and will take into account any objections made to the proposed processor.

Authorised Signatories

For legal purposes, a contract or agreements is only created when authorised by an officer of the company, being a director or authorised signatory.

Project Provisions

Delayed projects

If, for reasons beyond Cloud2's control, the project is delayed or placed on hold by the client, then Cloud2 reserves the right to invoice for any and all outstanding effort against the project. Projects that are delayed or on hold will incur a project management charge equivalent to 1 day per month charged at standard Cloud2 day rates.

Payment Schedule

Unless otherwise stated in writing, payment terms will be

- 100% on initial order

Statement of Work

Unless otherwise requested, the quotation or proposal will act as a Statement of Work. This may be subsequently modified using the Change Control Process.

Licence Provisions

Licence Contracts

Where the Cloud2 solution is provided under a licence agreement, this will be a one year, annually renewed agreement unless otherwise stated. The license commences when the project is handed over to UAT, unless otherwise agreed.

3rd Party Licences Where 3rd party technologies and solutions are provided under a licence agreement the 3rd party T&Cs apply. Note that, unless otherwise stated, these are assumed to automatically renew unless cancelled in writing a minimum of 30 days prior to the renewal date.

Intellectual Property

Where a licence is granted, Cloud2 provides the client with a non-transferrable, term-limited licence to load, run, store, execute, maintain, modify, adapt, enhance, copy, reverse compile, translate or otherwise utilise the IP associated with our solutions, process and components, in source code and object code format and with the right to grant a sub-licence to third parties (including replacement service provider(s)) to the extent that such use is necessary to enable the client to provide their services or operations. This grant is for the duration of the licence term. All IP remains the property of Cloud2.

Cloud2 is not responsible for the *content* in solutions developed or hosted for clients, irrespective of who or how entered. It is the client's responsibility to ensure that they have all the necessary intellectual property rights on a worldwide basis in respect of the content of such portals, web sites or intranets and that Cloud2 is indemnified for any liability incurred in respect of any breach of such rights.

Renewals

Cloud2 require a purchase order (or equivalent) prior to the licence renewal date; without this, granted licence rights lapse and the contract provisions under section 0 *Termination* apply, with the exception of the 3 months' notice condition.

Where a purchase order arrives after the renewal date Cloud2 reserve the right to charge a £100 administrative fee. In addition, the renewal date will be re-baselined to 12 months and one day after receipt of purchase order and the client will be charged pro-rata for the extra term this creates. If this additional 12-month period results in a contract term that extends beyond the support period offered for the licence, Cloud2 reserve the right to amend the term or reduce the support accordingly.

Termination

3 months' notice prior to renewal date is required to terminate the contract.

On termination, the client must give written assurances that they will cease use of Cloud2 intellectual property granted under the licence and remove access to this, except where an in-perpetuity or other contractual agreement for continued access is reached.

Support Provisions

Responsive Support period of contract

In general, Responsive Support contracts commence from the agreed contract date; however, in the case of contracts purchased with a project, the start date will be from the beginning of project UAT, or from the date of first use, whichever is sooner.

Responsive Support usage limits and tracking

Responsive Support packages have a stated number of hours per month of nominal usage. Support requests will be tracked and compared with this allocation on a monthly basis. Responsive Support requests are accounted for in 30-minute increments.

Where multiple responsive support elements are included in the contract, we will allow flexibility in consumption against each element, provided the entire consumption remains within bounds.

Responsive Support consumption and availability

Responsive Support is normally delivered as remote support and guidance. Support is provided via our support team on an office-hours basis; we will take out of hours calls in Priority 1 and Priority 2 situations. On the rare occasion that our support team needs to deliver on-site support this will be accounted for as 1.5 days of usage, per day or part of plus expenses.

Responsive Support overconsumption

This is delivered on a fair-usage basis; We allow overconsumption on the understanding this evens out over the course of the contract. The usage will be reviewed quarterly and overconsumption either brought back within bounds or covered by an increase in support contract. Under consumption does not result in any credit nor may be carried forward; however, a reduced contract may be taken at next renewal.

Responsive Support out of hours

Support that is required out of office hours (e.g. for server maintenance) will be accounted for at 1.5 times the standard rate.

Responsive Support Supportability

Platform technology, such as servers, must be patched and maintained as up to date with Service Packs and Server Updates applied (except where Cloud2 are contracted to provide the SharePoint Service Pack updates), similarly platform must be suitable for the intended purpose, for example meet Cloud2 recommended minimum specifications. If these are not in place then we may charge for activity to achieve this. SLAs will not be in force until patching is complete.

Flexible Support usage limits and tracking

Flexible Support packages have a stated number of days of call off support available. These days are treated as 7.5 hours of activity. Flexible Support requests are accounted for in 30 minute increments, which will be deducted from the number of hours available, until the support package is exhausted, or the contracted support length is reached.

Flexible Support consumption and availability

Flexible Support is normally delivered as remote consulting, development, configuration etc. Support is provided via our support team on an office-hours basis.

Flexible Support (onsite days)

On the rare occasion that our support team needs to deliver on-site support this will be accounted for as

- 1.5 days of usage in general cases, per day or part of
- In the case of Flexible Analytics Support, this will be at the rate of 1.2 days of usage
- Expenses will be charged at cost, unless otherwise agreed

Flexible Support out of hours

Support that is required out of office hours (e.g. for server maintenance) will be accounted for at 1.5 times the standard rate.

Flexible support termination and carry over

At the end of the contracted support period, any unused flexible support days will be lost. At our discretion, we will allow unused support to be carried over into a new contract.

Remote Access

An agreed Remote Access solution that will allow Cloud2 to access the environment on demand is required in order to provide rapid and cost-effective support. Where this is not available, support will be attempted via Skype for business or an equivalent. In the absence of this, any SLAs do not apply. Furthermore, any time used to establish remote access are treated as part of support and this may result in overconsumption.

Support conversion

Flexible Support may be converted to Responsive Support and vice versa. One day of Flexible Support is equivalent to one month of a particular Responsive Support package.

Support Renewal

Cloud2 require a purchase order (or equivalent) prior to the support renewal date or support contract will lapse and the client will be deemed to be out of support. Support requests without an active support contract will be charged at the ad hoc support rate.

Where a purchase order arrives after the renewal date Cloud2 reserve the right to charge a £100 administrative fee. In addition, the renewal date will be re-baselined to 12 months and one day after receipt of purchase order and the client will be charged pro-rata for the extra term this creates. If this additional 12-month period results in a contract term that extends beyond the support period offered, Cloud2 reserve the right to amend the term or reduce the support accordingly.